

JOURNAL OF THE HOUSE.

Wednesday, October 3, 2001.

Met according to adjournment, at one o'clock P.M.

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

God, Our Creator, at the beginning of today's formal legislative session, we pause for a moment to open our hearts to Your peace and our minds to Your guidance. We depend upon Your assistance and grace in our efforts to cope with the catastrophic events three weeks ago and plan for both the present and the future needs of the people and the Commonwealth. Teach us to recognize the opportunities which each new day presents to us and to utilize fully the talents which You have given to us in our desire to serve You, the people and our communities in a conscientious manner. In facing new political, social and economic challenges, inspire us to be creative and at the same time patient in dealing with complex issues. Teach us to recognize the reality that while old solutions may not be the answer to today's problems, but basic human and spiritual values still remain the foundation of a just and peaceful society.

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

Statement of Representative Flynn of Bridgewater.

There being no objection, Mr. Flynn of Bridgewater addressed the House as follows:

MR. SPEAKER: Listen to what our native son, President John Fitzgerald Kennedy, said in 1961 — and it applies to the terrorists of the 21st Century as it did to those who meant us harm in the 1960s.

“Let every nation know, whether it wishes us well or evil, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, in order to ensure the survival and success of liberty.”.

We will not be terrorized. And We will win this fight, and historians will look back on this time and say of us, as they did of England after the Battle of Britain — This was America's finest hour.

Mr. Hynes of Marshfield then moved that the statement made by Mr. Flynn be spread upon the records of the House; and the motion prevailed.

Statement of Representative Tobin of Quincy.

There being no objection, Mr. Tobin of Quincy addressed the House as follows:

MR. SPEAKER: The historical record does not reveal whether he actually saw that famous raising of the flag on the crest of Mt. Sunibachi in February of 1945. But over the course of the next two weeks — the last two weeks of his life — the young, 19 year old Marine from Quincy

named William Caddy, certainly saw that flag flying over Iwo Jima.

I like to think that the sight of that flag offered him some degree of comfort. Helped to fortify his courage. And perhaps, somewhere deep inside, may have inspired him to commit the ultimate act of courage and love. For he threw himself upon a hand grenade, thereby saving the lives of his buddies in the foxhole with him, and earning him his Nation's highest military decoration, the Congressional Medal of Honor, posthumously.

With his sacrifice in mind, and in recognition of the selfless commitment of our servicemen and servicewomen, in peacetime and in war, past and present, alive and deceased, join with me now as we salute, not just this cherished emblem of our great country, but the acknowledged symbol of hope and pride, to men and women across the globe who also cherish freedom and opportunity and world peace.

Mr. Hynes of Marshfield then moved that the statement made by Mr. Tobin be spread upon the records of the House; and the motion prevailed.

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

Statement Concerning Representative Koutoujian of Newton.

A statement of Mr. DiMasi of Boston concerning Mr. Koutoujian of Newton 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 Koutoujian of Newton, will not be present in the House Chamber for today's sitting due to his being in Spain on his honeymoon. Any roll calls that he may miss today will be due entirely to the reason stated.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. DiMasi of Boston) on the occasion of the dedication of the 2001 North End Christopher Columbus Parade to the memory of Frederick "Freddy" Langone and in recognition of his many years of service to the people of the North End of Boston and the Italian-American community of Massachusetts;

Resolutions (filed by Mr. Fagan of Taunton) congratulating Stanley J. Koss on the occasion of his retirement;

Resolutions (filed by Ms. Kaprielian of Watertown) honoring Edmund T. Hagerty;

Resolutions (filed by Mr. Koczera of New Bedford) honoring Stas Golembewski;

Resolutions (filed by Mr. LeDuc of Marlborough) congratulating Lee R. Chaplin on the

occasion of his retirement;

Resolutions (filed by Mr. Nyman of Hanover) congratulating Mr. and Mrs. W. John DiTocco on the occasion of their fiftieth wedding anniversary;

Resolutions (filed by Mr. Patrick of Falmouth) congratulating Jack Barboza on the occasion of his one hundredth birthday;

Resolutions (filed by Mr. Straus of Mattapoisett) congratulating Lanham Straus on receiving the Eagle Award of the Boy Scouts of America; and

Resolutions (filed by Mrs. Teahan of Whitman) congratulating Leslie “Red” Greenleaf on being chosen Alumnus of the Year 2001 by the Abington High School Alumni Association;

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

Reports of Committees.

Mr. Scaccia of Boston, for the committee on Rules, on the Order relative to authorizing the committee on Public Service to make an investigation and study of certain House documents concerning employment, training, promotion, residency and hiring of public employees in cities and towns and the Commonwealth and other related matters (House, No. 4584) reported, in part, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 2238) of Cele Hahn and Michael R. Knapik (by vote of the town) relative to exempting the position of Secretary to the Chief of Police of the city of Westfield from the provisions of civil service law,— and recommending that the same be recommitted to the committee on Public Service. Under Rule 42, the report was considered forthwith; and it was accepted.

By Mr. Sullivan of Braintree, for the committee on Transportation, on Senate, Nos. 1759, 1760, 1773, 1776, 1784 and 1787 and House, Nos. 569, 570, 1137, 1332, 1334, 1335, 1336, 1526, 1527, 1528, 1710, 1713, 1714, 1715, 1716, 1895, 1896, 1898, 1899, 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 2462, 2464, 2819, 3230, 3231, 3232, 3233, 3234, 3235, 3237, 3238, 3660, 3846, 3847 and 3898, an Order relative to authorizing the committee on Transportation to make an investigation and study of certain Senate and House documents concerning the Massachusetts Bay Transportation Authority, the Massachusetts Port Authority, the Massachusetts Turnpike Authority, the Highway Department and other related transportation matters (House, No. 4606). 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 the 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. Scaccia of Boston, for the committee on Rules, that the following ought to pass:

House bills

Clarifying the jurisdiction of the Energy Facilities Siting Board (House, No. 55, changed);

Regarding conservation commission consultant fees (House, No. 196);

Authorizing conservation commissions to impose fees for the employment of outside consultants (House, No. 2944, changed); and

To further amend Chapter 123 and change the four-day hearing requirement for certain petitions (House, No. 3359); and

The House Resolve providing for the creation of a special commission relative to the impact on the Commonwealth of Massachusetts of the World Trade Organization (WTO) and the North American Free Trade Agreement (NAFTA) (House, No. 2119);

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

Orders of the Day.

Mr. DiMasi of Boston being in the Chair,—

The House Bill authorizing the town of Chilmark to erect a radio tower on certain conservation land (House, No. 3963), 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. Sent to the Senate for concurrence.

Senate bills

Relative to the crimes of assault and battery and assault and battery by means of a dangerous weapon (Senate, No. 167, amended);

Relative to municipal light plant contracts (Senate, No. 421);

Relative to civil service preference for a police officer in the city of Medford (Senate, No. 1816);

Providing for recall election for the Athol-Royalston regional school district (Senate, No. 1854);

Relative to the Amherst town government (Senate, No. 1855);

Providing for recall elections in the town of Bernardston (Senate, No. 1862); and

Authorizing the city of Marlborough to convey a certain parcel of recreation land to Louis Seymour (Senate, No. 1876); and

House bills

Prohibiting the use of certain latex products by persons who handle food (House, No. 1152);

Releasing certain land in Northampton from the operation of an agricultural preservation restriction (House, No. 1845);

Pertaining to certain licenses alcohol and drug counselors (House, No. 2184);

Relative to the Nantucket Historic District Commission (House, No. 3634);

Establishing the Acton economic development and industrial corporation (House, No. 4011);

Relative to civil service in the city known as the town of Weymouth (House, No. 4019);

Relative to handicapped stickers for motorcycle license plates (House, No. 4099);

Authorizing the town of Stoneham to grant licenses for the sale of alcoholic beverages to be drunk on the premises to theaters (House, No. 4166);

Authorizing the town of Hingham to establish a retiree healthcare liability trust fund (House, No. 4183);

Relative to carriers (House, No. 4214, changed);

Providing for the filling of vacancies in the city known as the town of Agawam (House, No. 4273);

To authorize the town of Needham to amend its zoning by-law to provide for a traffic mitigation fund (House, No. 4290);

Providing for recall elections in the town of Blandford (House, No. 4291);

Relative to certain conservation land in the town of Sherborn (House, No. 4295);

Relative to sewer bylaws and regulations of the town of Sturbridge (House, No. 4305); and

Authorizing the town of Edgartown to convey a certain parcel of land (House, No. 4361);

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

The House Bill authorizing the Division of Capital Asset Management and Maintenance to convey certain easements in the towns of Groton and Pepperell (House, No. 1879) was read a second time.

The amendments previously recommended by the committee on Ways and Means,— that the bill be amended in section 2, in line 1, by inserting after the word “of” the words “the division of”, in lines 7 and 8, by striking out the words “the requirements of sections two, three, and four and to”, and in line 11 by inserting after the words “Easement II,” the word “shall”,— were

adopted.

The bill (House, No. 1879, amended) then was ordered to a third reading.

The House Bill to establish a victims of drunk driving trust fund (House, No. 2028) was read a second time.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by substitution of a bill with the same title (House, No. 4601),— was adopted.

The substituted bill then was ordered to a third reading.

The House Bill authorizing leaves of absence for certain employees participating in Red Cross emergencies (House, No. 2405) was read a second time.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by substitution of a bill with the same title (House, No. 4602),— was adopted.

The substituted bill then was ordered to a third reading.

The House report of the committee on Banks and Banking, ought NOT to pass, on the petition (accompanied by bill, House, No. 1533) of J. Joseph Lydon and George Rogers for legislation to regulate the issuance of bank checks or money orders, was accepted.

The engrossed Bill relative to the Hale Hospital in the city of Haverhill (see House, No. 4512), having been returned by Her Honor the Lieutenant-Governor, Acting Governor, with her objections thereto in writing (for message, see House, No. 4533), was considered.

Pending the question on passing the bill, notwithstanding the said objections, further consideration thereof was postponed, on motion of Ms. Stanley of West Newbury, until Wednesday, July 31, 2002.

The House Bill relative to child passenger safety (House, No. 4199) was considered.

Pending the question on ordering the bill to a third reading, further consideration thereof was postponed, on motion of Mr. Marini of Hanson, until the next sitting.

The House report of the committee on Taxation, ought NOT to pass, on the petition (accompanied by bill, House, No. 1702) of Francis L. Marini and other members of the House for legislation to provide a one-time tax credit for joining the organ donor program or for becoming certified to perform cardiopulmonary resuscitation, was considered.

Pending the question on acceptance of the report, further consideration thereof was postponed, on motion of Mr. Marini of Hanson, until the next sitting.

The House report of the committee on Taxation, ought NOT to pass, on the message from Her Honor the Lieutenant-Governor, Acting Governor (accompanied by bill, House, No. 4106), recommending legislation relative to promoting fiscal responsibility in the Commonwealth, was

considered.

Pending the question on acceptance of the report, further consideration thereof was postponed, on motion of Mr. Marini of Hanson, until the next sitting.

The House Bill modifying the Governor's Highway Safety Committee (printed as Senate, No. 1205, changed) was considered.

Pending the question on ordering the bill to a third reading, further consideration thereof was postponed, on motion of Mr. Marini of Hanson, until the next sitting.

The House Bill providing for the destruction of certain dogs (House, No. 1539) was considered.

Pending the question on ordering the bill to a third reading, further consideration thereof was postponed, on motion of Mr. Marini of Hanson, until the next sitting.

The House report of the committee on Natural Resources and Agriculture, ought NOT to pass, on the message from His Excellency the Governor (accompanied by bill, House, No. 3029) recommending legislation relative to the reorganization of certain functions within the Executive Office of Environmental Affairs, was considered.

Pending the question on acceptance of the report, further consideration thereof was postponed, on motion of Mr. Marini of Hanson, until the next sitting.

The House Bill further regulating the use of non-public personal information by insurance companies (House, No. 2356) was considered.

Pending the question on ordering the bill to a third reading, further consideration thereof was postponed, on motion of Mr. Mariano of Quincy, until Wednesday, November 7, 2001.

The House Bill relative to the budget of the Up-Island Regional School District of Martha's Vineyard (House, No. 4410) was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Marini of Hanson moved that it be amended by striking out sections 3 and 4.

The amendment was adopted; and the bill (House, No. 4410, amended) was ordered to a third reading.

The House Bill providing for capital facility improvements and repairs for the Commonwealth (House, No. 4352) was read a second time.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by substitution of a bill with the same title (House, No. 4603),— was considered.

Pending the question on adoption of the amendment recommended by the committee on Ways and Means, Mr. Bosley of North Adams and other members of the House moved that the proposed substitute bill be amended in section 2A by striking out item 1790-2014 and inserting in place thereof the following item:

“1790-2014 For the completion of the department of state police communications system in Berkshire, Hampden, Hampshire, Franklin, Barnstable, Middlesex, Essex, Norfolk and Suffolk counties to provide a primary voice radio communications network for the state police and other state and local public safety agencies; provided, that the funds authorized in this item shall be expended in a manner consistent with item 8100-9520 of section 2J of chapter 273 of the acts of 1994 and item 8100-1961 of section 2B of chapter 205 of the acts of 1996; provided further, that the executive office of public safety is hereby authorized and directed to enter into an agreement for the completion of said network no later than December 31, 2001; provided further, that the department of state police shall submit to the House and Senate committees on ways and means a report detailing specific contract payment milestones and the availability of radio frequencies assigned to the commonwealth by the federal communications commission; and provided further, that the executive office of public safety is hereby authorized and directed to expend the funds provided for in this item on behalf of the department of state police notwithstanding that such funds are authorized under the capital spending limit of the information technology division of the executive office

of administration and finance 22,726,600”.

The further amendment was adopted.

Representatives Candaras of Wilbraham and Rogeness of Longmeadow then moved that the proposed substitute bill, as amended, be amended in section 2, in item 7410-2010, by adding at the end thereof the following: “; provided further that none of the monies so authorized shall be used directly or indirectly to advance, promote or subsidize the proposed affiliation between the University of Massachusetts and Southern New England Law School or to otherwise create a state law school”.

The further amendment was adopted.

The amendment recommended by the committee on Ways and Means, as amended, then also was adopted; and the substituted bill (House, No. 4603, amended) was ordered to a third reading.

Ms. Lewis of Dedham being in the Chair,—

The House Bill relative to unemployment insurance rates (House, No. 4531) was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Greene of Billerica and other members of the House moved that it be amended by inserting before the enacting clause the following emergency preamble:

“Whereas, The deferred operation of this act would tend to defeat its purpose, which is to

forthwith provide eligible claimants immediate access to unemployment insurance benefits, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 154 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 112 in Supplement.]

Therefore the amendment was adopted.

Mr. Greene and other members of the House then moved that the bill be amended by striking out section 2 and inserting in place thereof the following two sections:

“SECTION 2. The waiting period for unemployment insurance claimants established in section 23 of Chapter 151A is hereby suspended for a period of 6 months.

SECTION 3. Section 1 of this act shall take effect on January 1, 2002.”.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Greene of Billerica; and on the roll call 154 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 113 in Supplement.]

Therefore the amendment was adopted.

On the question on ordering the bill, as amended, to a third reading (Mr. DiMasi of Boston being in the Chair), the sense of the House was taken by yeas and nays, at the request of Mr. Greene of Billerica; and on the roll call 153 members voted in the affirmative and 1 in the negative.

[See Yea and Nay No. 114 in Supplement.]

Therefore the bill, as amended, was ordered to a third reading.

Subsequently under suspension of the rules, on motion of Mr. Greene, the bill (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. The bill (House, No. 4531, amended) then was sent to the Senate for concurrence.

Engrossed Bills — Land Takings.

The engrossed Bill authorizing the Department of Environmental Management to acquire conservation restrictions in lands of the town of Hatfield and the Hatfield Water Commission (see Senate, No. 1985, amended) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 115 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill authorizing the town of Plymouth to use certain conservation land for sewer purposes (see House, No. 4010) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 151 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 116 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill authorizing the town of Hingham to convey certain conservation land (see House, No. 4201) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 117 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill authorizing the town of Grafton to convey a certain parcel of conservation land (see House, No. 4426) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the

roll call 154 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 118 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

The House Bill to establish sentencing guidelines (House, No. 4596) was read a second time.

After debate on the question on ordering the bill to a third reading, Mr. Fallon of Malden moved that the bill be amended in section 1, in lines 422 and 423, by striking out the words “not be required to conduct an evidentiary” and inserting in place thereof the words “be required to conduct a”.

After remarks the amendment was adopted.

Messrs. Tobin of Quincy and Rogers of Norwood then moved that the bill be amended in section 1 by inserting after line 663 the following paragraph:

“Section 13A. Subsection (f) of said chapter 211E, as so appearing, is hereby amended by adding the following sentence:— The commission shall not later than June 1st and annually thereafter report its determination of the type and amount of correctional resources needed and the analysis resulting in such determination to the aforementioned persons, the house and senate committees on ways and means and the joint committee on criminal justice.”.

The amendment was adopted.

The same members then moved that the bill be amended by inserting after section 9 the following section:—

“SECTION 9A. Section 5 of chapter 211F of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting in line 3 after the word ‘justice,’ the following:— the house and senate committees on ways and means.”.

The amendment was adopted.

Ms. St. Fleur and other members of the House then moved that the bill be amended by inserting after section 9A (inserted by amendment) the following section:

“SECTION 9B. The Sentencing Commission as established by chapter 432 of the Acts of 1993 shall monitor the implementation of the sentencing guidelines for a period of three years after the enactment of said legislation. The Sentencing Commission shall review the application of the concurrent or consecutive sentencing provision(s) and the mandatory sentences in the prosecution of controlled substances for fair application of said sections consistent with the spirit and intent of this legislation.”.

After debate the amendment was adopted.

Mr. Marini of Hanson and other members of the House then moved that the bill be amended in section 1, in line 385, by striking out the word “may” and inserting in place the word “shall” and, in lines 394 and 409, by striking out the words “includes the following” and inserting in place thereof, in each instance, the words “is as follows”.

The amendments were adopted.

Mr. Tobin of Quincy and other members of the House then moved that the bill be amended in section 1, in lines 372 to 383, inclusive, by striking out the paragraph contained therein and inserting in place thereof the following paragraph:

Mr. Marini of Hanson, Mr. Tobin of Quincy and Mr. Rogers of Norwood moved to amend the bill in Section 1 (as printed) by striking out the paragraph contained in lines 372 to 383, inclusive, and, inserting in place thereof the following paragraph:—

“(b) Departing from The Guidelines Range. The sentencing judge may not impose a sentence above or below the sentencing guidelines range unless the court finds, based on clear and convincing evidence at the time of sentencing, that one or more aggravating or mitigating circumstances exist as provided in this chapter and that those circumstances constitute substantial and compelling reasons for departure. The sentencing judge shall set forth in writing reasons for departing from that range; on a sentencing statement, consistent with the provisions of subsection (h) of chapter 211E. In imposing a sentence of incarceration that departs from the sentencing guidelines range, the minimum sentence shall be two-thirds of the maximum sentence. A sentence that departs below the sentencing guidelines range may include a sentence to any lesser term of incarceration or any intermediate sanction. Notwithstanding any other provision of law, it shall not constitute a departure for a judge to impose the statutory maximum sentence on any defendant in Criminal History Group E.”; by striking out section 6 and inserting in place thereof the following eight sections:

“SECTION 6. Subsection (c) of section 32A of chapter 94C of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following three sentences:— In the case of mitigating circumstances as stated in subsection (c) of section 8 of chapter 211G, this offense shall be integrated into the sentencing guidelines grid. The penalty imposed shall be from within the guidelines range, with the minimum sentence representing two-thirds of the maximum sentence. There shall be no further departures from the sentencing guidelines range.

SECTION 6A. Paragraph (2) of subsection (a) of said section 32E of said chapter 94C, as so appearing, is hereby amended by adding the following three sentences:— In the case of mitigating circumstances as stated in subsection (c) of section 8 of chapter 211G, this offense shall be integrated into the sentencing guidelines grid. The penalty imposed shall be from within the guidelines range, with the minimum sentence representing two-thirds of the maximum sentence. There shall be no further departures from the sentencing guidelines range.

SECTION 6B. Paragraph (3) of said subsection (a) of said section 32E of said chapter 94C, as so appearing, is hereby amended by adding the following three sentences:— In the case of mitigating circumstances as stated in subsection (c) of section 8 of chapter 211G, this offense

shall be integrated into the sentencing guidelines grid. The penalty imposed shall be from within the guidelines range, with the minimum sentence representing two-thirds of the maximum sentence. There shall be no further departures from the sentencing guidelines range.

SECTION 6C. Paragraph (1) of subsection (b) of said section 32E of said chapter 94C, as so appearing, is hereby amended by adding the following three sentences:— In the case of mitigating circumstances as stated in subsection (c) of section 8 of chapter 211G, this offense shall be integrated into the sentencing guidelines grid. The penalty imposed shall be from within the guidelines range, with the minimum sentence representing two-thirds of the maximum sentence. There shall be no further departures from the sentencing guidelines range.

SECTION 6D. Paragraph (2) of said subsection (b) of said section 32E of said chapter 94C, as so appearing, is hereby amended by adding the following three sentences:— In the case of mitigating circumstances as stated in subsection (c) of section 8 of chapter 211G, this offense shall be integrated into the sentencing guidelines grid. The penalty imposed shall be from within the guidelines range, with the minimum sentence representing two-thirds of the maximum sentence. There shall be no further departures from the sentencing guidelines range.

SECTION 6E. Paragraph (1) of subsection (c) of said section 32E of said chapter 94C, as so appearing, is hereby amended by adding the following three sentences:— In the case of mitigating circumstances as stated in subsection (c) of section 8 of chapter 211G, this offense shall be integrated into the sentencing guidelines grid. The penalty imposed shall be from within the guidelines range, with the minimum sentence representing two-thirds of the maximum sentence. There shall be no further departures from the sentencing guidelines range.

SECTION 6F. Paragraph (2) of said subsection (c) of said section 32E of chapter 94C, as so appearing, is hereby amended by adding the following three sentences:— In the case of mitigating circumstances as stated in subsection (c) of section 8 of chapter 211G, this offense shall be integrated into the sentencing guidelines grid. The penalty imposed shall be from within the guidelines range, with the minimum sentence representing two-thirds of the maximum sentence. There shall be no further departures from the sentencing guidelines range.

SECTION 6G. Section 32J of said chapter 94C, as so appearing, is hereby amended by adding the following three sentences:— In the case of mitigating circumstances as stated in subsection (c) of section 8 of chapter 211G, this offense shall be integrated into the sentencing guidelines grid. The penalty imposed shall be from within the guidelines range, with the minimum sentence representing two-thirds of the maximum sentence. There shall be no further departures from the sentencing guidelines range.”; by inserting after section 4 (as printed) the following section:

“SECTION 4A. Said section 3 of said chapter 211E, as so appearing, is hereby further amended by striking out, in lines 15 and 92, the word ‘non-exclusive’ and inserting in place thereof, in each instance, the following word:— exclusive.”; by striking out section 10 and inserting in place thereof the following section:—

“SECTION 10. The provisions of this act shall take effect on December 1, 2001 and the sentencing guidelines and other related provisions contained herein shall apply to all felonies and misdemeanors committed on or after said date. All offenses committed prior to December 1,

2001, shall be governed by the laws, including, but not limited to, those on sentencing, parole, and probation, in effect at the time the offense is committed.”; and by inserting before the enacting clause the following emergency preamble:

“*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith new sentencing guidelines, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”.

The amendments were adopted; and the bill (House, No. 4596, amended) was ordered to a third reading.

Order.

The Speaker being in the Chair,— on motion of Mr. Bosley of North Adams,—

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

At a quarter before six o’clock P.M., on motion of Mr. Bosley (the Speaker being in the Chair), the House adjourned, to meet tomorrow at eleven o’clock A.M., in an Informal Session.