NOTICE: *While reasonable efforts have been made to assure the accuracy of the data herein, this is* ***NOT*** *the official version of Senate Journal. It is published to provide information in a timely manner, but has* ***NOT*** *been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.*

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.

Thursday, July 9, 1998.
Met at five minutes past eleven o'clock A.M.

Communication.

A communication from the Department of Education (under the provisions of Section 1B of Chapter 69 of the General Laws) submitting a copy of proposed amendments to the regulations to the charter school tuition formula (received Tuesday, July 7, 1998),— **was placed on file.**

Reports of Committees.

By Mr. Pacheco, for the committee on State Administration, on petition, a Bill authorizing the town of Lynnfield to convey certain land (Senate, No. 2251) [Local approval received];
Read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

By Mr. Pacheco, for the committee on State Administration, on petition, a Bill relative to designating March 31st of every year as the Civilian Conservation Corps Day (Senate, No. 2258);
Read and, under Senate Rule 26, referred to the committee on Steering and Policy.

Mr. Berry, for the committee on Steering and Policy, reported that the following matter be placed in the Orders of the Day for the next session:
The House Bill relative to dental service corporations (House, No. 5386).

Papers from the House

Bills
Relative to the retirement allowance of Mary E. Cassedy (House, No. 1991,— on House, Nos. 1991 and 3125);
Relative to the optional retirement program for certain public employees (House, No. 2193,— on petition);
Requiring criminal background checks on certain employees of long term care facilities (House, No. 5136, amended,— on House, Nos. 2714 and 4219);
Authorizing the establishment of the South Shore tri-town development corporation (House, No. 5528, amended,— on House, No. 5411);
Relative to handicapped license plates (House, No. 5583,— on House, No. 3900); and
Relative to the terms of certain bonds and notes to be issued by the Commonwealth (printed in House, No. 5603, amended,— being a message from His Honor the Lieutenant Governor, Acting Governor);
Were severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

Bills
Relative to demands, tax title notice and record keeping services (printed as Senate, No. 2056,— on petition);
Designating a certain boathouse in the city of Worcester as the Allan Fearn Boathouse at Regatta Point (House, No. 5423,— on

petition); and
Relative to the annual town meeting held in the town of Carver in 1998 (printed in House, No. 5539,— being a message from His Honor the Lieutenant Governor, Acting Governor);
Were severally read and, under Senate Rule 26, referred to the committee on Steering and Policy.

A Bill authorizing the town of Marion to establish an open space acquisition commission (House, No. 5600,— on petition) [Local approval received],— **was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

Petitions were referred, in concurrence, as follows:
Petition (accompanied by bill, House, No. 5684) of Francis H. Duehay (mayor), Timothy J. Toomey, Jr., Alice K. Wolf and others (with the approval of the city council) relative to the redevelopment of the Mayor Michael J. Neville Manor Nursing Home on a portion of land adjacent to the Fresh Pond Reservoir in the city of Cambridge;
To the committee on Local Affairs.

Petition (accompanied by bill, House, No. 5685) of William F. Stanley (mayor), Warren E. Tolman, Peter J. Koutoujian, David F. Gately, Susan C. Fargo and others (with the approval of the city council) relative to the appointment of police cadets as police officers in the city of Waltham; and
Petition (accompanied by bill, House, No. 5687) of Stephen P. LeDuc and Robert A. Durand (with the approval of the mayor and city council) relative to exempting certain positions in the school department of the city of Marlborough from the provisions of civil service law;
Severally to the committee on Public Service.

Petition (accompanied by bill, House, No. 5693) of Mary Jane Simmons, John A. Businger and other members of the General Court for legislation to impose an excise on cigars and smoking tobacco for the use of school nursing services in the Commonwealth;
Under suspension of Joint Rule 12, to the committee on Taxation.

Petition (accompanied by bill, House, No. 5694) of Geoffrey D. Hall, Robert A. Durand, Robert S. Hargraves and another (by vote of the town) for legislation to authorize the discontinuance of soundings of train whistles at railroad crossings in the town of Ayer; and
Petition (accompanied by bill, House, No. 5695) of Edward A. LeLacheur, Thomas A. Golden, Jr., and Kevin J. Murphy relative to designating a certain bridge in the city of Lowell as the Francis W. Grady Bridge;
Severally, under suspension of Joint Rule 12, to the committee on Transportation.

Committee Changes.

The President announced the resignation of Senator Jacques of Norfolk, Bristol and Middlesex as a member of the committee on Bills in the Third Reading and the appointment of Senator Bernstein of First Worcester to fill the vacancy.

Petition.

On motion of Ms. Fargo, Senate Rule 20 and Joint Rule 12 were suspended on the petition, presented by Mr. Creedon (accompanied by bill) of Robert S. Creedon, Jr., Thomas P. Kennedy, Christine E. Canavan and Geraldine Creedon (with the approval of the mayor and the city council) for legislation to authorize the city of Brockton to convey certain land known as the Montello Pool [Local approval received],— **and the same was referred to the committee on State Administration.**
Sent to the House for concurrence.

Report of Committees.

By Mr. Rosenberg, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of John D. O'Brien, Barry R. Finegold, Richard T. Moore and Robert L. Hedlund for legislation relative to the group classification of the Undersecretary of the Executive Office of Public Safety.
Senate Rule 36 was suspended, on motion of Mr. Moore, and 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 House for concurrence.

Papers from the House.

Engrossed Bills.

The following engrossed bills (the first of which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the President and laid before the Acting Governor for his approbation, to wit:

Relative to lowering the age for the donation of blood (see Senate, No. 469); and
Establishing a department of public works in the town of Hatfield (see House, No. 5561).

Resolutions.

Resolutions (filed by Ms. Murray) "on the occasion of the eighth anniversary of the sister-town friendship of Plymouth, Massachusetts and Shichigahama, Japan", were referred, under the rule, to the committee on Rules.
Subsequently, Mr. Rosenberg, for the said committee, reported, recommending that the resolutions ought to be adopted; and they were considered forthwith, under a suspension of the rules, moved by Ms. Murray, and adopted.

Resolutions (filed by Mr. Tarr) "congratulating the United States Marine Band on two hundred years of musical tradition", were referred, under the rule, to the committee on Rules.
Subsequently, Mr. Rosenberg, for the said committee, reported, recommending that the resolutions ought to be adopted; and they were considered forthwith, under a suspension of the rules, moved by Ms. Murray, and adopted.

Matters Taken Out of the Orders of the Day.

There being no objection, the following matters were taken out of the Orders of the Day and considered, as follows:
The Senate Bill authorizing the city of Worcester to issue pension obligation bonds (Senate, No. 2220),— was read a second time and was amended, on motion of Mr. Bernstein, in section 1, by inserting after the first sentence the following sentence:— "The proceeds of any such issuance shall be transferred by the city of Worcester to the Worcester Retirement System."; in section 1, by inserting after the word "manager.", in line 10, the following sentence:— "After the city council has approved the loan order, the city manager shall submit said order and a plan demonstrating how the city will finance and allocate the debt service associated with said bonds or notes to the executive office for administration and finance, and no bonds or notes authorized by this act shall be issued until the secretary for administration and finance has approved said plan.",
In section 2, by inserting after the word "board", in line 11, the following words:— ", and with the approval of the public employee retirement administration commission"; and by striking out section 4 and inserting in place thereof the following section:—
"SECTION 4. Every governmental unit the employees of which are members of the Worcester Retirement System shall be responsible in accordance with this section for paying such proportion of the annual debt service expense paid by the city of Worcester for bonds issued under authority of this act as is equal to the proportion of the total unfunded pension liability of the Worcester Retirement System allocated to such member under section 2. Notwithstanding the provisions of any general or special law to the contrary, the public employee retirement administration commission shall increase the annual amount to be certified under section 22 of chapter 32 of the General Laws as the amount necessary to be paid by each governmental unit in the Worcester Retirement System other than the city of Worcester by each such governmental unit's proportionate share of the annual debt service expense as determined herein and shall decrease the amount to be paid by the city of Worcester by an equal amount. The city of Worcester shall have the same legal rights and authority as the retirement board of the city of Worcester to collect any amount so assessed by the retirement board to any such governmental unit."
The bill, as amended, was ordered to a third reading and read a third time. The bill (Senate, No. 2263, printed as amended) was then passed to be engrossed.
Sent to the House for concurrence.

The House Bill relative to a certain disability retirement for Walter L. Heagney, Jr. (House, No. 5544),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

Reconsideration.

On motion of Ms. Melconian, the Senate reconsidered the vote by which, at the previous session, it had concurred in the House amendments to the engrossed Bill relative to the condominium and time-share laws (see House, No. 5054).
The recurring question on concurring in the House amendments was considered.
The House amendments (as corrected by B.T.R.) read as follows:
In section 5 by striking out the sentence contained in lines 21 to 27, inclusive (as printed), and inserting in place thereof the following sentence:— "The granting of an easement by the organization of unit owners, or the designation or allocation by the organization of unit owners of limited common areas and facilities, or the removal of a portion of the common areas and facilities, all as provided for in this subsection, shall not be deemed to affect or alter the undivided interest of any unit owner"; by striking out the [A] two paragraphs contained in lines 81 to 119, inclusive (as printed), and inserting in place thereof the following two paragraphs:
"(iii) Extend, revive or grant rights to develop the condominium, including the right to add additional units or land to the condominium; provided, however, that the rights to add additional units are set forth in or specifically authorized by the master deed, and, notwithstanding any provision in section 19 to the contrary, remove any portion of the common area of the condominium upon which, at the time of said removal, no unit has been added to the condominium in accordance with the master deed; and provided further, that said removal is not specifically prohibited by the master deed. Any action taken pursuant to this

subparagraph shall be taken upon such terms and conditions as the organization of unit owners may deem appropriate, including the method or formula by which the percentage interest of each unit is to be set in accordance with subsection (a) of section 5, or in accordance with another method which the organization of unit owners reasonably determines is fair and equitable under the circumstances, following such extension, revival, grant, addition or removal if not specified in the master deed; provided further, that the consent thereto, including the terms and conditions thereof, of not less than 75 per cent of owners of units within the condominium, or such lower percentage, if any, as the master deed may provide, and 51 per cent of the number of all mortgagees holding first mortgages on units within the condominium who have given notice of their desire to be notified thereof as provided in subsection (5) of section 4 is obtained for such extension, revival, grant, addition or removal. Any action taken pursuant to this subparagraph may be taken even if the time period for adding land, units or common facilities, or for removal has expired. The removal of common areas pursuant to this subparagraph shall not be deemed to affect the percentage interest of each unit. Such extension, revival, grant, addition or removal shall be effective 30 days after the recording, within the chain of title of the master deed or of the declaration of trust or by-laws, of an instrument duly executed by the organization of unit owners setting forth accurately the extension, revival, grant, addition or removal, and reciting compliance with the requirements of this subsection; and

(iv) sell, convey, lease or mortgage any rights or interest created as a result of exercise of rights established under subparagraph (iii); provided, however, that any proceeds obtained by the organization of unit owners as a result of such sale, conveyance, lease, or mortgage may be paid by the organization of unit owners for common expenses of the condominium, and otherwise shall be distributed in accordance with subparagraph (iii) of subsection (a) of section 6, or in accordance with another method which the organization of unit owners reasonable determines is fair and equitable under the circumstances. The provisions of paragraph (2) shall not affect the rights reserved by the declarant in the master deed except to the extent such rights have expired."; 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 forthwith to enable condominium associations to further develop condominiums and otherwise to create or designate certain interests therein to improve the governance of condominiums, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.".

Mr. Tisei presented the following further amendment to the House amendment:

Striking out [at "A"] the words "two paragraphs contained in lines 81 to 119, inclusive (as printed)" and inserting in place thereof the following words:— "paragraph contained in lines 81 to 101, inclusive (as printed)".

The further amendment was adopted.

The House amendments, as amended, were then adopted.

Sent to the House for concurrence in the further amendment.

Committee Changes.

The President announced the resignation of Senator Bernstein of First Worcester as a member of the committee on Bills in the Third Reading and the reappointment of Senator Jacques of Norfolk, Bristol and Middlesex thereto.

Order Adopted.

On motion of Mr. Morrissey,—

Ordered, That when the Senate adjourns today, it adjourn to meet again on Monday next at eleven o'clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

On motion of Mr. Lees, at thirteen minutes past eleven o'clock A.M., the Senate adjourned to meet on the following Monday at eleven o'clock A.M.