

JOURNAL OF THE HOUSE.

Wednesday, October 17, 2001.

Met according to adjournment, at eleven o'clock A.M., with Mr. DiMasi of Boston 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, we take this moment to offer a prayer and for spiritual reflection and to direct our thoughts to You, Our Creator. As a nation and as people, we proclaim our dependence upon Your assistance and guidance during these stressful and trying times, as we try to address serious and unique political, economic and safety issues and challenges. In planning legislation for present and future needs, grant us a clarity of vision, a measured response to crisis, a patient attitude towards changes and an openness to work with all for the common good. Inspire us to take one day at a time and to resolve one issue at a time. In our desire to serve the people, this Commonwealth, and this nation, teach us to continue serving You and living our daily lives according to Your precepts and expectations.

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

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

Message from the Acting Governor.

A message from Her Honor the Lieutenant-Governor, Acting Governor, submitting recommendations for making certain appropriations for the fiscal year ending June 30, 2002, before final action on the General Appropriation Bill for that fiscal year (House, No. 4668) was filed in the office of the Clerk on Monday, October 15.

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.

Statement Concerning Representative Caron of Springfield.

A statement of Mr. DiMasi of Boston concerning Mr. Caron of Springfield 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 Caron of Springfield, is not present in the House Chamber for today's sitting due to a previously scheduled commitment in the city of Springfield. If he were able to be present today for the taking of roll call No. 124, he would have voted in the

affirmative. Any roll calls that he may miss today is due entirely to the reason stated.

Statement Concerning Representative Demakis of Boston.

A statement of Mr. DiMasi of Boston concerning Mr. Demakis of Boston 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 Demakis of Boston, will not be present in the House Chamber for a portion of today's sitting due to a family health matter. Any roll calls that he may miss today is due entirely to the reason stated.

Statement of Representative Kulik of Worthington.

A statement of Mr. Kulik of Worthington 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 unable 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 miss today is due entirely to the reason stated.

Statement of Representative Pope of Wayland.

A statement of Representative Pope of Wayland 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 unable to be present in the House Chamber for the sitting of Tuesday, October 9, due to a family commitment that could not be rescheduled. Any roll calls that I may have missed that day is due entirely to the reason stated. Had I been present that day for the taking of roll call No. 120, I would have voted in the negative. If present for the taking of roll call Nos. 121 and 122, I would have voted in the affirmative, in each instance.

Resolutions.

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

Resolutions (filed by Mr. Finneran of Boston) congratulating Bernadette A. Flynn on the occasion of her retirement;

Resolutions (filed by Representatives Casey of Winchester, Donovan of Woburn and Festa of Melrose) congratulating Chief Eugene M. Passaro on the occasion of his retirement from the Stoneham Police Department;

Resolutions (filed by Mr. Hillman of Sturbridge) congratulating Saint Mary's Church of Thorndike on the occasion of its one hundred and twenty-fifth anniversary;

Resolutions (filed by Mr. Koczera of New Bedford) on the observance of Massachusetts

Watershed Week;

Resolutions (filed by Mrs. Owens-Hicks of Boston) honoring Suffragan Bishop Hurshel Langham, Pastor of the Faithful Church of Christ;

Resolutions (filed by Mrs. Owens-Hicks of Boston) honoring Mother Jacqueline Louise Loving Langham, Leading Lady of the Faithful Church of Christ;

Resolutions (filed by Miss Reinstein of Revere) commending Revere Police Officer Terry James for her life saving actions; and

Resolutions (filed by Ms. Wolf of Cambridge) congratulating Eric A. Cornell on the occasion of earning the 2001 Nobel Prize in Physics;

Mr. DiMasi of Boston, 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. Finneran, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Paper from the Senate.

A Bill relative to a special fund in the town of Plymouth (Senate, No. 1030) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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 Emile J. Goguen and Robert A. Antonioni for legislation to authorize the Department of Correction to establish a sick leave bank for Mary O'Neil, an employee of said department. Under suspension of the rules, on motion of Mr. Finneran of Boston, 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. Hall of Westford, for the committee on State Administration, on House, No. 4641, a Bill authorizing the city of Methuen to enter into a lease agreement with Dispatch Communications (House, No. 4667) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Broadhurst of Methuen, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration of the Bill further defining fresh pursuit (House, No.

1222),— and recommending that the same be referred to the committee on Rules. Under Rule 42, the report was considered forthwith.

Pending the question on acceptance of the report, further consideration thereof was postponed, on motion of Mr. Hill of Ipswich, until the hour of one o'clock P.M.

Subsequently, the noon recess having terminated, the report was considered further.

Further consideration thereof was postponed, on further motion of Mr. Hill, until after disposition of the remaining matters in the Orders of the Day.

Mr. Scaccia of Boston, for the committee on Rules, on the Order relative to authorizing the committee on Public Safety to make an investigation and study of certain House documents concerning emergency personnel and other related public safety issues (House, No. 4583) reported, in part, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 2596) of Joseph C. Sullivan relative to the continuing education requirements of steam boiler engineers and firemen,— and recommending that the same be recommitted to the committee on Public Safety. Under Rule 42, the report was considered forthwith; and it was accepted.

By Mr. Hall of Westford, for the committee on State Administration, on Senate, Nos. 1535, 1604 and 1611 and House, Nos. 103, 104, 105, 106, 108, 926, 929, 1115, 1116, 1498, 2075, 2257, 2430, 2621, 3624 and 3828, an Order relative to authorizing the committee on State Administration to make an investigation and study of certain Senate and House documents concerning construction reform, the prevailing wage law and the regulation of contractors in the Commonwealth (House, No. 4662).

By the same member, for the same committee, on Senate, Nos. 1540 and 1548 and House, Nos. 2076, 2789 and 4161, an Order relative to authorizing the committee on State Administration to make an investigation and study of certain Senate and House documents concerning additional emblems and designations of the Commonwealth of Massachusetts (House, No. 4663).

By the same member, for the same committee, on Senate, Nos. 1550, 1556, 1570 and 1608 and House, Nos. 3032 and 3428, an Order relative to authorizing the committee on State Administration to make an investigation and study of certain Senate and House documents concerning the administration of the Commonwealth (House, No. 4664).

By the same member, for the same committee, on Senate, Nos. 1572, 1589, 1597 and 1617 and House, Nos. 359, 538, 539, 735, 1120, 1305, 1688, 2615, 2792 and 3193, an Order relative to authorizing the committee on State Administration to make an investigation and study of certain Senate and House documents concerning the lease and conveyance of certain lands, the rights of property owners and the disposition of real property in the Commonwealth (House, No. 4665).

Severally 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, in each instance, asking to be discharged from further consideration of said orders; and recommending that the same

severally be referred to the House committee on Rules.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

By Mr. Toomey of Cambridge, for the committee on Public Safety, on a message from Her Honor the Lieutenant-Governor, Acting Governor, a Bill to promote public safety in the Commonwealth (printed in House, No. 4621).

By Mr. Casey of Winchester, for the committee on Taxation, on House, Nos. 189 and 193, a Bill relative to the disclosure of tax information of the sale of tobacco products (House, No. 193).

By the same member, for the same committee, on a recommitted petition, a Bill relative to the deduction of health insurance payments from gross income for self-employed persons (House, No. 2440).

By Mr. Sullivan of Braintree, for the committee on Transportation, on a petition, a Bill relative to the sounding of whistles at railroad crossings in the Commonwealth (House, No. 2643).

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

By Mr. Wagner of Chicopee, for the committee on Election Laws, on a petition, a Bill relative to reprecincting (House, No. 4653, changed in line 4 by inserting after the word “thousand” the words “five hundred”).

By Mr. Donnelly of Boston, for the committee on the Judiciary, on House, Nos. 843 and 1803, a Bill increasing the fee for admitting a person to bail (House, No. 843, changed in line 7 by striking out the word “fifty” and inserting in place thereof the word “forty”, and in line 13 by striking out the word “sixty-five” and inserting in place thereof the word “sixty”).

By Mr. Casey of Winchester, for the committee on Taxation, on House, Nos. 189 and 197, a Bill relating to exemptions for property tax and motor vehicle excise for veterans and others (House, No. 197).

By the same member, for the same committee, on a recommitted petition, a Bill to improve the motor vehicle excise abatement process (House, No. 367).

By the same member, for the same committee, on a recommitted petition, a Bill providing for equal treatment of resident owners of cooperative housing corporations in assessment of local taxes (House, No. 386).

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

Orders of the Day.

House bills

Relative to the disposition of certain property in the city of Lowell (printed as Senate, No. 1599,

amended);

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

Authorizing the town of Mashpee to issue additional licenses for the sale of all alcoholic beverages to be drunk on the premises (House, No. 4234);

Authorizing the town of Mashpee to convey certain conservation land (House, No. 4299);

Authorizing the town of Mashpee to lease or grant an easement in certain land (House, No. 4300);

Relative to the liability insurance fund in the town of Brookline (House, No. 4302) (its title having been changed by the committee on Bills in the Third Reading);

Relative to parking violations in the town of Brookline (House, No. 4304) (its title having been changed by the committee on Bills in the Third Reading);

Relative to labeling of certain food products and dietary supplements (House, No. 4353) (its title having been changed by the committee on Bills in the Third Reading); and

Relative to voting precincts in the town of Ludlow (printed in House, No. 4518, changed);

Severally reported by the committee on Bills in the Third Reading 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 speed limits in cities and towns (House, No. 4318, amended) was read a third time.

The committee on Bills in the Third Reading reported recommending that the bill be amended in section 2, in lines 4 to 16, inclusive, by striking out the paragraph contained therein and inserting in place thereof the following paragraph:

“Notwithstanding the foregoing, upon a vote by a city council, board of selectmen or town council, as the case may be, a city or town may make special regulations as to the speed of motor vehicles on functionally classified local ways; provided, however, that the way in question is wholly contained in the municipality; provided, further, that a professional engineer in civil or traffic engineering registered within the commonwealth and the chief of police or the board or officer having control of the police in a city or town first certify in writing that such regulation is consistent with the public interest and public safety; provided, further, that such regulations shall not be subject to the approval of the department or the registrar. For the purpose of this paragraph, a functionally classified local way shall be a public way in a residential area and a public way between a residential area and a minor commercial area.”.

The amendment was adopted; and the bill (House, No. 4318, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Senate bills

Designating a portion of the Blackstone River and Canal Heritage Park as the Honorable William A. L. Bazeley Memorial Recreation Area (Senate, No. 1089);

Providing for the annual observance of Jack Kerouac Day (Senate, No. 1571); and

Relative to limitations on total obligations of one borrower to a stock corporation or thrift institution (Senate, No. 1874); and

House bills

Relative to the governance and management of state chartered banks (House, No. 1723);

Clarifying charitable contributions (House, No. 2280);

Prohibiting intentional misrepresentation by a business of its location (House, No. 2285, changed);

Protecting beneficiaries of structured settlements (House, No. 2375);

Relative to retail sales (House, No. 2655);

Further regulating two-for-one sales of retail merchandise (House, No. 2656);

Relative to including private non-profit corporations which receive public funds under the provisions of the open meeting and open records laws (House, No. 2990);

Relative to dog license fees for senior citizens (House, No. 3054, changed);

Relative to the finances of regional school committees (House, No. 3071);

Designating a certain portion of state highway Route 169 as the Leonide J. Lemire V.F.W. Post 6055 Memorial Highway (House, No. 3227, changed);

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

To prevent animal fighting (House, No. 3572);

Further regulating the sale of mercury thermometers (House, No. 3772);

Relative to lodging houses (House, No. 3933);

Providing for recall elections in the town of Newbury (House, No. 4288, changed);

Relative to consumer and merchant protection (House, No. 4329);

Relative to indemnification of public retirees (House, No. 4330);

Further regulating public payroll deductions for charities (House, No. 4331);

Relative to the town of Medfield and the Medfield Shelter 2000, Inc. (House, No. 4360);

Making certain corrective changes in the Massachusetts Pesticide Control Act (House, No. 4381); and

Relative to the use of asthma inhalers by students in public schools (House, No. 4411);

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

At sixteen minutes before twelve o'clock noon, on motion of Mr. Linsky of Natick (Mr. DiMasi of Boston being in the Chair), the House recessed until one o'clock P.M.; and at twenty-seven minutes after one o'clock the House was called to order with Ms. Lewis of Dedham in the Chair.

The Chair (Ms. Lewis) thereupon declared a further recess subject to the call of the Chair; and at sixteen minutes after two o'clock the House was called to order with Mrs. Harkins of Needham in the Chair.

The Senate Bill relative to the crimes of assault and battery and assault and battery by means of a dangerous weapon (Senate, No. 167, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Pending the question on passing the bill, as amended, to be engrossed, in concurrence, further consideration thereof was postponed, on motion of Mr. Murphy of Burlington, until the next sitting.

The House Bill authorizing leaves of absence for certain employees participating in Red Cross emergencies (House, No. 4602), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Barrios of Cambridge asked for a count of the House to ascertain if a quorum was present. The Chair (Mrs. Harkins of Needham), 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 142 members were recorded as being in attendance.

[See Yea and Nay No. 123 in Supplement.]

Therefore a quorum was present.

After debate on the question on passing the bill to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Barrios; and on the roll call 148 members voted in the affirmative and 3 in the negative.

[See Yea and Nay No. 124 in Supplement.]

Therefore the bill (House, No. 4602) was passed to be engrossed. Sent to the Senate for concurrence.

The House Bill establishing a victims of drunk driving trust fund (House, No. 4601) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, Messrs. Marini of Hanson, Rogers of Norwood and other members of the House moved that it be amended in section 1, in line 7, by striking out the words “registry of motor vehicles” and inserting in place thereof the word “courts”, and in line 8, by striking out the following: “37 of section 33” and inserting in place thereof the following: “(1)(a)(1) of section 24”; and by striking out section 2 and inserting in place thereof the following section:

“SECTION 2. Subsection (1)(a)(1) of section 24 of chapter 90, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word “mittimus” in line 26 the following new paragraph:—

There shall be an assessment of \$50 against a person who, by a court of the commonwealth, is convicted of, is placed on probation for, or is granted a continuance without a finding for or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a motor vehicle while under the influence of intoxicating liquor, marijuana, narcotic drugs, depressants or stimulant substances, all as defined by section 1 of chapter 94C, pursuant to the provisions of this section or section 24(1)(b), 24(1)(c)(2), 24(1)(c)(3), 24(1)(c)(3½), 24(1)(c)(4), 24D, 24E, 24G(a), 24G(b) and 24L of chapter 90. Said assessment shall not be subject to waiver by the court for any reason. If the person is sentenced to a correctional facility in the commonwealth and said assessment has not been paid, the court shall note the assessment on the mittimus. The monies collected pursuant to the fees established by this section shall be transmitted monthly by the courts to the state treasurer who shall then deposit, invest and transfer, from time to time, said monies into the Victims of Drunk Driving Trust Fund established by section 62 of chapter 10. Said monies shall then be administered, pursuant to the provisions of said section 62 of said chapter 10, by the victim and witness assistance board for the purposes set forth in said section 62. Fees paid by an individual into the Victims of Drunk Driving Trust Fund pursuant to this section shall be in addition to, and not in lieu of, any other court imposed fees made applicable to said individual pursuant to this chapter or any other chapter. The administrative office of the trial court shall file a report detailing the amount of funds imposed and collected pursuant to this section to the house and senate committees on ways and means and to the victim and witness assistance board, as defined in section 4 of chapter 258B, no later than July 15 of each calendar year.”.

The amendments were adopted.

After remarks on the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Rogers of Norwood; and on the roll call 149 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 125 in Supplement.]

Therefore the bill (House, No. 4601, amended) was passed to be engrossed. Sent to the Senate for concurrence.

The House Bill relative to health care carriers (House, No. 4214, changed) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

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 twelve minutes before four o'clock P.M., on motion of Mr. Kujawski of Webster (Mrs. Harkins of Needham being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M., in an Informal Session.