

## **JOURNAL OF THE HOUSE.**

Monday, March 12, 2001.

Met according to adjournment, at eleven o'clock A.M., with Mr. Nagle of Northampton in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

God, Our Creator, we proclaim our belief in You and our trust in You, Your ways and the spiritual values which You have made known to us for successful living. We also believe that You have endowed us with a temporal existence and eternal destiny. In Your goodness, help us to achieve the purpose and happiness for which You have placed us on this earth. Guided by Your wisdom, direct our efforts to legislate fairly, maturely and prudently as we try to continue building a responsive, civil and thoughtful society. In seeking to resolve and solve the many complex, social, cultural and ethical issues of the day, inspire us to search for the most responsible solutions which are not always the simplest. Grant us the patience to be good listeners and to be open to the experiences and the insights of others and the wisdom of those who have gone before us.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. Nagle), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

### *Message from the Governor — Bill Returned with*

#### *Recommendation of Amendment.*

A message from His Excellency the Governor returning with recommendation of amendment Section 3 contained in the engrossed Bill making appropriations for the fiscal year 2001 to provide for supplementing certain existing appropriations and for certain other activities and projects [see House, No. 4021, amended] (for message, see House, No. 4032) was filed in the office of the Clerk on Friday, March 9.

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the section was thereupon “before the General Court and subject to amendment and re-enactment”.

Pending the question on adoption of the amendment recommended by His Excellency, the subject-matter was referred, on motion of Mr. Rogers of Norwood, to the committee on Bills

in the Third Reading.

*Message from the Governor — Veto.*

A message from His Excellency the Governor returning with his objections thereto in writing Section 4 contained in the engrossed Bill making appropriations for the fiscal year 2001 to provide for supplementing certain existing appropriations and for certain other activities and projects [see House, No. 4021, amended] (for message, see House, No. 4030) was filed in the Office of the Clerk on Friday, March 9.

The message was read; and, under the provisions of Article II of Section I of Chapter I of the Constitution, the House proceeded to “reconsider” the said section.

Under Rule 30, the subject-matter was referred to the committee on Ways and Means.

*Message from the Governor.*

A message from His Excellency the Governor submitting requests for an appropriation (under Section 7 of Chapter 150E of the General Laws) for the purpose of funding a collective bargaining agreement between the Essex County Sheriff’s Department and the International Brotherhood of Correctional Officers, National Association of Government Employees, Local R1-71 (House, No. 4031) was filed in the office of the Clerk on Friday, March 9.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Ways and Means.

*Resignation of Representative David H. Tuttle of Barre.*

The following communication, received by the Clerk from the office of the Speaker of the House, was read for the information of the House; and placed on file.

March 12, 2001.

The Honorable THOMAS M. FINNERAN

*Speaker of the House*

State House, Room 356

Boston, MA 02133

Dear Mr. Speaker:

I am writing to inform you, and the other members of the General Court, that I will be resigning as State Representative for the Fifth Worcester District. Please accept this letter as my official resignation from the Massachusetts House of Representatives, effective at the close of business today, Monday, March 12, 2001.

After much deliberation, I have accepted President Bush's appointment as State Director of Rural Development for Southern New England with the United States Department of Agriculture.

Sincerely yours,

DAVID H. TUTTLE,

*State Representative,*

*Fifth Worcester District.*

*Statement of Representative Ayers of Quincy.*

A statement of Representative Ayers of Quincy was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was not present in the House Chamber for a portion of today's sitting due to official business in another part of the State House. Any roll calls that I may have missed today is due entirely to the reason stated.

*Statement Concerning Representative Bosley of North Adams.*

A statement of Representative DiMasi of Boston concerning Representative Bosley of North Adams was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our

colleagues, Representative Bosley of North Adams, was not present in the House Chamber for today's sitting due to official business outside of the State House. Any roll calls that he may have missed today is due entirely to the reason stated. Had he been present for the taking of the roll call on ordering to a third reading the House Bill relative to reinstating the death penalty, he would have voted in the negative.

*Statement of Representative Miceli of Wilmington.*

A statement of Representative Miceli of Wilmington was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was not present in the House Chamber for a portion of today's sitting due to official business in another part of the State House. Any roll calls that I may have missed today is due entirely to the reason stated.

*Statement of Representative Rogers of New Bedford.*

A statement of Representative Rogers of New Bedford (received in the office of the Clerk on March 12, 2001), was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that, regretfully, a long standing commitment to the annual meeting of the CSO Partnership, of which I am the national Vice-Chairman, will prevent my being in attendance for the many votes that will most likely be roll-called today on the issue of capital punishment. I want to make it known that if I were present I would have voted "no" on the question of imposing a death penalty in Massachusetts. Any roll calls that I may miss today will be due entirely to the reason stated.

*Resolutions.*

Resolutions (filed with the Clerk by Messrs. O'Brien of Kingston and deMacedo of Plymouth) congratulating Douglass Cunningham Gray on the occasion of his retirement, were referred, under Rule 85, to the committee on Rules.

Mr. DiMasi of Boston, for the committee on Rules, then reported that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mr. Stanley of Waltham, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

*Papers from the Senate.*

A petition of Marian Walsh, John H. Rogers, Richard S. Mann and others for legislation to encourage charitable giving in the Commonwealth, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Taxation.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 1826) was referred, in concurrence, to the committee on Taxation.

Notice was received that the President of the Senate had announced the following appointments:

That Senator Murray of the Plymouth and Barnstable District had been appointed to serve on the special commission established (under Section 30 of Chapter 254 of the Acts of 2000) to make an investigation and study of the use of genetic test results in connection with insurance;

That Senator Murray had been appointed to serve on the joint special committee authorized (under Section 21 of Chapter 140 of the Acts of 2000) to make an investigation and study relative to nongroup health insurance reforms;

That Senator Murray had been appointed to serve on the advisory committee established (under Section 32 of Chapter 141 of the Acts of 2000) relative to establishing a system of consolidated health care financing; and

That Senator Tucker of the Second Essex and Middlesex District had been appointed to serve on the special commission established (under Section 480 of Chapter 159 of the Acts of 2000) relative to studying the provision of end of life care services.

*Reports of Committees.*

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the petition of Stephen M. Brewer and John F. Merrigan for legislation to authorize the Department of Correction to establish a sick leave bank for Michael McCorquodale, an employee of said department. Under suspension of the rules, on motion of Ms. Blumer of Framingham, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the

House Bill authorizing the town of Mansfield to use certain conservation land for road and bridge purposes (printed in House, No. 4002) be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mrs. Poirier of North Attleborough, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Bosley of North Adams, for the committee on Government Regulations, asking to be discharged from further consideration

Of the petition (accompanied by bill, House, No. 3925) of Vincent A. Pedone relative to the aggregation of electrical loads by municipalities; and

Of the petition (accompanied by bill, House, No. 3926) of Douglas W. Petersen and other members of the House for legislation to fund energy efficiency programs for low income families in the Commonwealth;

And recommending that the same severally be referred to the committee on Energy;

Of the petition (accompanied by bill, House, No. 1586) of George Rogers and Rachel Kaprielian relative to the establishment of a board of registration for massage therapists; and

Of the petition (accompanied by bill, House, No. 2160) of Patricia D. Jehlen and other members of the General Court for legislation to establish a board of registration of interpreters for deaf and hard of hearing persons;

And recommending that the same severally be referred to the committee on Health Care;

Of the petition (accompanied by bill, House, No. 1585) of George Rogers relative to the licensing of septic systems installers by the Department of Environmental Protection,— and recommending that the same be referred to the committee on Natural Resources and Agriculture; and

Of the petition (accompanied by bill, House, No. 603) of Edward G. Connolly, Scott P. Brown, Brian Knuuttila and another relative to notifications by building inspectors to owners of buildings deemed to be unsafe; and

Of the petition (accompanied by bill, House, No. 1182) of Kathi-Anne Reinstein and Robert A. DeLeo for legislation to regulate the sale and use of paintball game equipment;

And recommending that the same severally be referred to the committee on Public Safety.

Under Rule 42, the reports severally were considered forthwith; and they were accepted. Severally sent to the Senate for concurrence.

*Orders of the Day.*

House bills

Authorizing the town of Warren to issue an additional license for the sale of all alcoholic beverages not to be drunk on the premises (House, No. 260);

Relative to telecommunications lines (House, No. 1753); and

Relative to the terms of certain bonds issued by the Commonwealth (House, No. 3907);

Severally were read a second time; and they were ordered to a third reading.

The House Bill reinstating the death penalty in the Commonwealth (printed in House, No. 4003) was read a second time.

Pending the question on ordering the bill to a third reading, Mrs. Paulsen of Belmont asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Nagle of Northampton), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 129 members were recorded as being in attendance.

**[See Yea and Nay No. 10 in Supplement.]**

Therefore a quorum was present.

After debate (Mr. Scaccia of Boston being in the Chair), Mr. Marini of Hanson and other members of the House moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the following:

“Notwithstanding any general or special law to the contrary, for the purpose of ascertaining the will of the voters relative to capital punishment, the state secretary shall cause to be placed on the official ballot to be used at the biennial state election to be held in the year 2002, the following nonbinding question:—

Do you prefer capital punishment for persons convicted of first degree murder instead of life imprisonment without Parole?”.

After debate on the question on adoption of the amendment (Mr. Nagle of Northampton being in the Chair), the sense of the House was taken by yeas and nays, at the request of Mr. Marini; and on the roll call 50 members voted in the affirmative and 103 in the negative.

**[See Yea and Nay No. 11 in Supplement.]**

Therefore the amendment was rejected.

After remarks on the question on ordering the bill to a third reading, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 60 members voted in the affirmative and 94 in the negative.

**[See Yea and Nay No. 12 in Supplement.]**

Therefore the House refused to order the bill to a third reading.

*Order.*

On motion of Mr. Finneran of Boston,—

*Ordered,* That when the House adjourns today, it adjourn to meet on Wednesday next at eleven o'clock A.M.; and when the House adjourns on Wednesday, it adjourn to meet the following Monday (March 19) at eleven o'clock A.M.

At eleven minutes after two o'clock P.M., on motion of Mr. Leary of Worcester (Mr. Nagle of Northampton being in the Chair), the House adjourned, to meet on Wednesday next at eleven o'clock A.M., in an Informal Session.