

**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.



Wednesday, July 8, 1998.  
Met at five minutes past eleven o'clock A.M.

### *Reports.*

A report of the Boston Metropolitan District (under the provisions of Section 2 of Chapter 383 of the Acts of 1929) submitting a report of the trustees of the Boston Metropolitan District for the year 1997 (Senate, No. 2245) (received Thursday, June 18, 1998),— **was read and sent to the House for its information.**

The following reports were severally read and placed on file:

A report of the Division of Insurance (under the provision of Section 2 of Chapter 239 of the Acts of 1997) relative to the safe driver insurance plan and the high auto insurance rates in the Commonwealth (received Wednesday, July 1, 1998); and

A report of the Department of Public Utilities (under the provisions of Section 1E(d) of Chapter 164 of the General Laws) submitting a biannual report on the status of mediation claims (received Monday, July 6, 1998).

### *Petitions.*

Petitions were presented and referred, as follows:

By Mr. Clancy, a petition (subject to Joint Rule 12) of Edward J. Clancy, Jr., for legislation relative to Massachusetts building code violations;

By Mr. Morrissey, a petition (subject to Joint Rule 12) of Michael W. Morrissey, Richard T. Moore, Charles E. Shannon, William R. Keating and other members of the General Court for legislation to require that increases in the cost of using a pay phone be reported to the Department of Telecommunication and Energy;

By Ms. Murray (by request), a petition (subject to Joint Rule 12) of Albert E. Bosworth for legislation relative to retirement allowances; and

By Mr. O'Brien, a petition (subject to Joint Rule 12) of John D. O'Brien and James R. Miceli (by vote of the town) for legislation relative to certain pension benefits for the widow of a police lieutenant in the town of Tewksbury [Local approval received];

**Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

### *Committees Discharged.*

Mr. Clancy, for the committee on Rules, to whom was referred the Senate Order relative to authorizing the committee on Banks and Banking to make an investigation and study of the banking laws of the Commonwealth relative to the structure, management, operation and supervision of banks, mortgage lending, deposits and accounts, loans, investments and conveyancing practices (Senate, No. 1919),— reported, in part, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 13) of Marian Walsh for legislation to provide for consent and full disclosure in bank deposits held in trust for another,— and recommending that the same be recommitted to the committee on Banks and Banking.

**Under Senate Rule 36, the report was considered forthwith and accepted.**

Mr. Pacheco, for the committee on State Administration, reported, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 2259) of Robert E. Travaglini and Emanuel G. Serra for legislation to designate Ode to Massachusetts as the Ode of the Commonwealth,— and recommending that the same be referred to the Senate committee on Ways and Means.

**Under Senate Rule 36, the report was considered forthwith and accepted.**

**Sent to the House for concurrence in the discharge of the joint committee.**

### **Papers from the House.**

Messages were referred, in concurrence, as follows:

Message from His Honor the Lieutenant-Governor, Acting Governor, recommending legislation relative to enhancing the quality of teaching in Massachusetts (House, No. 5677);

**To the committee on Education, Arts and Humanities.**

Message from His Honor the Lieutenant-Governor, Acting Governor, recommending legislation relative to authorizing long term leases for offices for the Department of Public Health in Dudley Square in the city of Boston (House, No. 5678);

**To the committee on State Administration.**

### ***Resolutions.***

Resolutions (filed by Mr. Clancy) "congratulating Jerome J. Gear on the occasion of his seventieth birthday", were referred, under the rule, to the committee on Rules.

**Subsequently, Mr. Clancy, 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 Mr. Bernstein, and adopted.**

Resolutions (filed by Mr. Pacheco) "congratulating Timothy Delano Adams upon his elevation to the rank of Eagle Scout", were referred, under the rule, to the committee on Rules.

**Subsequently, Mr. Clancy, 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 Mr. Bernstein, 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 relative to the Election Commission or Board of Registrars of Voters in the town of Swampscott (Senate, No. 2238),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed.**

**Sent to the House for concurrence.**

The Senate Bill relative to the filling of vacancies in town meeting membership in the town of Swampscott (Senate, No. 2239),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed.**

**Sent to the House for concurrence.**

### ***Reports of Committees.***

By Mr. Clancy, for the committees on Rules of the two branches, acting concurrently, that be suspended on the Senate petition of Dianne Wilkerson for legislation relative to banning the sale of tobacco through the use of vending machines.

**Senate Rule 36 was suspended, on motion of Mr. Berry, and the report was considered forthwith. was suspended; and the petition (accompanied by bill) was referred to the committee on Commerce and Labor.**

By Mr. Clancy, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Richard T. Moore and other members of the General Court [for additional petitioners, see printed bill] for legislation to provide for the entry of the Commonwealth into the interstate emergency management assistance compact.

**Senate Rule 36 was suspended, on motion of Mr. Berry, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Safety.**

By Mr. Clancy, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of William R. Keating and Barbara C. Hyland for legislation to establish a sick leave bank for Margaret Haarer, an employee of the Department of Mental Retardation.

**Senate Rule 36 was suspended, on motion of Mr. Berry, 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.**

**Severally sent to the House for concurrence.**

## Papers from the House.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 5686) of David T. Donnelly relative to the issuance of electrician's licenses to certain municipal employees;

**Under suspension of Joint Rule 12, to the committee on Government Regulations.**

Petition (accompanied by bill, House, No. 5681) of Thomas S. Cahir and Ruth W. Provost (by vote of the town) that the town of Bourne be authorized to establish a department of integrated waste management in said town;

**To the committee on Local Affairs.**

Petition (accompanied by bill, House, No. 5682) of Paul C. Demakis and other members of the General Court (with the approval of the mayor and city council) for legislation to provide for the registration of bicycle messenger services and licensing of commercial messengers in the city of Boston;

**To the committee on Public Safety.**

## *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 the procurement of certain educational software for public schools (see Senate, No. 247); and

Designating a portion of state highway Route 20 in the town of Charlton as the JENS Memorial Highway (see House, No. 5384).

## *Engrossed Bill Returned to House by Acting Governor with Recommendation of Amendment..*

The engrossed bill relative to the condominium and time-share laws (see House, No. 5054),— having been returned to the House by His Honor the Lieutenant-Governor, Acting Governor, in accordance with the provisions of Article LVI of the Amendments to the Constitution, with recommendation of amendment (for message, see House, No. 5391),— came from the House *with amendments*.

The message of His Honor the Lieutenant-Governor, Acting Governor, was read.

The rules were suspended, on motion of Mr. Berry, and the matter was considered forthwith.

The President stated that inasmuch as, under the provisions of Article LVI of the Amendments to the Constitution, the bill was "before the General Court subject to amendment and re-enactment", the bill was before the Senate subject to amendment.

The Senate concurred in the House amendments, as corrected (B.T.R.) to 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 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 percent of owners of units within the condominium, or such lower percentage, if any, as the master deed may provide, and 51 percent 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) of this section, provided, however, that any proceeds obtained by the organization of unit owners as a result of such sale, conveyance, lease, or mortgages 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 reasonably 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."

***Order Adopted.***

On motion of Ms. Melconian,—

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

On motion of Mr. Amorello, at ten minutes past eleven o'clock A.M., the Senate adjourned to meet on the following day at eleven o'clock A.M.