

JOURNAL OF THE HOUSE.

Wednesday, March 20, 2002.

Met according to adjournment, at eleven o'clock A.M., with Mr. Greene of Billerica 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:

Gracious God, the Source of Goodness and Forgiveness, we pause for a moment of prayer and ask for Your guidance as we evaluate and address legislative and governmental issues. In carrying out our personal and legislative obligations, grant us the wisdom and the patience to make reasoned, not emotional, decisions which resolve, not complicate, today's often difficult issues. During these times of limited resources and unlimited needs, help us to select those options which are fair, responsible and thoughtful. Inspire us to remain faithful to You, and to the spiritual principles and values which You have made known to us. May we be thankful for all the material and spiritual blessings which You give us daily.

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

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

Statement Concerning Representative Brown of Wrentham.

A statement of Mr. Marini of Hanson concerning Mr. Brown of Wrentham 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 Brown of Wrentham, will not be present in the House Chamber for today's sitting due to a long-standing family commitment. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement Concerning Representative Candaras of Wilbraham.

A statement of Mr. DiMasi of Boston concerning Ms. Candaras of Wilbraham 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 Candaras of Wilbraham, will not be present in the House Chamber for today's sitting due to her attendance at a funeral service. Any roll calls that she may miss today will be due entirely to the reason stated.

Statement of Representative Dempsey of Haverhill.

A statement of Representative Dempsey of Haverhill 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 able to be 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 Donovan of Woburn.

A statement of Mr. DiMasi of Boston concerning Ms. Donovan of Woburn 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 Donovan of Woburn, will not be present in the House Chamber for today's sitting due to a death in the family. Any roll calls that she may miss today will be due entirely to the reason stated.

Statement Concerning Representative Gobi of Spencer.

A statement of Mr. DiMasi of Boston concerning Ms. Gobi of Spencer 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 Gobi of Spencer, will not be present in the House Chamber for today's sitting due to legislative business outside of the State House. Any roll calls that she may miss today will be due entirely to the reason stated.

Statement Concerning Representative Larkin of Pittsfield.

A statement of Mr. DiMasi of Boston concerning Mr. Larkin of Pittsfield 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 Larkin of Pittsfield, will not be present in the House Chamber for today's sitting due to official business outside of the Commonwealth. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement Concerning Representative Rogeness of Longmeadow.

A statement of Mr. Marini of Hanson concerning Ms. Rogeness of Longmeadow 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 Rogeness of Longmeadow, will not be present in the House Chamber for today's sitting due to a long-standing family commitment. Any roll calls that she may miss today will be due entirely to the reason stated.

Resolutions.

Resolutions (filed with the Clerk by Representatives Poirier of North Attleborough and Lepper of Attleboro) congratulating Attiya Chaudary for being named the recipient of the Third Annual Chamber of Commerce of the Attleboro Area's Athena Award, were referred, under Rule 85, to the committee on Rules.

Mrs. Harkins of Needham, for the committee on Rules, then reported that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mrs. Poirier, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Communication.

A communication from the Department of Transitional Assistance (under the provisions of item 4403-2110 Section 2 of Chapter 177 of the Acts of 2001) submitting a determination by the Secretary of Health and Human Services that available appropriations for the rent arrearage program of said department will be insufficient to meet projected expenses and a report setting forth such changes, was placed on file.

Annual Report.

The annual report of the Massachusetts Development Finance Agency (under the provisions of Section 29A of Chapter 23G of the General Laws) relative to the Brownfields Redevelopment Fund for the period ending March 15, 2002, was placed on file.

Petitions.

Mr. Kelly of Dalton presented a petition (accompanied by bill, House, No. 4967) of Shaun P. Kelly and Stanley C. Rosenberg (by vote of the town) relative to the acceptance of the community preservation act by the town of Buckland; and the same was referred to the committee on Taxation. Sent to the Senate for concurrence.

Mr. Scaccia of Boston presented a petition (subject to Joint Rule 12) of William Francis Galvin (Secretary of the Commonwealth) and Angelo M. Scaccia relative to the sale of web based search and filing applications; and the same was referred, under Rule 24, to the committee on Rules.

Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Donato of Medford, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Commerce and Labor. Sent to the Senate for concurrence.

Papers from the Senate.

The House Bill authorizing the town of Winchester to establish stabilization funds (House, No. 4831) came from the Senate, passed to be engrossed, in concurrence, with certain amendments in section 1, in line 4, striking out the word "Appropriations" and inserting in place thereof the

following: “Subject to section 2 of this act, appropriations”; and striking out section 2 and inserting in place thereof the following section:

“SECTION 2. If, pursuant to paragraph (g) of section 21C of chapter 59 of the General Laws, the voters of the town of Winchester approve an appropriation into the stabilization funds, the town meeting may annually appropriate such amount into stabilization funds unless the voters, by referendum vote, approve by majority vote the appropriation of such funds for another state purpose.”.

Under suspension of Rule 35, on motion of Mr. Casey of Winchester, the amendments (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted, in concurrence.

A Bill designating motorcycle safety and awareness time (Senate, No. 2286) (on Senate bill, No. 1547), passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

A communication from the Department of Education (under the provisions of Chapter 69 of the General Laws, and in accordance with requirements of Chapter 645 of the Acts of 1948, as amended) submitting interim regulations pertaining to the school building assistance program (Senate, No. 2285) was referred, in concurrence, to the committee on Education, Arts and Humanities.

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 Shannon P. O’Brien, Robert M. Koczera and other members of the General Court relative to the protection of the Commonwealth’s water supplies. Under suspension of the rules, on motion of Mr. Casey of Winchester, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Natural Resources and Agriculture. Sent to the Senate for concurrence.

By Mr. Casey of Winchester, for the committee on Taxation, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 4956) of John J. Binienda and other members of the House relative to the exemption of the sales tax on energy efficient appliances,— and recommending that the same be referred to the committee on Energy. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence.

By Mr. Larkin of Pittsfield, for the committee on Education, Arts and Humanities, on House, Nos. 4895, 4947 and 4948, an Order relative to authorizing the committee on Education, Arts and Humanities to make an investigation and study of certain House documents concerning bilingual education and the teaching of English in the Commonwealth (House, No. 4962). Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Subsequently Mr. Scaccia of Boston, for said committees, reported asking to be discharged from further consideration of said order; and recommending that the same be referred to the House committee on Rules. Under Rule 42, the report was considered forthwith; and it was accepted.

By Mr. Hall of Westford, for the committee on State Administration, on House, No. 4846, a Bill to convey a certain parcel of land to the town of Douglas (House, No. 4963).

By the same member, for the same committee, on House, No. 4849, a Bill authorizing the town of Ipswich to lease a certain building for courthouse use (House, No. 4964).

By the same member, for the same committee, on House, No. 4864, a Bill relative to granting of an easement by the city of Newton to the Metropolitan Water Resources Authority (House, No. 4965).

By the same member, for the same committee, on House, No. 4903, a Bill authorizing the city of Worcester to lease a certain building for courthouse use (House, No. 4966).

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

By Mrs. Simmons of Leominster, for the committee on Local Affairs, on a petition, a Bill authorizing the town of Plymouth to use certain land for public way purposes (House, No. 4865) [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill establishing the city of Medford stadium and athletic commission (House, No. 4878, changed in section 2, in lines 9 and 10, by striking out the words “leases or other” and inserting in place thereof the word “license”, and in lines 14 and 15, by striking out the words “leases or agreement” and inserting in place thereof the words “license agreements”; in section 4, in line 11, by striking out the word “meetings” and inserting in place thereof the word “matters”, and in line 12, by striking out the figure “44” and inserting in place thereof the following: “44A through 44J, inclusive”) [Local Approval Received].

By the same member, for the same committee, on a message from Her Honor the Lieutenant-Governor, Acting Governor, a Bill validating the action taken at the 2000 annual town meeting of the town of Amherst (printed in House, No. 4890).

By Mr. Hall of Westford, for the committee on State Administration, on a petition, a Bill providing for the annual observance of Luther Burbank Day (House, No. 4877).

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Engrossed Bills.

Engrossed bills

Relative to the one trial system for civil cases in certain counties (see Senate, No. 1937, amended) (which originated in the Senate);

Relative to recall elections in the town of Fairhaven (see House, No. 4473); and

Relative to the water and sewer commission of the town of Mattapoisett (see House, No. 4843, amended);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Recess.

At sixteen minutes after eleven o'clock A.M., on motion of Mr. Casey of Winchester (Mr. Greene of Billerica being in the Chair), the House recessed until two o'clock P.M.; and at twenty-three minutes after two o'clock the House was called to order with Mr. DiMasi of Boston in the Chair.

Orders of the Day.

The Senate Bill relative to the recreation revolving fund in the town of Rutland (Senate, No. 2195), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence.

House bills

Relative to the sounding of train whistles in the town of Tewksbury (House, No. 765);

Establishing an affordable housing trust fund in the town of Provincetown (House, No. 4145);

Relative to the appointment of retired police officers in the town of Stoneham (House, No. 4168, changed); and

Establishing a special police force in the town of Agawam (House, No. 4190) (its title having been changed by the committee on Bills in the Third Reading);

Severally reported by said committee to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

The House Bill relative to the Winchendon District Court (House, No. 292) was read a second time; and it was ordered to a third reading.

The Senate Bill establishing the crime of communicating a terroristic threat (Senate, No. 2122) was read a second time.

The amendments previously recommended by the committee on Science and Technology,— that the bill be amended in line 38 by striking out the words “local, county or state public safety

agencies” and inserting in place thereof the words “an individual, public or private entity” in lines 42 and 43 by striking out the words “local, county or state government” and inserting in place thereof the words “individual, public or private entity”,— were rejected.

Pending the question on ordering the bill to a third reading, Messrs. Hargraves of Groton and Koutoujian of Newton moved that it be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4968.

Pending the question on adoption of the amendment, Mr. Hargraves asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. DiMasi of Boston), 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 141 members were recorded as being in attendance.

[See Yea and Nay No. 273 in Supplement.]

Therefore a quorum was present.

After remarks on the question on adoption of the amendment, Miss Garry of Dracut moved that the proposed substitute text be amended by adding at the end thereof the following three sections:

“SECTION 2. Section 102A 1/2 of Chapter 266 of the General Laws is hereby amended in line 3 by inserting after the word ‘device’ the words:— or hoax device.

SECTION 3. Section 102A 1/2 of Chapter 266 of the General Laws is hereby amended by inserting after the word ‘automatically’ in the line 14, the following new paragraph:—

For the purpose of this section, the term ‘hoax substance’ shall mean any substance that would cause a person reasonably to believe that such substance is a harmful chemical or biological agent, a poison, a harmful radioactive substance, or any other substance for causing serious bodily injury, endangering life or doing unusual damage to property, or both.

SECTION 4. Section 102A 1/2 of Chapter 266 of the General Laws is hereby amended by adding at the end thereof the following new section:—

(d) The court shall, after conviction, conduct a hearing to ascertain the extent of costs incurred, damages and financial loss suffered by local, county or state public safety agencies and the amount of property damage caused as a result of the defendant’s crime. A person found guilty of violating this section shall, in all cases, upon conviction, in addition to any other punishment, be ordered to make restitution to the local, county or state government for any costs incurred, damages and financial loss sustained as a result of the commission of the crime. Restitution shall be imposed in addition to incarceration or fine, and not in lieu thereof; provided, however, the court shall consider the defendant’s present and future ability to pay in its determination regarding a fine. In determining the amount, time and method of payment of restitution, the

court shall consider the financial resources of the defendant and the burden restitution will impose on the defendant.”.

After debate on the question on adoption of the further amendment, further consideration thereof was postponed, on motion of Mr. Rushing of Boston, until Monday, March 25.

Order.

On motion of Mr. Finneran of Boston,—

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at a quarter after three o'clock P.M., on motion of Mr. Casey of Winchester (Mr. DiMasi of Boston being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M., in an Informal Session.