

## **JOURNAL OF THE HOUSE.**

Wednesday, March 26, 2003.

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, these several moments of personal prayer and reflection enable us to focus our attention on You and on our personal and legislative responsibilities and opportunities. With hearts and minds open to You, we can share in Your gifts of love and peace. During these days of war abroad and possible terrorist attacks at home, help us to respond prudently and wisely to the difficult challenges which we face together. As a nation and a people we continue to place our trust in You, in each other and our basic institutions which enable us to continue building a peaceful, civil, ethical and just society. May we be ever grateful to You, Our Creator, for the material and spiritual blessings which come our way each day and we often take for granted. Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

### **Messages from the Governor.**

A message from His Excellency the Governor recommending legislation relative to reforming the MassHealth Program (House, No. 3732) was filed in the office of the Clerk on Thursday, February 27.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Health Care. Sent to the Senate for concurrence.

A message from His Excellency the Governor recommending legislation relative to designating portions of Interstate 90 and Interstate 93 (House, No. 3733) was filed in the office of the Clerk on Tuesday, March 25.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Transportation. Sent to the Senate for concurrence.

### **Statement Concerning Representative Coppola of Foxborough.**

A statement of Mr. Jones of North Reading concerning Mr. Coppola of Foxborough 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 Coppola of Foxborough, will not be present in the House Chamber for today's sitting due to a family emergency. Any roll calls that he may miss today will be due entirely to the reason stated.

### **Statement of Representative Festa of Melrose.**

A statement of Mr. Festa of Melrose 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 last Thursday (March 20) due to official business outside of the Commonwealth that had been previously scheduled and unavoidable. Any roll calls that I missed that day is due entirely to the reason stated. Had I been present for the taking of yea and nay numbers 41 and 43, I would have voted, in each instance, in the negative. Had I been present for the taking of yea and nay number 44, I would have voted in the affirmative.

#### **Statement Concerning Representative Fox of Boston.**

During the session, a statement of Mr. Rushing of Boston concerning Ms. Fox 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, Ms. Fox of Boston, was unable to be present in the House Chamber for today's sitting due to illness. Had she been present for the taking of yea and nay number 46, she would have voted in the affirmative. Any roll calls that she may have missed today is due entirely to the reason stated.

#### **Statement of Representative Khan of Newton.**

A statement of Ms. Khan 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 I was not able to be present in the House Chamber for a portion of today's sitting due a medical appointment. Any roll calls that I may have missed today is due entirely to the reason stated.

#### **Statement of Representative Travis of Rehoboth.**

A statement of Mr. Travis of Rehoboth 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 last Thursday (March 20) due to being out of town on personal family business. Any roll calls that I missed that day is 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. Koutoujian of Newton) recognizing Multiple Sclerosis Week;

Resolutions (filed by Mr. LeDuc of Marlborough) acknowledging April as Child Abuse Prevention Month;

Resolutions (filed by Mr. Linsky of Natick) honoring Darren Flutie for his twelve year career in the Canadian Football League;

Resolutions (filed by Mr. O'Brien of Kingston) congratulating Mary Grant Rushton on the occasion of her one hundredth birthday;

Resolutions (filed by Ms. Reinstein of Revere) congratulating Kathy Finklestein on receiving the President's Award from the Chelsea Chamber of Commerce; and

Resolutions (filed by Ms. Reinstein of Revere) congratulating Joshua Kraft on receiving the Outstanding Citizen Award from the Chelsea Chamber of Commerce; Mr. Scaccia 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. Koutoujian, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

### **Order.**

On motion of Mr. DiMasi of Boston,—

Ordered, That, notwithstanding the provisions of the rules, the Speaker shall assign a court officer to cast the votes, except for quorum roll calls, of the Chairman of the committee on Ways and Means for today's sitting, while said Chairman is conducting a hearing in the State House on the General Appropriation Bill.

### **Petition.**

Ms. Malia of Boston presented a petition (subject to Joint Rule 12) of Elizabeth Malia for legislation to provide health insurance for direct care workers in long term care; and the same was referred, under Rule 24, to the committee on Rules.

### **Papers from the Senate.**

Petitions were referred, in concurrence, under suspension of Joint Rule 12, as follows:

Petition (accompanied by bill, Senate, No. 1964) of Joan M. Menard, David L. Flynn, Steven C. Panagiotakos, Vincent A. Pedone and other members of the General Court for legislation to establish the Massachusetts gaming control act. To the committee on Government Regulations. Petition (accompanied by bill, Senate, No. 1965) of Marian Walsh and Robert K. Coughlin for legislation relative to the Dedham-Westwood Water District. To the committee on Natural Resources and Agriculture.

Petition (accompanied by bill, Senate, No. 0000) of Jo Ann Sprague, Philip Travis and Marc R. Pacheco for legislation relative to a certain retirement elective of Annie Nichols. To the committee on Public Service.

### **Reports of Committees.**

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the Bill further regulating the expiration dates of gift certificates and certain mediums of exchange (House, No. 3729) be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Rodrigues of Westport, the bill was read a second and (having been reported by the committee on Bills in the Third Reading to be correctly drawn) a third time forthwith; and it was passed to be engrossed. Sent to the Senate for concurrence.

By Mr. Rodrigues of Westport, for the committee on Commerce and Labor, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 1623) of

Robert J. Nyman and Andrea F. Nuciforo, Jr., for legislation to prohibit the use of the name of financial institutions in advertising and soliciting without prior consent,— and recommending that the same be referred to the committee on Banks and Banking; and  
By Mr. Vallee of Franklin, for the committee on Criminal Justice, asking to be discharged from further consideration  
Of the petition (accompanied by bill, Senate, No. 173) of Cynthia S. Creem and Robert S. Creedon, Jr. for legislation to improve the accuracy of eyewitness identification procedures in law enforcement;  
Of the petition (accompanied by bill, Senate, No. 174) of Cynthia S. Creem for legislation relative to the statute of limitations in cases of sexual abuse of minors; and  
Of the petition (accompanied by bill, Senate, No. 178) of Cynthia S. Creem and Dianne Wilkerson for legislation to provide access to forensic and scientific analysis obtained in the investigation of a crime;  
And recommending that the same severally be referred to the committee on the Judiciary.  
Under Rule 42, the reports severally were considered forthwith; and they were accepted.  
Severally sent to the Senate for concurrence.

### **Recess.**

At eight minutes after eleven o'clock A.M., on motion of Mr. Peterson Grafton (Mr. DiMasi of Boston being in the Chair), the House recessed until one o'clock P.M.; and at that time the House was called to order with the Speaker in the Chair.

### **Engrossed Bill — Land Taking.**

The engrossed Bill authorizing the town of Sandwich to convey certain conservation land (see House, No. 2016, amended) (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 145 members voted in the affirmative and 0 in the negative.

See Yea and Nay No. 45 in Supplement.

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

### **Tributes to the Armed Forces.**

At the request of the Speaker, the members, guests and employees stood for the singing of The Lord's Prayer by Jason McAdams, a Master's Degree candidate in opera studies at the New England Conservatory of Music.

At the request of Mr. Jones of North Reading (the Speaker being in the Chair), the members, guests and employees stood for a moment of silent prayer for the men and women of the armed forces involved in the current conflict overseas.

At the request of the Speaker, the members, guests and employees joined with Mr. McAdams in the singing of America the Beautiful.

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

Resolutions (filed by Mr. Jones of North Reading and other members of the House) expressing the support of the House for the government and armed forces of the United States, were referred, under Rule 85, to the committee on Rules.

Mr. Scaccia 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. Jones, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith. Pending the question on adoption of the resolutions, the same member and other members of the House moved that they be amended by striking out the text contained therein and inserting in place thereof a new text and striking out the title and inserting in place thereof the following title: "Resolutions expressing the support of the House for the armed forces of the United States."

The amendments were adopted.

On the question on adoption of the resolutions, as amended, the sense of the House was taken by yeas and nays, at the request of Mr. Jones; and on the roll call 148 members voted in the affirmative and 0 in the negative.

**[See Yea and Nay No. 46 in Supplement.](#)**

Therefore the resolutions (House, No. 3731, printed as amended) were adopted.

Order.

An Order (filed by Mr. Scaccia of Boston) relative to the procedures for consideration of the General Appropriation Bill for fiscal year 2004 (House, No. 3730), having been reported from the committee on Rules, under the provisions of House Rules 7B and 7C, was considered.

Pending the question on adoption of the order, at one minute after two o'clock P.M., the Speaker declared a recess until a quarter after two o'clock; and at eighteen minutes after three o'clock the House was called to order with Mrs. Harkins of Needham in the Chair.

Mr. Peterson of Grafton thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mrs. Harkins), 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 133 members were recorded as being in attendance.

**[See Yea and Nay No. 47 in Supplement.](#)**

Therefore a quorum was present.

Subsequently a statement of Ms. Canavan of Brockton 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 the taking of the previous roll call due to a malfunction in the public address system.

Mr. Jones of North Reading and other members of the House then moved that the order be amended by striking out the second paragraph contained therein.

After debate on the question on adoption of the amendment, Mr. Peterson of Grafton moved that House Rule 7B be suspended in order that the House might continue to debate the pending order; and the motion prevailed.

After further debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Ms. Balsler of Newton; and on the roll call 45 members voted in the affirmative and 101 in the negative.

[See Yea and Nay No. 48 in Supplement.](#)

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved that the order be amended by inserting after the first paragraph the following paragraph:

Ordered, That, matters relative to casino gaming, slot machines or video gaming filed pursuant to the first paragraph of Joint Rule 12 shall be reported by all committees with jurisdiction over such matters, placed on the Calendar and debated by the House prior to April 25, 2003; and be it further”.

The amendment was adopted.

Mrs. Paulsen of Belmont then moved that proposed Rule 73C be amended by adding after the word “amendment”, the last time it appears, the following: “, except that any amendment offered under Rule 20A as a further amendment to the consolidated amendment will be allowed to be moved from one subject category to another in this annual appropriation bill”; and the amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved that the order be amended in proposed Rule 73C by inserting after the words “Ways and Means”, the third time they appear, the following: “subject to criteria considered and approved by the members of the House prior to April 23, 2003”.

After debate the amendment was rejected.

Mr. Jones and other members of the House then moved that the order be amended by adding at the end thereof the following paragraph:

Ordered, That, the Committee on Ways and Means shall hold an open meeting at the State House for the purpose of answering questions about the General Appropriations Bill and providing members of the public and the House with any documentation supporting the calculations and recommendations made therein. Said open meeting shall commence not less than 24 hours nor more than 36 hours after the time the General Appropriations Bill is released by the Committee on Ways and Means, shall remain in session and open to the public for a period of not less than three hours, and shall in all other respects not contrary to the provisions of this order be governed by the provisions of House Rule 17A.”.

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 Mr. Jones of North Reading; and on the roll call 37 members voted in the affirmative and 109 in the negative.

**[See Yea and Nay No. 49 in Supplement.](#)**

Therefore the amendment was rejected.

Mr. Fallon of Malden then moved that the order be amended in the second paragraph by inserting after the word “Commonwealth”, the first time it appears, the words “except for any amendment that would enhance departmental revenue that thereupon results in the hiring of previously laid off employees with said department”; and the amendment was rejected.

Mr. Petersen of Marblehead then moved that the order be amended by striking out proposed Section 73C.

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 Mr. Travis of Rehoboth; and on the roll call 19 members voted in the affirmative and 125 in the negative.

**[See Yea and Nay No. 50 in Supplement.](#)**

Therefore the amendment was rejected.

Mrs. Paulsen of Belmont then moved that proposed Rule 73C be amended by inserting after the word “amendment.” the words “except that any amendment offered under Rule 20A as a further amendment to the consolidated amendment will be allowed to be moved from one subject category to another in this annual appropriation bill”.

After debate the amendment was rejected.

Ms. Jehlen of Somerville then moved that the order be amended in proposed Rule 73C by inserting after the word “amount” the words “; provided, however, that amendments increasing appropriations using enhanced state revenue authorized by a vote of the House prior to the third reading of the General Appropriation Bill shall be in order”.

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 42 members voted in the affirmative and 103 in the negative.

**[See Yea and Nay No. 51 in Supplement.](#)**

Therefore the amendment was rejected.

On the question on adoption of the order, as amended, 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 106 members voted in the affirmative and 38 in the negative.

**[See Yea and Nay No. 52 in Supplement.](#)**

Therefore the order (House, No. 3730, printed as amended) was adopted.

Subsequently a statement of Mrs. Teahan of Whitman 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 the taking of the previous roll call due to a malfunction in the public address system.

**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.

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Mr. Peterson of Grafton then moved that the House adjourn; and the motion prevailed.

Accordingly, without proceeding to consideration of the matters in the Orders of the Day, at twelve minutes after six o'clock P.M. (Mrs. Harkins of Needham being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M., in an Informal Session.

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