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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



Friday, July 31, 1998.

Met at twenty-one minutes past twelve o'clock noon.

Petition.

Mr. Moore presented a petition (subject to Joint Rule 12) of Richard T. Moore, George N. Peterson, Jr., and Russell W. Trottier, Jr., for legislation relative to smoking in flea markets, so-called,— **and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

Matter Taken Out of the Orders of the Day.

There being no objection, the following matter was taken out of the Orders of the Day and considered, as follows:
The House Bill relative to compliance with safety codes, remediation of environmental hazards and the preservation and maintenance of the Commonwealth's real property assets (House, No. 5669),— was considered, the question comes on passing the bill to be engrossed.

Mr. Rosenberg moved that the bill be amended in section 2 by adding the following item:—

"1102-8998

For the repair, rehabilitation, reconstruction, general modernization and improvements to the Leverett Saltonstall state office building including, but not limited to, improvements necessary to meet life safety codes, the provisions of the Americans with Disabilities Act, asbestos removal or abatement and repairs to said building's mechanical and electrical systems; provided, that funds may be expended from this item for costs associated with the design and preparation of plans, if necessary

.....150,000,000";

in section 2A by adding the following item:—

"7004-9982

For the recapitalization of the Massachusetts Community Development Finance Corporation

.....9,000,000";

In section 3 by striking out the figure "\$40,000,000" and inserting in place thereof the following figure: — "\$190,000,000"; and
In section 4 by striking out the figure "\$94,000,000" and inserting in place thereof the following figure:— "\$103,000,000".

The amendment was adopted.

Mr. Rosenberg then moved that the bill be amended, in section 2, by inserting at the end of item 1102-8995 the following words:— "; provided further, that \$10,000,000 shall be expended for costs associated with cleaning up state properties which are scheduled to be disposed of in order to enhance the economic development potential of such properties."

The amendment was adopted.

Mr. Tarr moved to amend the bill by adding the following section:—

"SECTION 11. (a) As used in this section, the following words shall, unless the content clearly indicates otherwise, have the

following meanings:—

'Commissioner', the commissioner of capital planning and operations.

'Committee', the J. T. Berry Committee.

'Developer', the entities to which the commissioner may convey all or part of the commonwealth's interest in the property located at the John T. Berry Rehabilitation Center.

'Division', the division of capital planning and operations.

'J. T. Berry Center' or site', all land owned by the commonwealth as of January 1, 1998 located upon the John T. Berry Rehabilitation Center located in the towns of North Reading and Wilmington.

(b) It shall be the policy of the commonwealth to stimulate the reuse of the J. T. Berry Center in an effort to create jobs and economic opportunities in the North Reading and Wilmington area. Further, it shall be the policy of the commonwealth to create an opportunity for economic development among the division, the towns of North Reading and Wilmington and other entities which shall promote the speedy and beneficial reuse of the site.

(c) The commissioner shall, subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, convey by deed, approved as to form by the attorney general or lease for a period not to exceed 99 years, all or part of the commonwealth's interest in all or portions of the land and buildings located at the J. T. Berry Center to developers, selected in accordance with the provisions of this section. Said land is referred to in the definition of the J. T. Berry Center in subsection (a) and shown on a Plan of Land in North Reading owned by the Commonwealth of Massachusetts' dated September 2, 1992, prepared by Robert E. Anderson, Inc., which plan is on file with the division. Such deeds and leases shall be consistent with the policies set forth herein.

(d) Within 90 days of the effective date of this section, the division shall issue a memorandum of agreement between said division and the towns of North Reading and Wilmington concerning the reuse of the site. The division shall negotiate the terms of such agreement with the town administrator of the town of North Reading and the town manager of the town of Wilmington with the advice of the senator and representatives representing said towns of North Reading and Wilmington in the general court. Such agreement shall incorporate existing zoning regulations and the provisions of this section including, but not limited to, a commitment by said division to undertake predevelopment studies of the site, to resurvey the site, to fund site assessment sufficiently to adequately determine the nature and extent of oil or hazardous materials on the site and the cost of remediation, in accordance with applicable laws and regulations and to market the site to potential developers; provided, however, that such agreement shall exclude the use of any portion of the site for an incinerator, landfill or other means of permanent disposal of solid or hazardous waste, or house of correction, jail or prison. Such agreement shall include a timetable within which said division shall complete such surveys, evaluations and assessments of oil and hazardous materials.

(e) Within 180 days following the approval of the memorandum of agreement and pursuant to sections 40E to 40J, inclusive, of chapter 7 of the General Laws, the commissioner shall issue requests for proposals for the reuse of all or a portion of the site. Such requests for proposals shall be based on the provisions of the memorandum of agreement and this section and shall include, but not be limited to, the following:— consultation with state and local officials; provided, however, that one member shall be a member of the Wilmington board of selectmen or its designee, one member shall be the town manager for the town of Wilmington or his designee, one member shall be the town administrator for the town of North Reading or his designee, one member shall be the planning director for the town of North Reading or his designee, one member shall be a member of the North Reading Community Planning Commission or its designee, one member shall be from the North Reading Business Association and the remaining members shall be residents of the town of North Reading, the names of whom shall be submitted by the town administrator to the commissioner. The senator and representatives representing said towns in the general court shall serve as ex-officio, nonvoting members of the committee. Said committee may review, comment and make recommendations concerning the implementation of the memorandum of agreement.

(f) The commissioner may retain or grant rights of way or easements for access, egress, utilities and drainage across property described in subsection (c) and across other commonwealth property contiguous to said property, and the commonwealth may accept from the developer rights of way or easements in roadways or across property to be conveyed by deed or leased pursuant to said subsection (c) for purposes of access, egress, drainage and utilities.

(g) The amount of consideration for the sales, lease, sublease, granting of easements or other conveyances authorized by the provisions of this section shall be equal to the fair market value of any portion thereof, as established by taking the averaged appraised fair market value from three independent appraisals from three independent appraisers selected by the commissioner throughout the competitive bidding process and with a methodology approved by the inspector general. Said commissioner shall, in like manner, conduct an appraisal of such property, or any portion thereof, every ten years to determine the current fair market value; provided, however, that such appraisal shall not include any privately constructed building thereon. Any subsequent sale, lease, sublease or other conveyance shall be adjusted based upon subsequent appraisals. Consideration for parcels within the site, portions thereof, easement or other conveyances at less than fair market value shall be allowed if said commissioner, in consultation with the J. T. Berry Reuse Committee, determines that a direct public benefit is provided to the citizens of the commonwealth and approves such lesser consideration; provided, however, that if said commissioner selects a developer who did not offer the highest price, said commissioner shall include a justification for such decision in the notification required by section 40H of chapter 7 of the General Laws. Said commissioner shall maintain a written record in reasonable detail of evaluations and negotiations undertaken pursuant to this section and shall retain such record with the proposals in accordance with said section 40H. All funds derived from the sale, lease, sublease, granting of easements or other conveyances related to parcels within the site shall be credited to the general fund."

The amendment was adopted.

The bill, as amended, was then passed to be engrossed, with the amendments. [For text of Senate amendments, printed as amended, see Senate, No. 2311].

Sent to the House for concurrence in the amendments adopted by the Senate.

Reports of a Committee.

By Mr. Shannon, for the committee on Ways and Means, that the Senate Bill regulating telephone sales of state lottery wagers or tickets (Senate, No. 2211), ought to pass.

There being no objection, the rules were suspended, on motion of Ms. Melconian, and the bill 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.

Mr. Rosenberg, for the committee on Ways and Means, on House, No. 5114, reported, in part, a "Bill making appropriations for the fiscal year 1998 to provide for supplementing certain existing appropriations and for certain other activities and projects" (Senate, No. 2312).

[Direct appropriation: \$241,450,892.]

The bill was read. There being no objection, the rules were suspended, on motion of Mr. Shannon, and the bill 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.

By Mr. Rosenberg, for the committee on Ways and Means, that the House Bill relative to the membership of the Special Military Reservation Commission (House, No. 3133), ought to pass.

There being no objection, the rules were suspended, on motion of Mr. Durand, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

By Mr. Rosenberg, for the committee on Means, that the Senate Bill relative to eminent domain takings (Senate, No. 743), ought to pass, with an amendment, substituting a new draft with the same title (Senate, No. 2313).

There being no objection, the rules were suspended, on motion of Ms. Fargo, and the bill was read a second time, and was amended, as recommended by the committee on Ways and Means. The new draft (Senate, No. 2313) was ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

Papers from the House.

Emergency Preamble Adopted.

An engrossed Bill relative to the terms of certain bonds and notes to be issued by the Commonwealth (see House Bill, printed in House, No. 5603, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 6 to 0.**

The bill was signed by the President and sent to the House for enactment.

Report of Committees.

By Mr. Norton, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Michael R. Knapik, Evelyn G. Chesky and Walter A. DeFilippi for legislation relative to patient funds at the Soldiers' Home in Holyoke.

Senate Rule 36 was suspended, on motion of Mr. Nuciforo, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Human Services and Elderly Affairs.

Sent to the House for concurrence.

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 acceptance of streets in the town of Tolland (Senate, No. 2285) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time and passed to be engrossed.**

Sent to the House for concurrence.

The House Bill relative to cost of living adjustments (House, No. 5683),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in 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:

Providing for the distribution of information to certain parents of children enrolled in elementary and secondary schools (see Senate, No. 2209);

Relative to the Groton Country Club Authority (see House, No. 4453);

Relative to certain contracting procedures in the city of Boston (see House, No. 4672);

Relative to nomination papers (see House, No. 5074);

Authorizing the establishment of the Burncoat Pond watershed district in the towns of Leicester and Spencer (see House, No. 5558, amended); and

Further regulating the powers of the Massachusetts State College Building Authority (see House, No. 5581, amended).

Distinguished Guests.

The President introduced a delegation of judges from the People's Republic of China, including members of the Supreme Court. The delegation is sponsored by the U.S. Information Agency, the Institute for Transitional Economies, the McCormack Institute at the University of Massachusetts and the Massachusetts Judges Conference, and are now currently participating in a two-week educational exchange program to promote rule of law and an independent judiciary. Accompanying the group were Mr. Jim May and Ms. Nancy Owens, Directors of the Institute of Transitional Economies in Milton. They were the guests of Senator Joyce.

Report of a Committee.

By Mr. Rosenberg, for the committee on Ways and Means, that the House Bill providing for an accelerated transportation development and improvement program for the Commonwealth (House, No. 5661), ought to pass, with an amendment, striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2314.

There being no objection, the rules were suspended, on motion of Mr. Rosenberg, and the bill was read a second time.

Pending the question on ordering the bill to a third reading, Messrs. Montigny and Norton moved to amend the bill by inserting after section 6 the following section:—

"SECTION 6A. Section 2J of chapter 205 of the acts of 1996, is hereby amended by striking out time 6005-1962 and inserting in place thereof the following item:—

6005-1962

For the extension of commuter rail service to Taunton, New Bedford, and Fall River via an extension of the Stoughton route. The funds provided by this section shall be used for engineering, environmental studies, and for permitting and construction of the Stoughton extension through the municipalities of Stoughton, Raynham, and Taunton in order to provide commuter rail service to New Bedford and Fall River; provided, that all property owners whose property abuts the extension of the Stoughton route shall be fully reimbursed for any property taken by the commonwealth for mitigation purposes; provided further, that the proposed Taunton station stop at Dean street be located at the existing building which formally housed the previous Dean street rail station. No more than 35 per cent of the funds shall be expended for design and permitting and further, that no construction money shall be expended until an environmental impact study is issued. Notwithstanding any general or special law or regulation to the contrary, the funds provided by this section shall also be used for the contracting and provision of interim bus service from New Bedford, and Taunton stations of the Middleboro extension of the Old Colony line. Such bus connection service is to be provided through a unified ticket system affording users a single ticket purchase for connecting bus and rail service by the Massachusetts Bay Transportation authority

.....136,000,000."

The amendment was adopted.

Mr. Lees moved to amend the bill by inserting after section 6 the following section:—

"SECTION 6A. Time 6033-9717 of section 2A of chapter 11 of the acts of 1997 is hereby amended by striking out the words words that one hundred thousand dollars shall be expended for the assistance on improvements to roads known as Glendale and Mill in the town of Hampden;' and inserting in place thereof the following words:— that \$100,000 shall be expended for assistance on improvements to the road know as South Monson road in the town of Hampden;"

The amendment was *rejected*.

Mr. Morrissey moved to amend the bill, in section 2, by inserting after item 6005-9980 the following item:—

"6005-9882

For noise mitigation for residences on property abutting rapid transit service and commuter rail rights of way; provided, that priority shall be given to residences which abut a right of way shared by rapid transit and commuter rail and the Massachusetts Bay Transportation Authority Boston engine terminal

.....9,000,0000".

The amendment was *rejected*.

Messrs. Magnani and Amorello moved to amend the bill by adding at the end thereof the following section:—

"SECTION . (A) Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, a platform constructed by the Massachusetts Bay Transportation Authority at commuter rail stations in the towns of Ashland, Southborough, Westborough and Grafton may consist of low platforms and minihigh platforms.

(B) Said Authority shall guarantee priority seating for eight wheelchair passengers on all trains on the Worcester line of the commuter rail. Said Authority shall make said priority seating accessible on all departures from the above listed stations and shall provide signage on all trains using the Worcester line directing ambulatory passengers to forfeit seating for wheelchair passengers and all on-train Massachusetts Bay Transportation Authority employees shall be charged with directing ambulatory passengers to forfeit said priority seating for wheelchair passengers.

(c) Said Authority shall retro-fit' all necessary cars so that wheelchair seating will be available on the first day of service at the above listed stations. Further, said Authority shall initiate a promotional campaign and outreach program to encourage disabled ridership by informing the disabled community of the expanded and user-friendly service.

(D) Said Authority shall conduct a study, in collaboration with the Massachusetts office on disability and as articulated in a memorandum of understanding, to be completed within or after one year of the completion of the station construction, to assess disabled ridership and, if it is determined that additional seats are necessary to meet the demand for seating for wheelchair passengers, said Authority, without further legislative action, shall retro-fit' seats to meet the need as determined by said study within one year of the completion of said study.

(E) Said Authority shall establish an advisory committee for a period of no less than one year after the implementation of service at said stations whose members will be representatives from the Center for Living and Working, the Center for Independent Living, the Massachusetts office on disability and the Massachusetts Bay Transportation Authority. Said advisory committee shall be established within 30 days of the date upon which this act takes effect.

(F) Said Authority shall conduct a study, six months after the passage of legislation, to establish a plan for issuing fines to Massachusetts Bay Transportation Authority commuter rail contractors who fail to properly meet the rights of disabled passengers under the provision of the Americans with Disabilities Act. The amount of said fine shall be determined by said Authority and proceeds of said fines shall be used for the benefit of an appropriate disabled advocacy group."

The amendment was rejected.

Mr. Magnani moved to amend the bill by adding the following section:—

"SECTION . The Massachusetts Bay Transportation Authority shall prepare a study on the feasibility of providing additional commuter rail and bus transportation services to facilitate reverse commuting services', so-called. Said study shall include, but shall not be limited to, the following: (1) demand for additional commuter rail services that provide transportation from Boston during both morning and evening rush hour commutes to stations on commuter rail lines; (2) additional bus services and routes needed to provide north and south connecting services between commuter rail stations located in municipalities along the route 128 and route 495 corridor and the demand for said services; (3) whether said services assist businesses and industries with the recruitment and retention of employees; and (4) the impact of said services on traffic management and congestion. Said Authority shall report the results of said study by filing the same with the clerk of the house of representatives and the clerk of the senate and with the joint committee on transportation not later than December 1, 1998."

The amendment was *rejected*.

Mr. Moore moved to amend the bill, in section 2, by adding the following item:—

"xxxx-xxxx

For delivery of jitney bus service, including a 50 vehicle parking facility, from the town of Milford to the Forge Park commuter rail station, Franklin

.....540,000".

The amendment was *rejected*.

Mr. Havern moved to amend the bill by adding the following sections:—

"SECTION . The commissioner of the division of capital planning and operations, shall, notwithstanding the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, to grant to those abutters of Carver street and Townsend place referenced in the department of public works Order of Taking recorded with Suffolk registry of deeds in Book 14067, Page 29, their successors and assigns, the Abutters', an easement for vehicular and pedestrian access, for all purposes for which public and private streets and ways are used in the city of Boston, in, over and through, but not under, (i) that certain parcel of land within the city of Boston identified as Proposed MTHB Service Court' and (ii) the land owned by the commonwealth formerly part of Carver street, together, the Easement Area', all as shown on a plan entitled: THE COMMONWEALTH OF MASSACHUSETTS, PLAN OF LAND IN THE CITY OF BOSTON, SUFFOLK COUNTY, SHOWING LOCATION OF THE DEPARTMENT OF TRANSPORTATION BUILDING SITE, OCTOBER 26,1983, SCALE: 40 FEET TO THE INCH,' said plan being recorded with Suffolk Registry of Deeds in Book 10640, Page 159.

SECTION . The commissioner of the division of capital planning and operations shall include in the instruments or agreements granting the easement authorized by this act reasonable provisions regarding coordination and cooperation between the Abutters and the division and its master tenant with respect to operations within the Easement Area and such other provision as may be reasonably necessary to protect the condition, operation, function of the state transportation building and other property of the

commonwealth. Said commissioner shall submit the instrument and any subsequent amendments thereof to the house and senate committees on ways and means and the chairmen of the joint committee on state administration.

SECTION . The consideration to be paid by the Abutters for said easement shall be the full and fair market value thereof as determined by the commissioner based upon independent appraisal. Such consideration may be paid by any one or more of the Abutters, so long as the commonwealth receives the entire consideration so determined. The inspector general shall review and approve said appraisal, including a review of methodology utilized for said appraisal. Said inspector general shall prepare a report of his review and file said report with the commissioner of the division of capital planning and operations for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration in accordance with section 2 above.

SECTION . The Abutters shall be responsible for any costs incurred by the commonwealth for appraisals, surveys and other expenses relating to the grant of the easement authorized herein. Such costs may be paid by any one or more of the Abutters, so long as all such costs are reimbursed.

SECTION . The consideration to be paid pursuant to section 3 shall be deposited in the General Fund of the commonwealth." The amendment was *rejected*.

Ms. Jacques moved to amend the bill by adding at the end thereof the following section:—

"SECTION . Notwithstanding the provisions of any general or specific law to the contrary, the Massachusetts Bay Transportation authority is hereby authorized to extend or expand commuter rail service on the Providence-Attleboro line, so-called, in accordance with the Massachusetts Bay Transportation Authority's Pilgrim Partnership Agreement with the state of Rhode Island, and is further authorized to build and operate a layover facility in the city of Pawtucket in the state of Rhode Island; provided, that the current layover facility in the city of Attleboro is relocated to the city of Pawtucket, as required by section 118 of chapter 205 of the acts of 1996, no later than 30 months after the effective date of this act; and provided further, said service expansion and facility relocation shall not in any way restrict the selection of a commuter rail service provider."

The amendment was *rejected*.

Ms. Jacques moved to amend the bill by adding at the end thereof the following section:—

"Section . Section 3 of Chapter 161A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting at the end of the second sentence in subparagraph (I) the following:— provided that, notwithstanding any law, rule, or regulation to the contrary, all communities that pay an assessment to the Massachusetts Bay transportation Authority under section 20 of chapter 59 shall receive from the authority paratransit services for the disabled, also known as the RIDE'."

The amendment was *rejected*.

Mr. Clancy moved to amend the bill by adding at the end thereof the following section:—

"SECTION . The Massachusetts Bay Transportation Authority shall provide matching state funds for the design and construction of a connection between the blue line and the Rockport/Ipswich commuter rail line at Wonderland station, or for the North Shore Corridor Mass Transit improvements, including the extension of the blue line northward to the cities of Lynn, Beverly and Salem; provided, that said state funds shall be conditioned upon the certified availability of federal funds sufficient to meet the remaining costs of said connection or extension."

The amendment was *rejected*.

Messrs. Amorello and Bernstein moved to amend the bill in section 2 by striking out item 6005-9934 and inserting in place thereof the following new item:

"6005-9934

For the completion of the Framingham to Worcester commuter rail extension project; provided further, \$800,000 be appropriated for the purpose of platform construction at the Worcester Union Station
.....8,800,000."

The amendment was *rejected*.

The Ways and Means amendment, as amended, was then adopted. The bill, as amended, was ordered to a third reading and read a third time.

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at twenty-five minutes past two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 37 — nays 2):

YEAS.

Amorello, Matthew J.
Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Creedon, Robert S., Jr.
Durand, Robert A.

Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.
Montigny, Mark C.
Moore, Richard T.
Murray, Therese
Norton, Thomas C.

Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.

Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.
Walsh, Marian
Wilkerson, Dianne

— 37.

NAYS.

Clancy, Edward J., Jr.

Morrissey, Michael W.

— 2.

The yeas and nays having been completed at twenty-eight minutes before three o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendments.

Sent to the House for concurrence in the amendments adopted by the Senate.

Papers from the House.

A Bill authorizing the Commonwealth to acquire certain land in the town of Douglas (House, No. 5770— on House, No. 3358),—was read.

There being no objection, the rules were suspended, on motion of Mr. Moore, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

The Senate Bill relative to the Massachusetts Government Land Bank regarding the Devens Enterprise Commission (Senate, No. 2029) — came from the House passed to be engrossed, in concurrence, *with an amendment*, by adding at the end thereof the following two sections:

"SECTION 3. Section 13 of said chapter 498 is hereby amended by adding the following paragraph:—

Any design, construction, reconstruction, or modification of the Devens wastewater treatment facilities and sewage system at Devens may be carried out in its own name and right or may be contracted by it, in whole or in part, with any other public or any private party. After a competitive process which, among other things, takes into consideration price, qualifications, and performance goals and which is consistent with the competitive procurement rules established by the board of directors of the bank, the bank may enter into contracts, not to exceed 30 years in duration, with any public or private party relating to any development or redevelopment of the Devens wastewater treatment and sewerage system, and which may provide for payments by the bank which are guaranteed as to amount or duration, with or without regard to whether any particular service or utility is provided, constructed or undertaken, or, if provided, constructed or undertaken to make available for the purposes thereof such buildings, structures, utility systems, including pipes, drains, pumping stations, conduits, wires, cables, and similar ancillary installations, and other works as may be required for the redevelopment of such wastewater treatment and sewage system. The provisions of any general or special law or regulation relating to the advertising, bidding, or award of contracts, to the procurement of services or to the construction and design of such improvements, shall not be applicable to any contract or work entered into or undertaken pursuant to this section for the development or redevelopment of said system at Devens except that the provisions of sections 26 to 27H, inclusive, of chapter 149 of the General Laws shall be applicable and in any contract which requires or permits any contracting party to independently undertake to provide any public building or public work required for the wastewater treatment facilities and sewage system at Devens, the bank shall require such contracting party to comply with the provisions of said sections 26 to 27H, inclusive; provided, however, that no such contract shall be or constitute an obligation of the commonwealth beyond any amount appropriated therefor; and provided, further, that the provision of services or other works contemplated thereby shall remain subject to all provisions of law and regulation intended to regulate the provision of such services or works, including, but not limited to, all laws and regulations relating to the protection of the environment and all

public health laws and regulations.

SECTION 4. All actions directly taken by the Massachusetts government land bank or through the Devens Commerce Center established by said bank to prepare, publish, receive responses under and conduct evaluations of responses and commence preliminary negotiations with certain responders to the request for statements of qualification and expressions of interest for purchase or lease, management, operation, and maintenance, of the Devens wastewater treatment facilities and sewage system, dated October 25, 1996, are validated and confirmed and, under and pursuant to this act the Massachusetts government land bank is authorized to continue and to bring to completion the procurement process represented thereby."

The rules were suspended on motion of Ms. Melconian, and the House amendment was considered forthwith.

Mr. Durand moved that the Senate concur in House amendment with a further amendment by striking out sections 3 and 4 (inserted by amendment by the House) and inserting in place thereof the following section:—

"SECTION 3. Said chapter 498 is hereby amended by inserting after section 13 the following eight sections:

Section 13A. The Bank may, notwithstanding the provisions of any general or special law or regulation to the contrary, enter into contracts for the lease, financing, design, construction and installation of modifications, new equipment and systems necessary for the water works system and the sewer works system and the operation, maintenance, repair and replacement, of the water and wastewater treatment plants, pump stations, and combined sewer overflow consolidation and treatment facilities, to ensure adequate services and to ensure the ability of said Bank's water works system and sewer works system, to operate in full compliance with all applicable requirements of federal, state and local law; provided, however, that such contracts shall not be subject to the competitive bid requirements set forth in sections 38A½ to 38O, inclusive, of chapter 7, section 39M of chapter 30, or sections 44A to 44M, inclusive, of chapter 149 of the General Laws; provided, further, that each such contract shall be awarded pursuant to this section.

The Bank shall solicit proposals through a request for proposals. The request for proposals shall include:

- (1) the time and date for receipt of proposals, the address of the office to which the proposals are to be delivered, the maximum time for proposal acceptance by the land Bank;
- (2) the purchase description and an evaluation criteria that will be utilized pursuant to paragraph (e); and
- (3) proposed key contractual terms and conditions applicable to the procurement, some of which may be deemed mandatory or non-negotiable.

The request for proposals may incorporate documents by reference; provided, however, that the request for proposals specifies where prospective offerors may obtain the documents. The request for proposals shall provide for the separate submission of price, and shall indicate when and how the offers shall submit the price. The Bank shall make copies of the request for proposals available to all persons on an equal basis.

Public notice of the request for proposals shall be published at least twice, no later than 90 days prior to the deadline for the submission of proposals in two newspapers published daily in the city of Boston and in Compass.

The Bank shall not open the proposals publicly, but shall open them in the presence of one or more witnesses at the time specified in the request for proposals. Until the completion of the evaluations, or until the time for acceptance specified in the request for proposals, whichever occurs earlier, the contents of the proposals shall remain confidential and shall not be disclosed to competing offerors. At the opening of proposals the Bank shall prepare a register of proposals which shall include the name of each offeror and the number of modifications, if any, received. The register of proposals shall be open for public inspection. The Bank may open the price proposals at a later time, and shall open the price proposals so as to avoid disclosure to the individuals evaluating the proposals on the basis of criteria other than price.

The request for proposals for such contracts shall specify the method for comparing proposals to determine the proposal offering the lowest overall cost to the Bank, including, but not limited to, all capital equipment and capital improvement costs, operating and maintenance costs and financing costs. If a contract is awarded to an offeror who did not submit the proposal offering the lowest overall cost, the Bank shall explain the reason for the award in writing.

The request for proposals shall set forth the performance guarantees which the selected offeror will be required to meet in operating the water works system or the sewer works system as constructed or improved. The contract which is negotiated with the selected offeror based on the request for proposals shall obligate the selected offeror to meet such performance guarantees, and shall set forth the minimum design requirements for such construction or improvements and the acceptance tests to be conducted upon the completion of the construction or improvements in order to demonstrate that the system is capable of meeting the performance guarantees.

Section 13B. Notwithstanding the provisions of any general or special law to the contrary, a contract or contracts entered into pursuant to section 13A may provide for a term, not exceeding 30 years, and an option for renewal or extension of operation, maintenance, repair and replacement services for one additional term not exceeding five years. Any renewal or extension shall be at the sole discretion of the Bank in accordance with the original contract terms and conditions or contract terms and conditions more favorable to and acceptable to the Bank.

A contract entered into pursuant to sections 13A to 13I, inclusive, may provide that the Bank shall not be exempt from liability for payment of the costs to lease, finance, permit, design, construct and install modifications, new equipment and systems for the water works system and sewer works system and to operate, maintain, repair and replace the water and wastewater treatment plants, pump stations, and combined sewer overflow consolidation and treatment facilities as necessary to ensure the ability of the water works system and sewer works system to operate in full compliance with all applicable requirements of federal, state and local law, provided that any costs relating to financing, permitting, design, construction and installation of modifications, new equipment and systems shall be amortized over a period that is no longer than the useful life of said modifications, equipment and systems. The Bank's payment obligation for services described herein shall be conditioned on the contractor's

performance of said services in accordance with all contractual terms.

A contract entered into pursuant to sections 13A to 13I, inclusive, may provide for such activities deemed necessary to carry out the purposes authorized herein, including, but not limited to, equipment, facility or land lease, equipment installation, repair and replacement, performance testing and operation, studies, design and engineering work, construction work, ordinary repairs and maintenance, and the furnishing of all related material, supplies and services required for the Bank's water works system and sewer works system and the management, operation, maintenance, repair and replacement of the Bank's water and wastewater treatment plants, pump stations, and combined sewer overflow consolidation and treatment facilities.

Section 13C. The Bank shall make a preliminary determination of the most advantageous proposal from a responsible and responsive offeror taking into consideration price, estimated life-cycle costs and the other evaluation criteria set forth in the request for proposals. The Bank may negotiate all terms of the contract not deemed mandatory or non-negotiable with such offeror. If, after negotiation with such offeror, the Bank determines that it is in the Bank's best interests, said Bank may initiate negotiations with the next most advantageous proposal from a responsible and responsive offeror taking into consideration price, estimated life-cycle costs and the other evaluation criteria set forth in the request for proposals, and may negotiate all terms of the contract not deemed mandatory or non-negotiable with such offeror. Said Bank shall award the contract to the most advantageous proposal from a responsible and responsive offeror taking into consideration price, estimated life-cycle costs, the evaluated criteria set forth in the request for proposals, and the terms of the negotiated contract. The Bank shall award the contract by written notice to the selected offeror within the time for acceptance specified in the request for proposals. The parties may extend the time for acceptance by mutual agreement.

SECTION 13D. Notwithstanding any other provisions of sections 13A to 13C and sections 13E to 13I, inclusive, it shall be a mandatory term of any request for proposals issued by the Bank and of any contract entered into by the Bank with any party regarding the subject matter set forth that any party that has entered into a contract pursuant to said terms with the Bank, shall require, in order to maintain stable and productive labor relations and to avoid interruption of the operation of the water and wastewater treatment plants and to preserve the health, safety and environmental conditions of residents of the area served by the Bank and surrounding communities, that any and all employees, except the plant manager and assistant plant manager at the water and wastewater treatment plants, as applicable, hereinafter referred to as plant employees, working on the operation and maintenance of the water and wastewater treatment plants be offered employment by any party entering into a contract with the Bank for the operation and maintenance of said water and wastewater plants, and further, that any party entering into said contract shall employ all plant employees employed at the water and wastewater treatment plants as of the date of execution of said contract and continue such employment throughout the term of said contract, unless any such employee voluntarily leaves the employ of said party or is terminated for just cause by said party. Furthermore, any party entering into said contract with the Bank shall provide a salary and benefits package to all plant employees which is comparable to the salary and benefits package provided to such employees by their previous employer. Moreover, said party shall adopt all terms and conditions of employment provided by the last applicable collective bargaining agreement negotiated between the labor organization representing such plant employees, if any, and the applicable employer who has most recently employed such plant employees prior to entering into any contract pursuant to this act and shall continue to recognize such terms and conditions of employment until a collective bargaining agreement has been executed between the labor organization representing such plant employees and said party. Said party shall furthermore agree to meet its legal obligations, including bargaining in good faith, with regard to any labor organization representing plant employees engaged in the operation and maintenance of the water and wastewater treatment plants described herein. Notwithstanding any other provisions of sections 13A to 13C and 13E to 13I, inclusive, any proposal or contract submitted to the Bank regarding the subject matter set forth in said sections not complying with the above terms, shall be disqualified from further consideration by the Bank.

SECTION 13E. All contracts or subcontracts for construction, renovation, modernization, improvement or capital improvements to the water and wastewater treatment plants, pump stations and combined sewer overflow consolidation and treatment facilities authorized by this act shall be awarded only to persons or entities whose bids or proposals are subject to such persons or entities being signatory to a project labor agreement with the appropriate labor organizations which shall include an obligation for such labor organizations and their constituent members not to strike with respect to the work on such construction project and which shall also establish uniform work rules and schedules for the project. Such project labor agreement shall be entered into in order to facilitate the timely and efficient completion of the construction of such improvements and to make available a ready and adequate supply of highly trained, skilled craft workers who shall provide a negotiated commitment to assure labor stability and labor peace over the life of the project. The applicable entity responsible for any new construction, renovation, modernization, improvement or capital improvement to said water and wastewater treatment plants, pump stations, combined sewer overflow consolidation and treatment facilities shall designate a general contractor, project manager or similar construction firm which is familiar in the negotiation and administration of project labor agreements to manage and oversee the construction of the project, including the development and implementation of labor relations policies for the project, and to instruct such general contractor, project manager or other construction firm to negotiate a mutually agreeable project labor agreement covering the above described work.

SECTION 13F. Any contract awarded pursuant to this act shall be subject to such terms and conditions as the Bank shall determine to be in the best interests of said Bank. Any such contract shall provide that prior to the construction, modification or installation of new equipment and systems the Bank shall cause a qualified water and wastewater engineer to independently review and approve plans and specifications for said modifications, new equipment and systems. Such contract shall further provide that prior to acceptance of any modifications, new equipment or systems, including work undertaken pursuant to section 13F and estimated to cost more than \$100,000 adjusted annually per the Construction Cost Index published by the Engineering

News Report or if the Engineering News Report ceases to publish said index, any published index determined by the Bank to be comparable to said index, the Bank shall cause a qualified water and wastewater engineer to inspect said modifications, new equipment and systems and certify that the construction or installation has been completed in accordance with the approved plans and specifications.

SECTION 13G. The provisions of any general or special law or regulation relating to the advertising, bidding or award of contracts, to the procurement of services or to the design and construction of improvements, except the provisions of sections 26 to 27H, inclusive, of chapter 149 of the General Laws, shall not be applicable to any selected offeror which is awarded a contract pursuant to sections 13A to 13I, inclusive, except as provided in this section. The construction of any new capital improvement or any renovation, modernization, installation, repair or replacement work estimated to cost more than \$100,000 adjusted annually per the Construction Cost Index published by the Engineering News Report or if the Engineering News Report ceases to publish said index, any published index determined by the Bank to be comparable to said index, not specifically included in the initial contract for the lease, financing, design, construction and installation of modifications, new equipment and systems necessary for any particular part of the water works system and the sewer works system and the operation, maintenance, repair and replacement of the water and wastewater treatment plants, pump stations, and combined sewer overflow consolidation and treatment facilities, shall be procured on the basis of advertised sealed bids; provided, however, that bids need not be solicited if the contractor causes such construction, renovation, modernization, installation, repair or replacement work to be completed without direct or indirect reimbursement from the Bank, or other adjustment to the fees paid by the Bank, including, but not limited to, any adjustment to water or sewer rates paid by the Bank users. Bids shall be based on detailed plans and specifications and the contract shall be awarded to the lowest responsible and eligible bidder. The contractor may act as an agent of the Bank in the solicitation of bids for the construction of any new capital improvement or for any renovation, modernization, installation, repair or replacement work pursuant to this section; provided, that the Bank shall cause a qualified water and wastewater engineer to independently assess the need for such capital improvement, renovation, modernization, installation, repair or replacement work and to review and approve the contractor's proposed plans and specifications prior to advertising for bids. Based on the recommendation of the qualified water and wastewater engineer, the Bank may approve, modify, or reject the contractor's proposed plans and specifications. A contract awarded pursuant to sections 13A to 13I, inclusive, shall provide that in the event that the Bank does not approve the contractor's proposed plans and specifications pursuant herein, the Bank or the contractor may terminate said contract under the terms and conditions of said contract.

SECTION 13H. Notwithstanding the provisions of any general or special law or regulation to the contrary, the department of environmental protection may issue project approval certificates with respect to the design/build contract procured by the Bank under this act for improvements to the water system works and sewer system works, and any such design/build services included in such contract shall be eligible for assistance under the Massachusetts Water Pollution Abatement Trust established by section 2 of chapter 29C of the General Laws, and any future revolving loan fund programs established by the commonwealth or the department of environmental protection.

SECTION 13I. The selected offeror shall furnish to the Bank performance bonds, payment bonds, or other forms of security for the selected offeror's obligations, and insurance, satisfactory to the Bank."

The further (Durand) amendment was adopted. The House amendment, as amended, was then adopted.

Sent to the House for concurrence in the further amendment.

The House Bill relative to the transfer of certain land in the town of Dennis (House, No. 5349),— was read.

There being no objection, the rules were suspended, on motion of Mr. Rauschenbach, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows:— "An Act relative to the taking by eminent domain certain land in the town of Dennis."

A Bill extending existing economic incentives to businesses rebuilding in the Commonwealth after a disaster (House, No. 5751,— on Senate, No. 1484),— was read and, under Senate Rule 27, referred to the committee on Ways and Means.

Subsequently, Mr. Rosenberg, for the committee on Ways and Means, reported recommending that the bill ought to pass. There being no objection, the rules were suspended, on motion of Mr. Travaglini, and the bill was read a second time, ordered to a third reading and read a third time. After remarks, the bill was passed to be engrossed, in concurrence.

A Bill relative to certain state land in the town of North Reading and the town of Wilmington (House, No. 5592,— on House, No. 4396),— was read.

There being no objection, the rules were suspended, on motion of Ms. Melconian, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Matter Taken Out of the Orders of the Day.

There being no objection, the following matter was taken out of the orders of the Day and considered, as follows:

The House Bill relative to certain pension benefits of Mary E. Muise (House, No. 4579),— **was read a third time and passed to be engrossed, in concurrence.**

Papers from the House

A Bill authorizing the Division of Capital Planning and Operations to convey certain land in the town of Hull (House, No. 5614,— on House, No. 4872,— was read.

There being no objection, the rules were suspended, on motion of Mr. Travaglini, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Matter Taken Out of the Orders of the Day.

There being no objection, the following matter was taken out of the Orders of the Day and considered, as follows:

The House Bill prohibiting sex offenders from work release programs (House, No. 2942), — was read third time.

Pending the question on passing the bill to be engrossed, Ms. Walsh moved that the bill be amended, in section 2, by inserting after the word "program", in lines 6 and 7, the following words:— "outside a correctional facility".

This amendment was adopted.

The bill was then passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

Papers from the House

A Bill relative to certifying provisional employees and provisional promotees within the city of Boston as permanent employees (House, No. 5518,— on petition) [Local approval received],— was read.

There being no objection, the rules were suspended, on motion of Ms. Melconian, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Report of a Committee.

By Mr. Rosenberg, for the committee on Ways and Means, that the Senate Bill to enhance inter-agency communication in criminal proceedings regarding juvenile and youthful offenders (Senate, No. 2186), ought to pass, with an amendment, substituting a new draft with the same title (Senate, No. 2315).

There being no objection, the rules were suspended, on motion of Mr. Travaglini, and the bill was read a second time, and was amended, as recommended by the committee on Ways and Means. The new draft (Senate, No. 2315) was ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

Papers from the House

A Bill relative to establishing a land bank fund in the town of Marion (House, No. 5756,— on House, No. 4666, in part),— was read.

There being no objection, the rules were suspended, on motion of Ms. Walsh, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

A Bill providing for registration of bicycle messenger services and licensing of commercial messengers in the city of Boston (House, No. 5682, changed,— on petition) [Local approval received],— was read.

There being no objection, the rules were suspended, on motion of Mr. Clancy, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Emergency Preamble Adopted.

An engrossed Bill authorizing Franklin Regional Council of Governments to convey certain land in the town of Whately (see House, No. 4317, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 9 to 0.**

The bill was signed by the President and sent to the House for enactment.

Engrossed Bills.

The following engrossed bills (all of which originated in the House), 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 banking laws (see House, No. 35, changed and amended);

Relative to school principal employment contracts (see House, No. 1285, amended);

Requiring certain instructions in the public schools of the Commonwealth (see House, No. 3629, amended);

Providing for an increase in the requirements for nomination as a candidate for elective office in the city of Malden (see House, No. 4594);
Providing for a four year term for the office of mayor of the city of Malden commencing in the year 2000 (see House, No. 4595);
Authorizing the town of Hull to lease certain property (see House, No. 5572); and
Relative to the terms of certain bonds and notes to be issued by the Commonwealth (see House Bill, printed in House, No. 5603, amended).

Report of a Committee.

Mr. Rosenberg, for the committee on Ways and Means, on House, No. 5114, reported, in part, a "Bill relative to the disposition of Danvers State Hospital" (Senate, No. 2316).

The bill was read. There being no objection, the rules were suspended, on motion of Mr. Berry, and the bill was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Tarr moved to amend the bill by inserting after the word "Danvers", in line 3 the second time it appears, the following words:—"if said portion is within said town, and to the town of Middleton if said portion is within said town".

The amendment was adopted.

The bill, as amended, was ordered to a third reading. The bill (Senate, No. 2316, amended) was read a third time and passed to be engrossed.

Sent to the House for concurrence.

Resolutions.

Resolutions (filed by Mr. Rosenberg) "Honoring Thurston Munson for his many contributions to the Arts", were referred, under the rule, to the committee on Rules.

Subsequently, Mr. Norton, 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. Jajuga, and adopted.

Papers from the House.

Engrossed Bills.

The following engrossed bills (both of which originated in the House), 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 state chartered credit unions (see House, No. 1439); and

Relative to the liability of certain landowners (see House, No. 5586, amended).

Recess.

At six minutes before three o'clock P.M., the President declared

a recess subject to the call of the Chair; and, at nine minutes past six o'clock P.M., the Senate reassembled, the President in the Chair.

Suspension of Senate Rule 38A.

Mr. Havern moved that Senate Rule 38A be suspended to

allow the Senate to continue in session beyond the hour of eight o'clock P.M.; and the same Senator requested unanimous consent that the rules be suspended without a call of the yeas and nays. There being no objection, the motion was considered forthwith, and it was adopted.

Matter Taken Out of the Orders of the Day.

There being no objection, the following matter was taken out of the Orders of the Day and considered, as follows:

The Senate Bill relative to preventing domestic violence (Senate, No. 1831),— was read a third time. Mr. Clancy, for the committee on Bills in the Third Reading, reported, asking to be discharged from further consideration thereof.

The report was accepted.

Pending the question on passing the bill to be engrossed, Mr. Keating moved that the bill be amended by substituting a "Bill relative to preventing domestic violence." (Senate, No. 2319).

Ms. Jacques and Mr. Keating moved that the pending new draft (Senate, No. 2319) be amended by striking out section 7 and inserting in place thereof the following section:

"SECTION 7. Chapter 233 of the General Laws is hereby amended by inserting after section 20L, as appearing in the 1996

Official Edition, the following section:—

Section 20M. (a) In a criminal or delinquency proceeding, no person shall be required to provide information as to whether such person has sought or received counseling services unless, after a hearing, the court determines that such information is discoverable under the provisions of Rule 14 of the Massachusetts Rules of Criminal Procedure.

(b) In a criminal or delinquency proceeding, prior to the issuance of a subpoena or court order for the production of material which pertains to another and is sought by the defendant, if there are reasonable grounds to believe that such material may contain information protected by law from disclosure pursuant to section 3 of chapter 71B, sections 13 5A and 172 of chapter 112, sections 36 and 36A of chapter 123, section 17 of chapter 123B or sections 20A, 20B, 20J or 20K of this chapter, the requesting party shall file a written motion specifically identifying the material sought.

(c) If the court finds that the material sought is discoverable under Rule 14 of the Massachusetts Rules of Criminal Procedure, the court shall determine whether the material sought is protected against disclosure pursuant to any of the sections of the General Laws specified in subsection (b). Such determination shall be made prior to, and without reliance on, the production of such material to the court. The requesting party shall give notice of such request and of the right to be heard in opposition to such request to the keeper or holder of the material sought and to all parties not less than seven days prior to consideration of such request by the court. Upon receipt of such notification, the prosecutor shall immediately notify the subject of the material being sought of such request and such person's right to be heard in opposition thereto. The court shall base its determination on written materials and affidavits only, unless the court finds that such determination cannot be made without oral testimony; provided, however, that the holder of the privilege shall not be compelled to testify. Any person entitled to notice pursuant to this paragraph, shall have the right to provide the court with written material, affidavits or, subject to the provisions of the preceding sentence, oral testimony. Following the proceeding required by this paragraph, if the court determines that any of the material sought is protected against disclosure pursuant to any of the sections of the General Laws specified in subsection (b), the court shall reduce its decision, and the reasons therefor, to writing with specific reference to the privilege or privileges found.

(d) A defendant who has received notice of the court's written finding that all or a portion of such materials is privileged or confidential and who continues to seek disclosure of such materials shall file a written motion seeking such disclosure. The defendant shall give notice of the motion, and of the right to be heard in opposition to such motion, to the keeper or holder of the material sought, and to all parties. Upon receipt of such notification by the defendant, the prosecutor shall immediately notify the person who is the subject of the material being sought of the motion and of the right to be heard in opposition thereto. The court shall hold a hearing to determine whether a court order shall issue for the production of such material to the court for an in camera inspection. The court shall base its determination on written materials and affidavits only, unless the court finds that such determination cannot be made without oral testimony; provided, however, that the holder of the privilege shall not be compelled to testify.

If the court orders disclosure, the court shall make written findings identifying the facts and law upon which its decision is based. The court shall issue an order accompanying its written findings, which order shall identify, with specificity, the material to be produced. Such order shall be narrowly drawn to identify the individual whose privileged or confidential materials are to be produced, the keeper of such material, the subject matter and the dates of the records for which such production is required. Such material shall be produced solely to the court for an in camera inspection. The court shall review the records in camera, out of the presence of all other persons, to determine whether such records, or any portions thereof, must be disclosed to counsel.

(e) If the court, after in camera review, finds that all or a portion of the records shall be disclosed to counsel, it shall allow counsel for the defendant and the commonwealth to review such portions of such records for the sole purpose of determining whether disclosure to the trier of fact is required.

Prior to any disclosure to counsel, or at any subsequent time, the court shall redact references to other persons if such redaction is necessary to protect the interests of third parties and such redaction will not deny the defendant a fair trial.

If the production of materials to counsel is ordered pursuant to this section, the court shall issue an order that such records be produced subject to terms and conditions that prevent unauthorized disclosure including, but not limited to, the following terms and conditions:

(1) Counsel shall have access to the records solely in such attorney's capacity as an officer of the court. Counsel shall not disclose or disseminate any portion of the contents of the records to another, including the defendant, without prior application to and order of the court;

(2) The records shall be made available to counsel in the courthouse during regular business hours under arrangements to be made by the clerk. Counsel may read and make notes concerning the records, but no portion shall be photocopied or reproduced without prior application to and order of the court. Furthermore, no portion shall be removed from the courthouse;

(3) Counsel shall not refer to, offer or adduce any portion of the records in evidence at trial or in connection with any other proceeding without prior application to and order of the court;

(4) At the conclusion of any trial or other disposition of the matter, counsel shall deliver to the clerk, under seal, all originals and all copies of any records produced to counsel pursuant to any order of the court; and

(5) Any person, who knowingly violates any protective order of the court issued pursuant to this section, shall be subject to sanctions for contempt and to a fine of not more than \$10,000 or imprisonment for not more than two and one-half years, or by both such fine and imprisonment.

(f) After having an opportunity to examine such records, counsel for all parties shall submit written motions to the court to determine whether or not any portions of such records shall be disclosed. The court may hold an in camera hearing, if it deems it necessary.

The burden shall be on the defendant to demonstrate that disclosure of the records to the trier of fact is required. If the court

orders disclosure of any portion of the records, the court shall set forth in writing the reasons for its decision in a memorandum of decision. Such order of disclosure shall be subject to terms and conditions that place reasonable conditions on the use of such materials to prevent the production of materials not required and the unauthorized disclosure of such materials.

(g) The court shall specifically identify, seal and retain any materials that it has determined, at any stage of proceeding pursuant to the provisions of this section, are not subject to disclosure until the conclusion of the trial and, in the event of a conviction, until the time for appeal has expired.

(h) The holder of any right to confidentiality or privilege with regard to any material protected from disclosure pursuant to any of the sections of the General Laws listed in subsection (b), the keeper of such material and the commonwealth shall have the right to petition for interlocutory review of any order requiring production of such material for in camera inspection. The petitioner may file, within ten days from the date of the receipt of notice of such order, a petition in the appropriate appellate court seeking relief from such order. A single justice of the appellate court may, in his discretion, grant the same relief from such order as the appellate court is authorized to grant. Such holder and the commonwealth shall have the right to petition for interlocutory review of an order requiring further disclosure of such material to any other person. The petitioner may file, within ten days from the date of receipt of notice of such order, a petition in the appropriate appellate court seeking relief from such order. A single justice of the appellate court may, in his discretion, grant the same relief from such order as the appellate court is authorized to grant. Any order requiring production or disclosure of such material shall be stayed pending the resolution of any such petition for interlocutory review; provided, however, that notice of intent to pursue such relief is filed with the lower court within three days from the date the petitioner receives notice of the entry of such order. A petitioner aggrieved by an interlocutory order of a single justice of the appellate court denying relief from such order, may appeal therefrom pursuant to the procedures in the second paragraph of section 118 of chapter 231. The court may enter an order staying the order requiring production or disclosure pending any such appeal. Any stay granted pursuant to this subsection shall constitute excluded delay for purposes of a defendant's right to speedy trial."

The (Jacques-Keating) amendment was adopted. The pending new draft (Senate, No. 2319, amended) was then substituted. The bill (Senate, No. 2319, amended) was then passed to be engrossed.

Sent to the House for concurrence.

Papers from the House

The Senate Bill relative to the Massachusetts Government Land Bank regarding the Devens Enterprise Commission (Senate, No. 2029, amended),— came from the House with the endorsement that the House had NON-concurred in the further Senate amendment (striking out sections 3 and 4, inserted by amendment by the House, and inserting a new section 3).

On motion of Mr. Durand, the Senate receded from its further amendment.

Emergency Preambles Adopted.

An engrossed Bill authorizing the Commonwealth to acquire certain land in the town of Douglas (see House, No. 5770) having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 6 to 0.**

The bill was signed by the President and sent to the House for enactment.

An engrossed Bill relative to the prevention of drug induced rape and kidnapping (see House, No. 5448, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 6 to 0.**

The bill was signed by the President and sent to the House for enactment.

A Bill relative to the sex offender registry (House, No. 5767,— on House, Nos. 5282 and 5289) (as relates to sections 12 to 28, inclusive),— was read.

The rules were suspended, on motion of Mr. Bernstein, and the bill was read a second time, ordered to a third reading and read a third time.

Pending the question on passing the bill to be engrossed,

Mr. Keating moved to amend the bill, in section 8, by striking out in paragraph (c) the number "90" and inserting in place thereof the following number: "180"; and, in said section 15 in said paragraph (3), by striking out the words "120 days" and inserting in place thereof the following words:— "one year".

In section 12, in the first sentence, by striking out the words "the punishment authorized by such statute, receive a sentence" and inserting in the place thereof the following words:— "the term of imprisonment authorized by such statute, be punished by a term"; in said section 12, by striking out in the second sentence, the word "punishment" and inserting in place thereof the following words:— "term of imprisonment"; and by striking out, in the third sentence, the words "the punishment authorized by such statute, receive a sentence" and inserting in the place thereof the following words:— "the term of imprisonment authorized by such statute, be punished by a term"; by striking out section 13, and inserting in place thereof the following section:—

"SECTION 13. Chapter 275 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding at the

end thereof the following new section:—

Section 18. Whenever a person is convicted of a first offense under sections 13B, 13F, or 13H of chapter 265, or for a first offense for the attempt of any of the aforementioned crimes under the provisions of section 6 of chapter 274, the district attorney, upon motion to the court, may request a hearing after conviction and before sentencing, to determine whether or not such person shall be committed, in addition to any term of imprisonment or probation authorized by said sections to community parole supervision for life, to be served under the jurisdiction of the parole board as set forth in section 133C of chapter 127. Whenever a person is convicted of a first offense under sections 22, 22A, 23, 24, 24B or 26 of chapter 265, sections 3 or 35A of chapter 272, or for a first offense for the attempt of any of the aforementioned crimes under the provisions of section six of chapter 274, the elements of which are mitigated by certain circumstances, the defendant, upon motion to the court, may request a hearing after conviction and before sentencing to determine whether or not such person shall receive, in addition to a term of imprisonment or probation authorized by such sections, community parole supervision for life, to be served under the jurisdiction of the parole board as set forth in section 133C of chapter 127.

At such hearing, the defendant shall have the right to be represented by counsel, and, if financially unable to retain adequate representation, to have counsel appointed. The defendant shall be afforded an opportunity to testify, to present witnesses, to cross-examine witnesses who appear at the hearing, and to present information. The rules concerning admissibility of evidence in criminal trials shall not apply to the presentation and consideration of information at the hearing. A finding by the court that such person shall be committed to community parole supervision for life shall be supported by clear and convincing evidence.

In making his determination the judge shall, on the basis of any information which he can reasonably obtain, consider any mitigating or aggravating circumstances including, but not limited to, the defendant's character, propensities, criminal record, the nature and seriousness of the danger posed to any person or the community and the nature and circumstances of the offense for which the defendant is convicted. If the judge finds, by clear and convincing evidence, that no reasons for community parole supervision for life to be served under the jurisdiction of the parole board, as set forth in section 133C of chapter 127, exist, the judge shall not impose community supervision for life on such first offender.

Whenever a person is convicted of a first offense under sections 22, 22A, 23, 24, 24B or 26 of chapter 265, or sections 3 or 35A of chapter 272, or for a first attempt of any of the aforementioned crimes under the provisions of section 6 of chapter 274, the district attorney may file a motion with the sentencing judge requesting that the defendant not receive community parole supervision for life, and upon receipt of such motion the sentencing judge shall not impose community parole supervision for life on such first offender."; and by striking out the title and inserting in place thereof the following title "An Act further preventing sex offenses."

The amendment was adopted.

Mr. Bernstein moved to amend the bill, in section 1, in clause (4), by striking out the words ", offenders who used force or the threat of bodily injury, and certain multiple offenders" and inserting in place thereof the following words:— and offenders who used force or the threat of bodily injury; in said section 1, in said clause (4), by striking out the words "as defined herein"; in said section 1, in clause (5), by striking out the words "certain individual"; in said section 1, in the second sentence of clause (6), by striking out the word "certain", the first time it appears; in said section 1, in the definition of the word "Sex offender" by striking out the words "whichever last occurs,"; in said section 1, in said definition of the words "Sex offender" by inserting after the figure "1981" the following words:— , whichever last occurs"; in said section 1, in the definition of the word "Sexually violent predator" by inserting after the words "probation supervision" the following words:— or commitment under chapter 123A; In said section 2, in the proposed Section 178D by adding the following sentence:— Such rules and regulations shall include provisions which shall require police departments located in a city or town which is divided into more than one zip code. to disseminate information pursuant to the provisions of section 178J categorized by zip code and to disseminate such information limited to one or more zip codes if the request for such dissemination is so qualified; in section 2, in the last sentence of the first paragraph of subsection (a) of the proposed section 178E, by inserting after the words "section 178L" the following terms:— (1)(c); in said section 2, in the first sentence of subsection (c) of said proposed section 178E, by striking out the words "for a sex offense but does not impose a sentence of confinement" and inserting in place thereof the following words:— or as a youthful offender for a sex offense, but does not impose a sentence of confinement of 90 days or more; in said section 2, in subsection (e) of said proposed section 178E, by inserting after the word "Upon" the following word:— written; in said section 2, in said subsection (e) of said proposed section 178E, by striking out the words "or accepts a guilty or delinquent plea for a sex offense"; in said section 2, in said subsection (e) of said proposed section 178E, by inserting after the words "sentencing having determined" the following words:— and made specific written findings; in said section 2, in said subsection (e) of said proposed section 178E. by inserting after the words "provided however" the following words:— that any such motion by the commonwealth shall state the reasons for such motion, with specificity and, provided further.; in said section 2, in subsection (j) of said proposed section 178E, by striking out the words "if they have ever been convicted of a sex offense" and inserting in place thereof the following words:— such person is a sex offender; in said section 2, in the fourth sentence of the first paragraph of the proposed Section 178F, by striking out the word "weekly" and inserting in place thereof the following words:— every 30 days;. In said section 2, in the first paragraph of said proposed section 178F, by striking out the fifth and sixth sentences and inserting in place thereof the following two sentences:— Any homeless shelter receiving state funding shall cooperate in providing information in the possession of or known to such shelter, when a request for information is made to such shelter by a law enforcement agency; provided, however, that such request for information shall be limited to that which is necessary to verify an offender's registration data or a sex offender's whereabouts. Any shelter that violates the provisions of this paragraph shall be punished by a fine of \$100 a day for each day that such shelter continues to violate the provisions of this paragraph; in said section 2, in subsection (d) of the proposed section 178H, by striking out the second sentence; in said section 2, in said proposed

section 178H, by adding the following subsection:—

(e) Any offender who lists a homeless shelter as his residence pursuant to sections 178C to 178P, inclusive, and who violates the provisions of subsection (a) shall be punished: by not more than 30 days in a house of correction for a first offense; by imprisonment for not more than 2½ years in a house of correction or not more than 5 years in a state prison or by a fine of not more than \$1,000, or by both such fine and imprisonment for a second offense and; by imprisonment in a state prison for not less than 5 years for a third or subsequent offense; provided, however, that the sentence imposed for such third or subsequent offense shall not be reduced to less than the minimum sentence set forth in this section, nor suspended, nor shall any person sentenced under this section be eligible for probation, parole, work release or furlough, or receive any deduction from his sentence for good conduct until he shall have served 5 years.

Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.; in said section 2, in the last sentence of the first paragraph of the proposed section 178I, by inserting after the words "to assist" and by inserting in place thereof the following words:— or defend; in said section 2, in the second paragraph of said proposed section 178I, by striking out the words "has been convicted of at least one sex offense involving child or a sex offender" and inserting in place thereof the following words:— who has not been finally classified by the board, has been convicted of a least one sex offense involving a child or a sex offender, who has not been finally classified by the board; in said section 2, in subsection (b) of the proposed section 178J, by striking out clause (ii) and inserting in place thereof the following clause:—

(ii) inquire whether any sex offenders live or work within the same city or town as a specific address including, but not limited to, a residential address, a business address, school, after-school program, day care center, playground, recreational area or other identified address and, inquire in another city or town whether any sex offenders live or work within that city or town, upon a reasonable showing that the sex offender registry information is requested for his own protection or for the protection of a child under the age

of 18 or another person for whom the inquirer has responsibility, care or custody; or;

In said section 2, in clause (iii), in subsection (b) of said proposed section 178J, by striking out the words "police district at" and inserting in place thereof the following words:— city or town in; in said section 2, in subsection (c) of said proposed section 178J, by inserting after the words "sex offense involving a child or a sex offender" the following words:— who has not been finally classified by the board; and in said section 2, in the first sentence of the first paragraph of the proposed section 178K by inserting after the words "for a term of 6" the following words:— , with the exception of the chairman.; in said section 2, in the third sentence of the second paragraph of paragraph (c) of subsection (2) of said proposed section 178K, by inserting after the words "shall determine" the following words:— , by a preponderance of the evidence.; in said section 2, in the fourth sentence of the second paragraph of said paragraph (c) of said subsection (2) of said proposed section 178K, by striking out the fourth sentence and inserting in place thereof the following sentence:— An attorney employed or retained by the board may make an appearance, subject to section 3 of chapter 12, to defend the board's recommendation.; in said section 2 in the first sentence of paragraph (d) of said subsection (2) of said proposed section 178K, by striking out the words "upon a finding that no public safety interest is served by requiring said sex offender to register, shall" and inserting in place thereof the following words:— upon making specific written findings that the circumstances of the offense in conjunction with the offender's criminal history do not indicate a risk of reoffense or a danger to the public and the reasons therefore.; in said section 2, in the first sentence of the second paragraph of subsection (3) of said proposed section 178K, by inserting after the word useful' the following words:— in providing notice under the provisions of sections 178C to 178P, inclusive, and; in said section 2, in the fifth sentence of paragraph (c) of subsection (1) of the proposed section 178L, by inserting at the end thereof the following words:— provided, that such indigent offender may also apply for and the court may grant payment of fees for an expert witness in any case where the Board in its classification proceeding intends to rely on the testimony or report of an expert witness prepared specifically for the purposes of the classification proceeding.; in said section 2, in the third sentence of subsection (2) of the proposed section 178L, by striking out the words "shall become the board's final classification" and inserting in place thereof the following words:— and determination of duty to register shall become the board's final classification and determination; in said section 2, in the proposed section 178M, by striking out the third sentence and inserting in place thereof the following sentence:— An attorney employed or retained by the board may make an appearance, subject to section 3 of chapter 12, to defend the board's decision.; and in section 14, by striking out the words ", and the initial term of appointment for the chairman shall be 6 years." The amendment was adopted.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at nineteen minutes past six o'clock P.M., on motion of Mr. Bernstein, as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.

Antonioni, Robert A.

Bernstein, Robert A.

Berry, Frederick E.

Brewer, Stephen M.

Clancy, Edward J., Jr.

Montigny, Mark C.

Moore, Richard T.

Morrissey, Michael W.

Murray, Therese

Norton, Thomas C.

Nuciforo, Andrea F., Jr.

Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 39.

NAYS. — 0.

The yeas and nays having been completed at twenty-three minutes past six o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendments.

Sent to the House for concurrence in the amendments adopted by the Senate.

Engrossed Bills — Land Taking for Conservation, Etc.

An engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to grant interests in certain land to the town of Franklin (see House, No. 4697, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, 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, the question on passing it to be enacted was determined by a call of the yeas and nays, at twenty-four minutes past six o'clock P.M., as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.
Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.

Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 39.

NAYS. — 0.

The yeas and nays having been completed at twenty-seven minutes past six o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Acting Governor for his approbation.

An engrossed Bill authorizing the Division of Capital Planning and operations to convey certain property located in the town of Wakefield to the owner of an abutting parcel (see Senate, No. 2246, amended) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,—was put upon its final passage; and, 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, the question on passing it to be enacted was determined by a call of the yeas and nays, at twenty-eight minutes past six o'clock P.M., as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.
Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 39.

NAYS. — 0.

The yeas and nays having been completed at twenty-eight minutes before seven o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Acting Governor for his approbation.

An engrossed Bill authorizing Franklin Regional Council of Governments to convey certain land in the town of Whately (see House, No. 4317, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, 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, the question on passing it to be enacted was determined by a call of the yeas and nays, at twenty-seven minutes before seven o'clock P.M., as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.	Montigny, Mark C.
Antonioni, Robert A.	Moore, Richard T.
Bernstein, Robert A.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Norton, Thomas C.
Clancy, Edward J., Jr.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Brien, John D.
Durand, Robert A.	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Havern, Robert A.	Pines, Lois G.
Hedlund, Robert L.	Rauschenbach, Henri S.
Jacques, Cheryl A.	Rosenberg, Stanley C.
Jajuga, James P.	Shannon, Charles E.
Joyce, Brian A.	Tarr, Bruce E.
Keating, William R.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Warren E.
Lees, Brian P.	Travaglini, Robert E.
Lynch, Stephen F.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne
Melconian, Linda J.	

— 39.

NAYS. — 0.

Mr. Durand in the Chair, the yeas and nays having been completed at twenty-four minutes before seven o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Acting Governor for his approbation.

An engrossed Bill relative to the disposition of certain state owned land in the city of Quincy (see House, No. 5536) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, 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, the question on passing it to be enacted was determined by a call of the yeas and nays, at twenty-three minutes before seven o'clock P.M., as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.	Montigny, Mark C.
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Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 39.

NAYS. — 0.

The yeas and nays having been completed at nineteen minutes before seven o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Acting Governor for his approbation.

A Bill authorizing the Division of Capital Planning and Operations to convey permanent and temporary easements on state property in Boston to Emerson College (House, No. 5714, changed,— on petition),— was read. There being no objection, the Rules were suspended, on motion of Mr. Travaglini, and the bill was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Clancy moved that the bill be amended in section 10C, by striking out the second sentence.

The amendment was adopted.

Mr. Rosenberg moved to amend the bill in section 10A by striking out the words "is hereby authorized and directed" and inserting in place thereof the following word:— "may"; and in section 10A, by striking out the words ", for all purposes for which public and private streets and ways are used in the City of Boston,".

The amendment was adopted.

The bill, as amended, was ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendments.

Sent to the House for concurrence in the amendments adopted by the Senate.

Committees of Conference Reports.

A report, in part, of the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment to the House Bill relative to environmental cleanup and promoting the redevelopment of contaminated property (House, No. 5299, amended) (*amended by the Senate* by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2166), recommending, a Bill making appropriations for the fiscal year 1998 to ensure environmental cleanup and promote the redevelopment of contaminated property." (House, No. 5775),— came from the House and was read.

The rules were suspended, on motion of Mr. Rosenberg, and the report was considered forthwith and accepted, in concurrence.

A report, on the residue, of the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment to the House Bill relative to environmental cleanup and promoting the redevelopment of contaminated property (House, No. 5299, amended) (*amended by the Senate* by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2166), recommending, that the House recede from its non-concurrence with the Senate in its amendment and concur therein with a further amendment striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 5776,— came from the House. The report was read. **The rules were suspended, on motion of Mr. Rosenberg, and the report was considered forthwith and accepted, in concurrence.**

The Senate Bill relative to hiring women on state construction projects (Senate, No. 2142, amended),— came from the House passed to be engrossed, in concurrence, with amendments:
In section 3 by striking out, in lines 20 and 21, and also in lines 26 and 27, the words "public records and maintained for public inspection during regular business hours" and inserting in place thereof, in each instance, the words "available for inspection by any interested party filing a written request to the secretaries for such inspection"; and in section 3 by inserting after the word "committee", in line 19, the following: "; provided, however that subcontractors with 6 or fewer employees shall only be required to submit the updated staffing titles required by this section".
The rules were suspended, on motion of Ms. Fargo, and the House amendments were considered forthwith and adopted, in concurrence.

Engrossed Bills.

The following engrossed bills (both of which originated in the House), 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:

Establishing a board of registration of hearing instrument specialists (see House, No. 4760); and

Relative to the prevention of drug induced rape and kidnapping (see House, No. 5448, amended).

The President in the Chair,— an engrossed Bill authorizing the Commonwealth to acquire certain land in the town of Douglas (see House, No. 5770) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

The question on passing the bill to be enacted was determined by a call of the yeas and nays, at twelve minutes before seven o'clock P.M., on motion of Mr. Moore, as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.

Antonioni, Robert A.

Bernstein, Robert A.

Berry, Frederick E.

Brewer, Stephen M.

Clancy, Edward J., Jr.

Creedon, Robert S., Jr.

Durand, Robert A.

Fargo, Susan C.

Havern, Robert A.

Hedlund, Robert L.

Jacques, Cheryl A.

Jajuga, James P.

Joyce, Brian A.

Keating, William R.

Knapik, Michael R.

Lees, Brian P.

Lynch, Stephen F.

Magnani, David P.

Montigny, Mark C.

Moore, Richard T.

Morrissey, Michael W.

Murray, Therese

Norton, Thomas C.

Nuciforo, Andrea F., Jr.

O'Brien, John D.

Pacheco, Marc R.

Panagiotakos, Steven C.

Pines, Lois G.

Rauschenbach, Henri S.

Rosenberg, Stanley C.

Shannon, Charles E.

Tarr, Bruce E.

Tisei, Richard R.

Tolman, Warren E.

Travaglini, Robert E.

Walsh, Marian

Wilkerson, Dianne

NAYS. — 0.

The yeas and nays having been completed at eight minutes before seven o'clock P.M., the bill was passed to be enacted and it was signed by the President and laid before the Acting Governor for his approbation.

Engrossed Bills — Land Taking for Conservation, Etc.

An engrossed Bill providing for the lease of Commonwealth land in the city of Quincy (see House, No. 5704, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, 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, the question on passing it to be enacted was determined by a call of the yeas and nays, at seven minutes before seven o'clock P.M., as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.
Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

NAYS. — 0.

The yeas and nays having been completed at three minutes before seven o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Acting Governor for his approbation.

An engrossed Bill authorizing the Division of Capital Planning and operations to convey certain land in the town of Hull (see House, No. 5614) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, 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, the question on passing it to be

enacted was determined by a call of the yeas and nays, at two minutes before seven o'clock P.M., as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.	Montigny, Mark C.
Antonioni, Robert A.	Moore, Richard T.
Bernstein, Robert A.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Norton, Thomas C.
Clancy, Edward J., Jr.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Brien, John D.
Durand, Robert A.	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Havern, Robert A.	Pines, Lois G.
Hedlund, Robert L.	Rauschenbach, Henri S.
Jacques, Cheryl A.	Rosenberg, Stanley C.
Jajuga, James P.	Shannon, Charles E.
Joyce, Brian A.	Tarr, Bruce E.
Keating, William R.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Warren E.
Lees, Brian P.	Travaglini, Robert E.
Lynch, Stephen F.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne
Melconian, Linda J.	

— 39.

NAYS. — 0.

The yeas and nays having been completed at three minutes past seven o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Acting Governor for his approbation.

An engrossed Bill relative to the taking by eminent domain of certain land in the town of Dennis (see House, No. 5349) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, 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, the question on passing it to be enacted was determined by a call of the yeas and nays, at four minutes past seven o'clock P.M., as follows , to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.	Montigny, Mark C.
Antonioni, Robert A.	Moore, Richard T.
Bernstein, Robert A.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Norton, Thomas C.
Clancy, Edward J., Jr.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Brien, John D.

Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 39.

NAYS. — 0.

The yeas and nays having been completed at seven minutes past seven o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having to pass the same, and it was signed by the President and laid before the Acting Governor for his approbation.

An engrossed Bill relative to certain state land in the town of North Reading and the town of Wilmington (see House No. 5592) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, 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, the question on passing it to be enacted was determined by a call of the yeas and nays, at eight minutes past seven o'clock P.M., as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.
Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.

Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Walsh, Marian
Wilkerson, Dianne

— 39.

NAYS. — 0.

The yeas and nays having been completed at ten minutes past seven o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Acting Governor for his approbation.

Committees of Conference Reports.

A report of the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendments to the House Bill making appropriations for the fiscal year 1998 to provide for certain capital and supplemental appropriations (House, No. 5427) (*amended by the Senate* by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2233; and by striking out the emergency preamble and inserting in place thereof the following emergency preamble:

"*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to make appropriations for various capital improvements and other one time costs and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."), recommending that the House recede from its non-concurrence with the Senate in its amendments and concur therein with a further amendment by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 5777,— came from the House. The report was read.

The rules were suspended, on motion of Mr. Rosenberg, and the report was considered forthwith and accepted, in concurrence.

A report of the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment to the House Bill relative to the equitable taxation of insurance companies (House, No. 5479, amended) (*amended by the Senate* by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2283; and by striking out the title and inserting in place thereof the following title "An Act insuring community investment and the equitable taxation of insurance companies in Massachusetts."), recommending that the House recede from its non-concurrence with the Senate in its amendments and concur therein with a further amendment by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 5774,— came from the House. The report was read.

The rules were suspended, on motion of Mr. Rosenberg, and the report was considered forthwith and accepted, in concurrence.

A Bill providing for disposition of land to the Lawrence Redevelopment Authority (House, No. 5705, amended,— on petition) [Local approval received],— was read.

There being no objection, the rules were suspended, on motion of Mr. Clancy, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

A Bill authorizing the Division of Capital Asset Management and Maintenance to convey a certain parcel of land in Grafton (House, No. 5739,— on House, No. 1614),— was read.

There being no objection, the rules were suspended, on motion of Ms. Fargo, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Recess.

At thirteen minutes past seven o'clock P.M., the President declared a recess subject to the call of the Chair; and, at twenty-six minutes past nine o'clock P.M., the Senate reassembled, the President in the Chair.

Papers from the House

A Bill authorizing municipalities to offer financial incentives for rental subsidies to owners of affordable housing (House, No. 5778,— on a part of House, No. 4742),— was read.

There being no objection, the rules were suspended, on motion of Ms. Melconian, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

A Bill authorizing the Dennis Water District to convey an easement over certain parcels of land to the town of Dennis (printed in House, No. 5652,— on a message of His Honor the Lieutenant-Governor, Acting Governor),— was read.

There being no objection, the rules were suspended, on motion of Mr. Rauschenbach, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Reports of a Committee.

By Mr. Rosenberg, for the committee on Ways and Means, that the Senate Bill authorizing the State Retirement Board to credit certain years of service by Dorothy Argenziano for pension purposes in computing her retirement allowance (Senate, No. 1318), ought to pass, with an amendment, substituting a new draft entitled "An Act relative to the Massachusetts retirement board" (Senate, No. 2320).

There being no objection, the rules were suspended, on motion of Ms. Melconian, and the bill was read a second time, and was amended, as recommended by the committee on Ways and Means. The new draft (Senate, No. 2320) was ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

By Mr. Rosenberg, for the committee on Ways and Means, that the Senate Bill establishing a community care ombudsman (Senate, No. 2242), ought to pass.

There being no objection, the rules were suspended, on motion of Mr. Norton, and the bill 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.

Mr. Rosenberg, for the committee on Ways and Means, on House, No. 5114, reported, in part, a "Bill relative to health insurance" (Senate, No. 2321).

The bill was read. There being no objection, the rules were suspended, on motion of Mr. Travaglini, and the bill (Senate, No. 2321) 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.

Papers from the House

The Senate Bill relative to the consumer and merchant protection act (Senate, No. 2195),— came from the House passed to be engrossed, in concurrence, *with amendments*:

In section 11 by striking out, in line 5, the following: "184F" and

Inserting in place thereof the following: "184E".

In section 12 by striking out, in lines 4 and 5, the words "and any person authorized under sections 34, 35 or 36 of chapter 98".

In section 17 by adding at the end thereof the following paragraph:

"Committee, the Certification Committee within the Division of Standards. Said committee shall consist of the director of standards, and a designee from each of the following organizations: the Massachusetts Weights and Measures Association, the Eastern Massachusetts Weights and Measures Association, the Western Massachusetts Weights and Measures Association, and the City of Boston's Department of Inspectional Services."

In section 23 by striking out, in lines 3, 5, 14 and 16, the word "director" and inserting in place thereof, in each instance, the word "committee"; and by adding at the end thereof the following paragraph:

"There shall be a permanent standing advisory committee comprised of the director of the division of standards or his designee, and a designee from each of the following organizations: the Massachusetts Weights and Measures Association, the Eastern Massachusetts Weights and Measures Association, the Western Massachusetts Weights and Measures Association, and the City of Boston's Department of Inspectional Services.

Members of said board shall serve without compensation. Said committee shall be chaired by the director or deputy director of the division of standards. The committee shall develop and from time to time revise the certification and continuing education requirements that are established by the Division of Standards.";

In section 24 by striking out the paragraph contained in lines 3 to 16, inclusive, and inserting in place thereof the following paragraph:

"Section 29A. As an alternative to initiating criminal proceedings for violations of the following weights and measures laws: section 115A of chapter 6; sections 92B, 96, 98, 174A, 176, 177, sections 181 through 183, inclusive, section 184E, sections 295A through 295K, inclusive, sections 299 and 303F of chapter 94; sections 19, 24, 25, 26, 31, 35, 42, 45, 48, 55, and 56A through 56D inclusive of chapter 98, any representative authorized by the director of standards and any person authorized under sections 34, 35 or 36 of chapter 98 may issue a civil citation for violations of said weights and measures laws in the amount of 75 percent of the maximum criminal fine provided for said violation, to be paid within 21 days of the date of issuance of such citation.";

By striking out, in lines 27 and 28, the words "by the director of the division of standards or any person authorized by the director hereunder" and inserting in place thereof the words "pursuant to this section:", by inserting after the word "municipality", in line 36, the words "or local consumer aid groups authorized by the director of standards", by inserting after the word "municipality", in line 39, the words "or local consumer aid group authorized by the director of standards", by inserting after the word "of", in

line 40, the words "item pricing and", and by adding at the end thereof the following paragraph:

"Any citation issued by a municipality with a population of over 400,000 is exempt from this appellate procedure. All notices of appeals should be filed with said municipality's appellate board."

In section 27 by striking out, in lines 4 and 15, the word "director" and inserting in place thereof, in each instance, the word "committee".

In section 28 by striking out, in lines 7, 13, 26, 28, 35 and 47, the word "director" and inserting in place thereof, in each instance, the word "committee", in section 29 by striking out, in line 14, the word "director" and inserting in place thereof the word "committee";

In section 30, by inserting after the word "system", in line 12, the words "for the purposes of this section the term inadequate shall be defined as the failure to name a sealer, failure to file an annual report, or gross failure to complete mandatory inspections of weighing and measuring devices and retail scanners";

In section 41 by inserting after the word "sale", in line 11, the words "including any advertised special price offered to a customer with a store-issued discount card, conforms to the unit and/or net prices displayed to the customer on the visual display and";

By striking out section 42;

In section 43 by striking out, in line 7, the words "the assistant director and"; and by adding at the end thereof the following new section:

In section 45, by striking out, in line 2, the following: "24" and inserting in place thereof the following: "41".

"SECTION 46. The division of Standards shall promulgate regulations requiring that any retail outlet which uses an automated retail checkout system, as defined in section 56D, shall employ as part of its automated retail checkout system, a visual price display mechanism, so that the price is readable to the customer."

The rules were suspended, on motion of Ms. Fargo, and the House amendments were considered forthwith.

After remarks, the question on concurring in the House amendments was determined by a call of the yeas and nays, at twenty-one minutes before ten o'clock P.M., on motion of Ms. Jacques, as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.

Antonioni, Robert A.

Bernstein, Robert A.

Berry, Frederick E.

Brewer, Stephen M.

Clancy, Edward J., Jr.

Creedon, Robert S., Jr.

Durand, Robert A.

Fargo, Susan C.

Havern, Robert A.

Hedlund, Robert L.

Jacques, Cheryl A.

Jajuga, James P.

Joyce, Brian A.

Keating, William R.

Knapik, Michael R.

Lees, Brian P.

Lynch, Stephen F.

Magnani, David P.

Melconian, Linda J.

Montigny, Mark C.

Moore, Richard T.

Morrissey, Michael W.

Murray, Therese

Norton, Thomas C.

Nuciforo, Andrea F., Jr.

O'Brien, John D.

Pacheco, Marc R.

Panagiotakos, Steven C.

Pines, Lois G.

Rauschenbach, Henri S.

Rosenberg, Stanley C.

Shannon, Charles E.

Tarr, Bruce E.

Tisei, Richard R.

Tolman, Warren E.

Travaglini, Robert E.

Walsh, Marian

Wilkerson, Dianne

The yeas and nays having been completed at fifteen minutes before ten o'clock P.M., the House amendments were adopted, in concurrence.

Emergency Preamble Adopted.

An engrossed Bill relative to the taxation of common trust funds (see House, No. 4783, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 6 to 0.**
The bill was signed by the President and sent to the House for enactment.

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 reverse mortgage loans (see Senate, No. 2214, printed as amended) ;
Relative to certain pension benefits of Mary E. Muise (see House, No. 4579);
Authorizing an exchange of real property between the Commonwealth and the city of Brockton (see House, No. 5368, amended);
Authorizing the Registrar of Motor Vehicles to update address information (see House, No. 5401, amended); and
Certifying provisional employees and provisional promotees within the city of Boston as permanent employees (see House, No. 5518).

Engrossed Bill — Land Taking for Conservation, Etc.

An engrossed Bill authorizing the release of certain easements in the city of Worcester (see Senate, No. 2200) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, 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, the question on passing it to be enacted was determined by a call of the yeas and nays, at eighteen minutes before ten o'clock P.M., as follows, to wit (yeas 38 — nays 0):

YEAS.

Amorello, Matthew J.
Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

NAYS. — 0

ABSENT OR NOT VOTING.

Durand, Robert A.

— 1.

The yeas and nays having been completed at seven minutes before ten o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Acting Governor for his approbation.

Report of a Committee.

Mr. Rosenberg, for the committee on Ways and Means, on House, No. 5114, reported, in part, a "Bill providing for the financing of the central artery project" (Senate, No. 2322).

[Total authorization: \$600,000,000].

The bill was read. There being no objection, the rules were suspended, on motion of Mr. Rosenberg, and the bill (Senate, No. 2322) 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.

Papers from the House.

Engrossed Bill.

An engrossed Bill extending existing economic incentives to businesses rebuilding in the Commonwealth after a disaster (see House, No. 5751) (which originated in the House), **having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the President and laid before the Acting Governor for his approbation.**

Committee of Conference.

The House Bill providing for an accelerated transportation development and improvement program for the Commonwealth (House, No. 5661),— came from the House with the endorsement that the House had NON-concurred in the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2314, amended),— and had asked for a committee of conference on the disagreeing votes of the two branches; and that Representatives Sullivan of Braintree, DiMasi of Boston and Marini of Hanson had been appointed the committee on the part of the House.

On motion of Mr. Rosenberg, the Senate insisted on its amendment and concurred in the appointment of a committee of conference; and Senators Rosenberg, Havern and Rauschenbach were appointed on the part of the Senate.

The bill was returned to the House endorsed accordingly.

Recess.

At fifteen minutes past ten o'clock P.M., the President declared a recess subject to the call of the Chair; and, at sixteen minutes before eleven o'clock P.M., the Senate reassembled, the President in the Chair.

Papers from the House

The House Bill relative to compliance with safety codes, remediation of environmental hazards and the preservation and maintenance of the Commonwealth's real property assets (House, No. 5669),— came from the House with the endorsement that the House had concurred in the Senate amendments:

Striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2311; 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 immediately ensure compliance with life safety codes, remediation of environmental hazards, and the preservation and management of the commonwealth's real property assets, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public

convenience."— *with further amendments:*

By adding at the end thereof the following sections:

"SECTION 12. The commissioner of the division of capital planning and operations is hereby authorized, notwithstanding the provisions of sections 40E through 40I, inclusive, of chapter 7 of the General Laws, to convey to Emerson College, a non-profit educational institution, the permanent and temporary easements burdening certain property owned by the commonwealth as more particularly described in this act. Said easements shall be used for educational purposes, and shall be subject to such conditions, as are more particularly set forth in this act and to such further terms and conditions as the commissioner may prescribe.

The property upon which the commissioner is authorized to convey permanent easements contains approximately 7,000 square feet, abutting the state transportation building located at Park Plaza in the city of Boston and is located off the southerly line of Allen's Alley, a private way, in Boston, Suffolk County, Massachusetts bounded as follows:

NORTHERLY by the southerly line of Allen's Alley;

EASTERLY by other land of Emerson College; and

SOUTHERLY and WESTERLY by other land of the commonwealth of Massachusetts; and such other property of the commonwealth as is described in Section 22.

The property upon which the commissioner is authorized to convey temporary easements is any property of the commonwealth. The boundaries of said easement areas shall be more particularly shown on a survey to be prepared by the college at its expense and approved by the commissioner.

SECTION 13. Said Permanent easements may permit the college to construct within the easement areas improvements approved by the commissioner and acceptable to any master tenant in the state transportation building, including piles and footings, a building and appurtenant facilities and utilities. Such building may contain thirteen levels, two below grade, none at grade, and eleven above grade beginning at such elevation above grade as the commissioner may approve. The permanent easements may allow the college to construct, at grade, a covered loading dock, loading and service facilities, and service circulation for use by the state transportation building, other property of the college known as the Emerson Majestic Theatre, located at 219 Tremont Street in the city of Boston, and said new building and at the northeasterlymost portion of the easement area, at grade, an elevator core and stairs to serve said new building. Said new building may be attached to and integrated with said theatre. Said permanent easements; may include easements through the state transportation building for emergency access onto Tremont Street, and easements for encroachments and support, burdening the remainder of the state transportation building property, provided that such access, encroachments and support do not adversely impact the structure, functions, operation or value of the state transportation building. Such permanent easements also may include easements for access, utilities and drainage over other property of the commonwealth.

SECTION 14. The temporary easements authorized to be conveyed to the college may consist of those rights burdening the remainder of the state transportation building and such other property of the commonwealth as the commissioner, in consultation with any master tenant, may determine are acceptable and are reasonably necessary to enable the college to realize the benefits of the permanent easements, and to enable the college to perform certain work on the state transportation building and other commonwealth property in connection therewith; provided that such temporary easements do not adversely impact the structure, functions, operation or value of the state transportation building or of any other commonwealth property.

SECTION 15. The commissioner is hereby authorized to receive such easements and other rights, including rights burdening the building and other improvements of the college in the easement area, as may be necessary in the commissioner's discretion to protect the interests of the commonwealth, any master tenant and the condition, operation, function and value of the state transportation building and other property of the commonwealth.

SECTION 16. The college shall pay the full and fair market value of such easements, as determined by the commissioner, based upon an independent appraisal prepared for the division of capital planning and operations and paid for by the college. The inspector general shall review and approve said appraisal and said review shall include an examination of the methodology used for said appraisal. The inspector general shall prepare a report of his review and file said report with the commissioner for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration."; and the easements authorized to be conveyed under this act shall be subject to and include the requirements of this act and the following additional terms: (a) that the college shall coordinate any work performed by the college in the easement areas, or at the state transportation building or other property of the commonwealth, with and to the satisfaction of the division of capital planning and operations and with any master tenant of the state transportation building in order to ensure that the work does not interfere with the condition, operation, value or function of the state transportation building or such other property; (b) that the college shall provide to the division of capital planning and operations payment and performance bonds issued by sureties authorized to issue bonds in the commonwealth, covering all of the work by or on behalf of the college in the easement areas, at the state transportation building, and at any other property of the commonwealth; (c) that the college shall carry casualty and liability insurance to cover loss or damage to persons, property, Allen's Alley, the easement areas, the state transportation building and other property of the commonwealth which may occur during construction, operation and maintenance of the building and other improvements, repairs and replacements in the easement areas and while work at the state transportation building or other property of the commonwealth is being performed, with all such insurance to be in such form, in such amounts and with such companies licensed to issue insurance policies in the commonwealth as the commissioner may require; (d) that the college shall name the commonwealth, the division of capital planning and operations and any master tenant as additionally insured parties on all such policies of insurance; (e) that, notwithstanding any oversight, review or approval of plans, specifications, design, construction or other work by the commonwealth or any master tenant in connection with improvements, alterations, or other work, and in connection with the existence, operation, maintenance, repair and replacement of

improvements in the easement areas, state transportation building or other property of the commonwealth by or on behalf of the college, the college shall be solely liable for, and shall indemnify, defend and hold harmless the commonwealth and master tenant with respect to all liabilities, including without limitation all liabilities, in tort, in contract, at law, and in equity, arising from (i) any design, construction and other work performed in the easement areas, the state transportation building, or other property of the commonwealth, (ii) the existence, construction, operation, maintenance, repair and replacements of the building, or other improvements at the state transportation building, other property of the commonwealth, or in the easement areas; and (iii) the college's exercise of the permanent and/or temporary easements granted under this act; (f) that the college shall build the building and undertake the work at the state transportation building and other improvements only in accordance with plans and specifications and a construction schedule approved by the commissioner and any master tenant, and shall diligently and continuously pursue any construction or other work to completion once commenced; (g) that if following a casualty, the college intends to restore the building, and other improvements in the easement areas, that it do so only in accordance with plans and specifications and a construction schedule approved by the commissioner, and shall diligently pursue such restoration to completion once commenced, and that if following a casualty the college does not intend to restore the building, and other improvements in the easement areas, that the college shall remove the building and all of the improvements made by or on behalf of the college from the easement areas and restore the same to good condition, provided that the college shall restore the loading and service facilities in any event promptly upon the occurrence of a casualty; (h) that, during construction of the building and any other improvements, there will be service access and loading available to the state transportation building and all other affected property of the commonwealth, satisfactory to the commissioner and master tenant, and to that end, that no construction of the building or any other improvements by or on behalf of the college will take place from the time that construction is started on the premises numbered 144-150 Boylston Street in Boston through the date that there is substantial completion of such construction, (i) that the architects, surveyors and contractors to be used by the college for construction of the building or other improvements in the easement areas and work at the state transportation building will be subject to the prior approvals of the commissioner and any master tenant, and that all construction and work done by the college will be done in good and workmanlike manner in compliance with all applicable laws and shall in no way adversely affect the function, operation, condition or value of the state transportation building or other property of the commonwealth; (j) that the structural integrity of the state transportation building and other property of the commonwealth shall not be adversely affected, nor will the use or operation of the state transportation building or of any such other property be interrupted while the college is conducting any work authorized under this act or while the building or any other improvement made by the college is located in the easement areas; (k) that the college shall pay for all labor and materials properly performed and supplied in a timely manner; (l) that the college may only use the easement areas and the building and other improvements located therein for educational uses and uses accessory thereto; (m) that the commonwealth shall have the right to exercise self-help rights to cure any defaults of the terms and conditions of the easements or related agreements by the college, and to be promptly reimbursed by the college for all costs and expenses incurred by the commonwealth in exercising such rights; (n) that the college shall be solely responsible for all costs and expenses to construct, repair, replace, operate and manage the loading dock, service and loading facilities and service circulation in the easement areas and in Allen's Alley, all of which loading dock, service and loading facilities shall be owned by the commonwealth and shall be shared with the college and any master tenant, subject to the terms and conditions imposed by the commissioner in the easements authorized by this act and subject to such additional terms and conditions imposed by any master tenant in connection with its master lease; and (o) such additional provisions as the commissioner may impose in her discretion, in consultation with any master tenant.

SECTION 17. The commissioner is hereby authorized, notwithstanding any General or Special Laws, to contract with the college and its designers and contractors, to undertake any design, construction, alterations to, and other work on, the state transportation building, including its systems, structure and appurtenances, and other property of the commonwealth, as may be necessary to effectuate the purposes of this act; provided that all such alterations and other work shall be paid for by the college, shall be acceptable to said commissioner, and shall not adversely affect the operation, condition or value of the state transportation building or such other property. The easements authorized hereunder shall provide that notwithstanding any contracting by, or review, approvals or oversight of plans, specifications, design or construction by the division of capital planning and operations, other agencies of the commonwealth or any master tenant, the college shall be solely responsible for all liabilities associated with the design and construction of such alterations to, and other work on, the state transportation building, other property of the commonwealth and the easement areas, and for ensuring that there is no adverse affect on the function, operation, condition, or value of the state transportation building and other property of the commonwealth as a result of said alterations and work.

SECTION 18. The college shall be solely responsible for all costs of the transactions, work, improvements and alterations authorized by this act, including without limitation: the reasonable costs of all consultants, attorneys and investigations of the division of capital planning and operations and the master tenant in connection with said transactions and with any peer review and oversight of the college's design, construction and other work; the cost of all work in the easement areas, Allen's Alley, the state transportation building, and any other property, of the commonwealth under this act; the cost of all operation, maintenance, repair, restoration and taxes associated with the building, the service areas, other improvements or alterations made by or on behalf of the college; and the cost of all appraisals and surveys.

SECTION 19. The easements authorized under this act may be pledged, mortgaged or conveyed by the college in any manner said college may deem necessary, subject to the provisions of this act, to the uses authorized by this act, and to the terms and conditions imposed by the commissioner. If any easements authorized to be conveyed by this section are conveyed to any entity other than a nonprofit educational institution or the mortgage lender that finances the building and improvements, or are conveyed without a use restriction allowing only the educational uses authorized by this act, then, upon notice by the commissioner of the

division of capital planning and operations, the easements together with all buildings and improvements located thereon shall revert to the commonwealth subject to such terms and conditions as said commissioner may specify.

SECTION 20. The master tenant shall have the right to approve the college's use of the easement areas, the college's use, operation and rights in the state transportation building, the college's construction and alterations to the loading dock and service and loading facilities available to the state transportation building and any other improvements and work associated with the building, Allen's Alley, the easement areas, and the state transportation building by or on behalf of the college and any agreements creating or conveying the temporary or permanent easements relating thereto.

SECTION 21. The obligations and provisions of sections 21 to 30, inclusive, of this act shall bind the college and its successors and assigns. All easements and other rights authorized by this act shall be governed by Massachusetts law for all purposes without regard to Massachusetts law governing choice of law.

SECTION 22. The commissioner shall thirty days before the execution of any agreement authorized by sections 21 to 30, inclusive, of this act, or any subsequent amendment thereof, submit the agreement or amendment and a report thereon to the inspector general for his review and comment. The inspector general shall issue his review and comment within fifteen days of receipt of any amendments thereof, the reports, and the comments of the inspector general, if any, to the house and senate committees on ways and means and the chairmen of the joint committee on state administration at least fifteen days prior to execution.

SECTION 23. The commissioner of the division of capital planning and operations is hereby authorized and directed, notwithstanding the provisions of Sections 40E to 40J, inclusive, of Chapter 7 of the General Laws, to grant to those abutters of Carver Street and Townsend Place referenced in the department of public works Order of Taking recorded with Suffolk Registry of Deeds in Book 14067, Page 29, their successors and assigns (the Abutters') an easement for vehicular and pedestrian access, for all purposes for which public and private streets and ways are used in the City of Boston, in, over and through (but not under) (i) that certain parcel of land within the City of Boston identified as Proposed MTHB Service Court' and (ii) the land owned by the commonwealth formerly part of Carver Street (together, the Easement Area'), all as shown on a plan entitled: THE COMMONWEALTH OF MASSACHUSETTS, PLAN OF LAND IN THE CITY OF BOSTON, SUFFOLK COUNTY, SHOWING LOCATION OF THE DEPARTMENT OF TRANSPORTATION BUILDING SITE, OCTOBER 26, 1983, SCALE: 40 FEET TO THE INCH', said plan being recorded with Suffolk Registry of Deeds in Book 10640, Page 159.

SECTION 24. The commissioner of the division of capital planning and operations shall include in the instruments or agreements granting the easement authorized by this act reasonable provisions regarding coordination and cooperation between the Abutters and the division and its master tenant with respect to operations within the Easement Area and such other provision as may be reasonably necessary to protect the condition, operation, function of the state transportation building and other property of the commonwealth. Said commissioner shall submit the instrument and any subsequent amendments thereof to the house and senate committees on ways and means and the chairmen of the joint committee on state administration at least 15 days prior to execution.

SECTION 25. The consideration to be paid by the Abutters for said easement shall be the full and fair market value thereof as determined by the commissioner based upon independent appraisal. Such consideration may be paid by any one or more of the Abutters, so long as the commonwealth receives the entire consideration so determined. The inspector general shall review and approve said appraisal, including a review of methodology utilized for said appraisal. Said inspector general shall prepare a report of his review and file said report with the commissioner of the division of capital planning and operations for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration in accordance with section 33 above.

SECTION 26. The Abutters shall be responsible for any costs incurred by the commonwealth for appraisals, surveys and other expenses relating to the grant of the easement authorized herein. Such costs may be paid by any one or more of the Abutters, so long as all such costs are reimbursed.

The consideration to be paid pursuant to section 34 shall be deposited in the General Fund of the commonwealth.

SECTION 27. Nothing in SECTIONS 21 to 31, inclusive, of this act shall be interpreted as limiting or otherwise affecting any provision of chapter two hundred-forty of the acts of nineteen eighty-four.

SECTION 28. Item 1102-7967 of section 2 of chapter 12 of the acts of 1996, is hereby amended by striking out the words provided further, that not less than twenty-six million dollars shall be expended for the construction of the Berkshire county jail and house of correction' and inserting in place thereof the following:— provided further, that not less than \$32,000,000 shall be provided for the construction of the Berkshire county jail and house of correction.

SECTION 29. Said item 1102-7969 of said section is hereby further amended by striking out the figure \$192,755,000' and inserting in place thereof the following figure:— \$198,755,000.

SECTION 30. The first sentence of section 3 of said chapter 12, as appearing in section 17 of chapter 28 of the acts of 1996, is hereby amended by striking out the words the sum of four hundred eighty-seven million three hundred eight thousand one hundred and eight dollars' and inserting in place thereof the following words:— the sum of \$493,308,108.

SECTION 31. Item 3722-8899 of section 2 of chapter 494 of the acts of 1993 is hereby amended by adding the following words:— ; and provided further, that not more than \$750,000 shall be expended for the development of a family preservation center in the southeast region of the commonwealth to be operated by a nonprofit organization under contract with the department of social services.

The rules were suspended, on motion of Mr. Travaglini, and the further House amendments were considered forthwith. Mr. Rosenberg moved that the Senate concur with the further House amendments *with a still further amendment by striking out sections 12 to 27, inclusive (inserted by amendment by the House).*

The still further (Rosenberg) amendment was adopted. The Senate then concurred in the further House amendments, as amended (as corrected by Senate committee on Bills in the Third Reading).

Sent to the House for concurrence in the still further amendment.

***Message from His Honor the Lieutenant-Governor, Acting Governor —
Disapprovals and Reductions in General Appropriation Bill.***

A message from His Honor the Lieutenant-Governor, Acting Governor, returning with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 1999 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 5700), which, on Monday, July 20, 1998, had been laid before the Acting Governor for his approbation,— came from the House, in part, item 7003-0701, in section 2, having been passed by the House notwithstanding the disapproval of the Acting Governor. The message (House, No. 5768) was read; and the Senate proceeded to reconsider item 7003-0701, in section 2, which had been disapproved, in accordance with the provisions of the Constitution.

Item 7003-0701 (workforce training program), was considered, as follows:

"7003-0701

For grants and technical assistance administrated by the division of employment and training, pursuant to the provisions of section 2RR of chapter 29 of the General Laws and for the cost of collecting the assessment established in section 14L of chapter 151A of the General Laws; provided that not more than \$1,500,000 shall be expended for direct technical assistance pursuant to paragraph (2) of subsection (b) of said section 2RR of said chapter 29

.....9,000,000 preparation of plans, if necessary

Workforce Training Fund.....100.0%

The question on passing item 7003-0701 (contained in section 2), notwithstanding the disapproval of His Honor the Lieutenant-Governor, Acting Governor to the contrary, was determined by a call of the yeas and nays, at fourteen minutes before eleven o'clock P.M., as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.

Antonioni, Robert A.

Bernstein, Robert A.

Berry, Frederick E.

Brewer, Stephen M.

Clancy, Edward J., Jr.

Creedon, Robert S., Jr.

Durand, Robert A.

Fargo, Susan C.

Havern, Robert A.

Hedlund, Robert L.

Jacques, Cheryl A.

Jajuga, James P.

Joyce, Brian A.

Keating, William R.

Knapik, Michael R.

Lees, Brian P.

Lynch, Stephen F.

Magnani, David P.

Melconian, Linda J.

Montigny, Mark C.

Moore, Richard T.

Morrissey, Michael W.

Murray, Therese

Norton, Thomas C.

Nuciforo, Andrea F., Jr.

O'Brien, John D.

Pacheco, Marc R.

Panagiotakos, Steven C.

Pines, Lois G.

Rauschenbach, Henri S.

Rosenberg, Stanley C.

Shannon, Charles E.

Tarr, Bruce E.

Tisei, Richard R.

Tolman, Warren E.

Travaglini, Robert E.

Walsh, Marian

Wilkerson, Dianne

NAYS. — 0.

The yeas and nays having been completed at eleven minutes before eleven o'clock P.M., item 7003-0701 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Honor the Lieutenant-Governor, Acting Governor, two-thirds of the members present and voting having approved the same.
The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Emergency Preambles Adopted.

An engrossed Bill relative to hiring women on state construction projects (see Senate, No. 2142, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 2 to 0.**
The bill was signed by the President and sent to the House for enactment.

An engrossed Bill relative to environmental cleanup and promoting the redevelopment of contaminated property (see House, No. 5299, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 5 to 0.**
The bill was signed by the President and sent to the House for enactment.

An engrossed Bill providing for disposition of land to the Lawrence Redevelopment Authority (see House, No. 5705 amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 5 to 0.**
The bill was signed by the President and sent to the House for enactment.

An engrossed Bill making appropriations for the fiscal year 1998 to ensure environmental cleanup and promote the redevelopment of contaminated property (see House, No. 5775), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 5 to 0.**
The bill was signed by the President and sent to the House for enactment.

Message from His Honor the Lieutenant-Governor, Acting Governor — Disapprovals and Reductions in General Appropriations Bill.

A message from His Honor the Lieutenant-Governor, Acting Governor, returning with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 1999 for the maintenance of the departments, boards, commissions; institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 5700), which, on Monday, July 20, 1998, had been laid before the Acting Governor for his approbation,— came from the House, in part, several of said items and sections having been passed by the House notwithstanding the reduction or disapproval of the Acting Governor.

The message (House, No. 5768) was read; and the Senate proceeded to reconsider various items and sections which had been reduced or disapproved, in accordance with the provisions of the Constitution.

Item 1108-5200 (insurance premium costs), was considered as follows:

"1108-5200

For the commonwealth's share of the group insurance premium and plan costs incurred in fiscal year 1999; provided, that not more than \$300,000 shall be obligated for the evaluation and audit of said premium and plan costs; provided further, that not more than \$300,000 shall be obligated for the evaluation and negotiation of premium rates which may include rates for health benefit plans, prescription drug plans and long-term disability plans; provided further, that not more than \$150,000 shall be obligated for claims utilization analysis; provided further, that the secretary of administration and finance shall charge the department of employment and training and other departments, authorities, agencies and divisions which have federal or other funds allocated to them for this purpose for that portion of insurance premiums and plan costs as he determines should be borne by such funds, and shall notify the comptroller of the amounts to be transferred, after similar determination, from the several state or other funds, and amounts received in payment of all such charges or such transfers shall be credited to the General Fund; provided further, that prior year costs incurred by

the state indemnity health insurance plan and the preferred provider organization shall be funded from this item; provided further, that the group insurance commission shall report quarterly to the house and senate committees on ways and means the amounts expended from this item for said prior year costs; provided further, that the group insurance commission shall obtain reimbursement for premium and administrative expenses from other agencies and authorities not funded by state appropriation; provided further, that the secretary of administration and finance is authorized and directed to charge all agencies for the commonwealth's share of the health insurance costs incurred on behalf of any employees of those agencies who are on leave of absence for a period of more than one year; provided further, that the amounts received in payment for said charges shall be credited to the General Fund; provided further, that, notwithstanding the provisions of section 26 of chapter 29 of the General Laws, the commission is hereby authorized to negotiate, purchase and execute contracts prior to July 1 of each year for policies of group insurance as authorized by chapter 32A of the General Laws; provided further, that notwithstanding the provisions of chapter 150E of the General Laws and as provided in section 8 of said chapter 32A and for the purposes of section 14 of said chapter 32A, the commonwealth's share of the group insurance premium for state employees who have retired prior to July 1, 1994 shall be 90 per cent and the commonwealth's share of the group insurance premium for state employees who have retired on or after July 1, 1994 shall be 85 per cent; provided further, that the commission shall provide the number of retirees for whom the commonwealth pays said 85 per cent to the house and senate committees on ways and means by February 1 of each year; provided further, that the commonwealth's share of such premiums for active state employees shall be 85 per cent of said premiums and rates; provided further, that notwithstanding the provisions of chapter 150E of the General Laws, employees of the Massachusetts Bay Transportation Authority and of regional transit authorities shall continue to pay the same percentage, if any, of the health insurance premium that they paid on June 1, 1994; provided further, that active employees of the Massachusetts Bay Transportation Authority and of regional transit authorities shall pay 15 per cent of such premiums and rates; and provided further, that the commission shall notify the house and senate committees on ways and means by March 15 of each year of the cost of the commonwealth's projected share of group insurance premiums for the next fiscal year preparation of plans, if necessary
.....545,831,850".

[The Acting Governor reduced this item to \$506,861,756 and disapproved the following wording:— "; provided further, that the commonwealth's share of such premiums for active state employees shall be 85 per cent of said premiums and rates"].
The question on passing item 1108-5200 (contained in section 2), notwithstanding the reduction and deletion of His Honor the Lieutenant-Governor, Acting Governor, to the contrary, was determined by a call of the yeas and nays, at nine minutes before eleven o'clock P.M., as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.
Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

Melconian, Linda J.

— 39.

NAYS. — 0.

The yeas and nays having been completed at seven minutes before eleven o'clock P.M., item 1108-5200 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Honor the Lieutenant-Governor, Acting Governor, two-thirds of the members present and voting having approved the same. The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 297 (nursing home rate adjustment) was considered, as follows:

"SECTION 297. Notwithstanding the provisions of any general or special law to the contrary, the division of health care finance and policy shall for all rate years commencing on or after January 1, 1996 to amend the rate of any facility that has made payments as part of its employee benefits employee stock option plan, as defined by section 4975(e)(7) of Revenue Code of 1986, to include all such payments to an employee stock option plan made in rate years commencing on or after January 1, 1996 facility has not made payments to an employee stock option plan year for such rate year."

The question on passing section 297 notwithstanding the disapproval of His Honor the Lieutenant-Governor, Acting Governor, to the contrary, was determined by a call of the yeas and nays, at six minutes before eleven o'clock P.M., as follows, to wit (yeas 38 —nays 1):

YEAS.

Amorello, Matthew J.
Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Montigny, Mark C.
Moore, Richard T.
Morrisey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.

Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.
Pines, Lois G.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 38.

NAYS.

Rauschenbach, Henri S.

— 1.

**The yeas and nays having been completed at four minutes before eleven o'clock P.M., section 297 stands, in concurrence, notwithstanding the objections of His Honor the Lieutenant-Governor, Acting Governor, two-thirds of the members present and voting having approved the same.
The matter was sent to the Secretary of the Commonwealth endorsed accordingly.**

Item 8910-0102 (Hampden County Corrections) was considered, as follows:

"8910-0102

For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Hampden county
..... 43,744,147".

[The Acting Governor reduced the item to \$42,847,039].

The question on passing item 8910-0102 (contained in section 2) notwithstanding the reduction of His Honor the Lieutenant-Governor, Acting Governor, to the contrary, was determined by a call of the yeas and nays, at three minutes before eleven o'clock P.M., as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.	Montigny, Mark C.
Antonioni, Robert A.	Moore, Richard T.
Bernstein, Robert A.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Norton, Thomas C.
Clancy, Edward J., Jr.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Brien, John D.
Durand, Robert A.	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Havern, Robert A.	Pines, Lois G.
Hedlund, Robert L.	Rauschenbach, Henri S.
Jacques, Cheryl A.	Rosenberg, Stanley C.
Jajuga, James P.	Shannon, Charles E.
Joyce, Brian A.	Tarr, Bruce E.
Keating, William R.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Warren E.
Lees, Brian P.	Travaglini, Robert E.
Lynch, Stephen F.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne
Melconian, Linda J.	

— 39.

NAYS. — 0.

**The yeas and nays having been completed at one minute before eleven o'clock P.M., item 8910-0102 (contained in section 2), stands in concurrence, notwithstanding the objections of His Honor the Lieutenant-Governor, Acting Governor, two-thirds of the members present and voting having approved the same.
The matter was sent to the Secretary of the Commonwealth endorsed accordingly.**

Item 2440-0010, in section 2 (MDC Parks Division), which had been disapproved, in part, and reduced, was considered as follows:

"2440-0010

For the administration, operation and maintenance of the metropolitan district commission parks and recreation division, for the maintenance, operation and related costs of the parkways, boulevards, roadways, bridges and related appurtenances under the care, custody, and control of the commission, for the flood control activities of said commission and for the purchase of all necessary supplies and related equipment; provided, that no funding shall be made available from this item for true seasonal employees, so-called; provided further, that of the amount appropriated herein, not less than \$1,300,000 shall be expended on general upkeep, deferred maintenance, and improvements to the commission's parks and recreational facilities; provided further, that funds shall be expended for a Neponset Reservation project manage; provided further, that not less than \$37,482 shall be expended for additional personnel in the Fells Reservation; provided further, that not less than \$51,000 shall be expended to assess flood damage to Pine Banks park and Forestdale cemetery; provided further, that not less than \$842,994 shall be expended for expenses of the state house park rangers, including the cost of personnel; provided further, that \$100,000 shall be expended for improvements to the land and the facilities of the Charles river esplanade in the city of Boston; provided further, that the commission shall develop a study detailing the maintenance needs of southwest corridor park, so-called, in the city of Boston, including a two-year plan to repair the facilities of said park; provided further, that the commission shall expend \$150,000 above the amount expended for maintenance of said park in fiscal year 1998 and shall enter into contracts for personnel and other resources necessary to implement said plan, including the costs of two horticulturists and a supervisor; provided further, that no full-time equivalent positions shall be added for the purposes of developing or implementing said plan; provided further, that notwithstanding the provisions of any general or special law to the contrary, all offices and positions shall be subject to classification under sections 45 to 50, inclusive, of chapter 30 of the General Laws; provided further, that not less than \$50,000 shall be expended for improvements to Bellevue reservation in the West Roxbury section of the city of Boston including, but not limited to, ranger patrols of said reservation, lighting and irrigation; provided further, that not less than \$25,000 shall be expended for algae and weed treatment of the upper Mystic lakes; provided further, that \$10,000 shall be expended for payments to the Charles River watershed Association for testing of fecal coliform levels in the Charles river and the posting of warning flags to indicate unsafe levels of contamination; provided further, that \$25,000 shall be expended for the beautification and maintenance of the two hillsides maintained by the commission, adjacent to the McGrath - O'Brien highway and Linwood street in the city of Somerville; provided further, that not less than \$150,000 shall be expended for the costs associated with the management of aquatic non-native plants in the Charles river lakes district, including treatment and monitoring; provided further, that the commission shall assign a minimum of one park ranger to patrol the MDC park on Recreation road in the town of Weston from 9:00 a.m. until 6:00 p.m. each day between May 1 and September 30; provided further, that said commission is hereby authorized and directed to study the feasibility and benefit of establishing a fire control unit within said commission, so as to prevent, manage and suppress wildland and brush fires within the metropolitan park system; provided further, that not less than \$75,000 shall be expended for improvements to the Revere Beach parkway in the city of Everett; and provided further, that not less than \$37,000 shall be expended for the general upkeep and maintenance of the John Fitzgerald Kennedy Library park in the city Cambridge

.....\$27,674,206
 Highway Fund..... 60.0%
 Local Aid Fund.....40.0%

[The Acting Governor reduced the item to \$27,088,734 and disapproved the following wording: "; provided further, that not less than \$37,482 shall be expended for additional personnel in the Fells Reservation; provided further, that not less than \$51,000 shall be expended to assess flood damage to Pine Banks park and Forestdale cemetery"; and "provided further, that the commission shall expend \$150,000 above the amount expended for maintenance of said park in fiscal year 1998 and shall enter into contracts for personnel and other resources necessary to implement said plan, including the costs of two horticulturists and a supervisor; provided further, that no full-time equivalent positions shall be added for the purposes of developing or implementing said plan"; and "; provided further, that not less than \$75,000 shall be expended for improvements to the Revere Beach parkway in the city of Everett; and provided further, that not less than \$37,000 shall be expended for the general upkeep and maintenance of the John Fitzgerald Kennedy Library park in the city Cambridge"; "; provided further that not less than \$50,000 shall be expended for improvements to Bellevue reservation in the West Roxbury section of the city of Boston including, but not limited to, ranger patrols of said reservation, lighting and irrigation"; and "; provided further, that \$10,000 shall be expended for payments to the Charles River Watershed Association for testing of fecal coliform levels in the Charles river and the posting of warning flags to indicate unsafe levels of contamination; provided further, that \$25,000 shall be expended for the beautification and maintenance of the two hillsides maintained by the commission, adjacent to the McGrath-O'Brien highway and Linwood street in the city of Somerville; provided further, that not less than \$150,000 shall be expended for the costs associated with the management of aquatic non-native plants in the Charles river lakes district, including treatment and monitoring".]

The question on passing item 2440-0010 (contained in section 2) notwithstanding the reduction and disapproval of His Honor the Lieutenant-Governor, Acting Governor, to the contrary, was determined by a call of the yeas and nays, at eleven o'clock P.M., as follows, to wit (yeas 36 — nays 3):

YEAS.

Amorello, Matthew J.

Joyce, Brian A.

Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Panagiotakos, Steven C.
Pines, Lois G.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.

Keating, William R.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.
Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 36.

NAYS.

Knapik, Michael R.
Lees, Brian P.

Rauschenbach, Henri S.

— 3.

The yeas and nays having been completed at two minutes past eleven o'clock P.M., item 2440-0010 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Honor the Lieutenant-Governor, Acting Governor, two-thirds of the members present and voting having approved the same. The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Item 0337-0003 (Juvenile Expansion) was considered, as follows:

"0337-0003

For the personnel and expenses associated with the expansion of the juvenile court, including Berkshire, Essex, Hampshire/Franklin, Hampden, Middlesex, Norfolk, Plymouth, Suffolk, Worcester and Nantucket/Dukes counties; provided, that \$80,000 shall be expended on the CASA program, so-called, in the Lawrence district court; provided further, that \$80,000 shall be expended for the CASA program in the Worcester juvenile court; provided further, that \$80,000 shall be expended for the CASA program in the Plymouth county juvenile court; provided further, that \$80,000 shall be expended for the Franklin/Hampshire CASA program, including Northampton, Greenfield, Orange and Ware district courts; provided further, that \$50,000 shall be expended for a Berkshire CASA program in the Berkshire county juvenile court; provided further, that one additional first assistant clerk magistrate and one additional assistant clerk magistrate shall be funded from this item and appointed in the Plymouth county division pursuant to section 236 in fiscal year 1999; and provided further, that two additional assistant clerk magistrates shall be funded from this item and appointed to the Middlesex county division, pursuant to section 236 in fiscal year 1999
.....\$15,872,850".

[The Acting Governor reduced the item to \$13,274,446.]

The question on passing item 0337-0003 (contained in section 2) notwithstanding the reduction of His Honor the Lieutenant-Governor, Acting Governor, to the contrary, was determined by a call of the yeas and nays, at three minutes past eleven o'clock P.M., as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.
Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 39.

NAYS. — 0.

The yeas and nays having been completed at five minutes past eleven o'clock P.M., item 0337-0003 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Honor the Lieutenant-Governor, Acting Governor, two-thirds of the members present and voting having approved the same. The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 127 (adult education teacher certification) was considered, as follows:

"SECTION 127. Section 38G of chapter 71 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:

The requirements of this section shall not apply to the certification of teachers of adult education. Nothing in this section or section 1H of chapter 69 shall be construed to prohibit a school committee from employing a teacher certified under this section to teach adult education."

The question on passing section 127 notwithstanding the disapproval of His Honor the Lieutenant-Governor, Acting Governor, to the contrary, was determined by a call of the yeas and nays, at six minutes past eleven o'clock P.M., as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.
Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.

Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 39.

NAYS. — 0.

The yeas and nays having been completed at seven minutes past eleven o'clock P.M., section 127 stands, in concurrence, notwithstanding the objections of His Honor the Lieutenant-Governor, Acting Governor, two-thirds of the members present and voting having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 124 (adult education teacher certification) was considered, as follows:

"SECTION 124. Section 1H of chapter 69 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following paragraph:

The board of education shall grant certification to teachers of adult education who possess such qualifications as prescribed by said board. The commissioner of education shall have authority to grant, upon application, adult education certificates which shall be valid for five years to teachers of adult education who possess qualifications prescribed by said board. Each education certificate shall be renewable every five years thereafter upon successful completion of an individual professional development plan that meets standards established by said board. Said board shall establish policies and guidelines for approval for fulfilling the professional development requirement. Nothing herein shall be construed to require certification of teachers of adult education. A certificate issued by the commissioner may be revoked for cause pursuant to standards and procedures established by said board. Said board shall have the authority to promulgate, amend and rescind such rules or regulations as may be necessary to carry out the provisions of this section."

The question on passing section 124 notwithstanding the disapproval of His Honor the Lieutenant-Governor, Acting Governor, to the contrary, was determined by a call of the yeas and nays, at eight minutes past eleven o'clock P.M., as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.
Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.

Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 39.

NAYS. — 0.

The yeas and nays having been completed at nine minutes past eleven o'clock P.M., section 124 stands, in concurrence, notwithstanding the objections of His Honor the Lieutenant-Governor, Acting Governor, two-thirds of the members present and voting having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

The Senate Bill making certain appropriations and transfers for fiscal year 1998 (Senate, No. 2306),— came from the House passed to be engrossed, in concurrence, *with amendments*:

In section 5 by striking out the first paragraph and inserting in place thereof the following paragraph:

"The department of education shall develop and submit to the joint committee on education not later than December 31, 1998, the so-called "12-62 Plan for Strengthening Massachusetts Future Teaching Force." Such plan may include such legislative, regulatory, financial and other policy initiatives necessary as to attract, train, retain, mentor and develop out top teachers into masters of their profession; provided, that a schedule of projected costs and funding sources therefor shall accompany each such initiative that said department proposes in such plan."; in section 6 by inserting after the word "years", at the end thereof, the following words:— "; provided, further, that no funds shall be expended from the teacher quality endowment fund until the board of education promulgates regulations pursuant to sections 19B and 19C of chapter 15A; and by inserting after section 6 the following section:—

"SECTION 6A. Except for emergency regulations adopted pursuant to section 2 of chapter 30A, any regulation as defined in section 1 of said chapter 30A or any amendment or repeal of any such regulation adopted by the board of education pursuant to this act, shall, after compliance with all applicable provisions of said chapter 30A, except section 5, be submitted to the general court. Said board shall file the proposed regulation, amendment or repeal with the clerk of the house of representatives, together with a statement that the pertinent provisions of said chapter 30A, except section 5, have been complied with. The clerk of the house of representatives, with the approval of the president of the senate and the speaker of the house of representatives, shall refer such regulations to the joint committee on education, arts and humanities. Within 30 days after such referral, said committee may hold a public hearing on the regulations and shall issue a report to said board. Said report shall contain any proposed changes to the regulations voted upon by the committee. The board shall review said report and shall adopt final regulations as deemed appropriate in view of said report and shall file with the chairmen of said education, arts and humanities committee its final regulations. If the final regulations do not contain the changes proposed by the committee, the board shall send a letter to the committee accompanying the final regulations stating the reasons why such proposed changes were not adopted. Not earlier than 45 days after the filing of such letter and final regulations with the said committee, said board shall file the final regulations with the state secretary as provided in section 5 of said chapter 30A and said regulations shall thereupon take effect.

If no such proposed changes to the regulations are made to the board within 60 days of the initial filing of the proposed regulation or any amendment or a repeal of such regulation with the clerk of the house of representatives, the board may file the final regulations with the state secretary as provided in section 5 of said chapter 30A and said regulations shall thereupon take effect."

The rules were suspended, on motion of Mr. Travaglini, and the House amendments were considered forthwith and adopted, in concurrence.

Matter Taken Out of the orders of the Day.

There being no objection, the following matter was taken out of the Orders of the Day and considered, as follows:

The House Bill relative to a certain easement in the town of Wilmington (House bill, printed in House, No. 5268),— **was read a third time and passed to be engrossed, in concurrence.**

Papers from the House.
Engrossed Bills.

The following engrossed bills (the first two 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 on Saturday, August 1, for his approbation, to wit:

Providing for the licensing of alcohol and drug counselors (see Senate, No. 1787, amended);

Relative to the Massachusetts Government Land Bank regarding the Devens Enterprise Commission (see Senate, No. 2029, amended);

Further regulating the disclosure of certain information in real estate transactions (see House, No. 2099, amended); and

Relative to the taxation of common trust funds (see House, No. 4783, amended).

Emergency Preamble Adopted.

An engrossed Bill making appropriations for the fiscal year 1998 to provide for certain capital and supplemental appropriations (see House, No. 5427, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 6 to 0.**

The bill was signed by the President and sent to the House for enactment.

Engrossed Bill — Land Taking for Conservation, Etc.

An engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to convey a certain parcel of land in Grafton (see House, No. 5739) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was deter mined by a call of the yeas and nays, at sixteen minutes past eleven o'clock P.M., as follows, to wit (yeas 37 — nays 2):

YEAS.

Amorello, Matthew J.

Antonioni, Robert A.

Bernstein, Robert A.

Berry, Frederick E.

Brewer, Stephen M.

Clancy, Edward J., Jr.

Creedon, Robert S., Jr.

Durand, Robert A.

Fargo, Susan C.

Havern, Robert A.

Hedlund, Robert L.

Jacques, Cheryl A.

Jajuga, James P.

Joyce, Brian A.

Panagiotakos, Steven C.

Pines, Lois G.

Rauschenbach, Henri S.

Rosenberg, Stanley C.

Shannon, Charles E.

Keating, William R.

Knapik, Michael R.

Lees, Brian P.

Lynch, Stephen F.

Magnani, David P.

Melconian, Linda J.

Montigny, Mark C.

Moore, Richard T.

Morrissey, Michael W.

Murray, Therese

Norton, Thomas C.

Nuciforo, Andrea F., Jr.

O'Brien, John D.

Pacheco, Marc R.

Tolman, Warren E.

Travaglini, Robert E.

Walsh, Marian

Wilkerson, Dianne

NAYS.

Tarr, Bruce E.

Tisei, Richard R.

— 2.

The yeas and nays having been completed at eighteen minutes past eleven o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Acting Governor on Saturday, August 1, for his approbation.

A Bill relative to the development of the Route 3 North transportation improvement project (House, No. 5720,— on House, No. 5487),— was read.

There being no objection, the rules were suspended, on motion of Mr. Rosenberg, and the bill was read a second time, ordered to a third reading and read a third time.

Pending the question on passing the bill to be engrossed, Mr. Rosenberg moved that the bill be amended in section 2, by inserting after the words "development agreement" the following words:— "pursuant to section 4 of this act"; in subsection (D) of section 4, by striking out the words "40 years" and inserting in place thereof the following words:— "the lesser of 25 years or the useful life of the project."; in subsection (E) of said section 4, by adding the following words:— "; provided further, that notwithstanding any other provisions of this act to the contrary, the aggregate reimbursement cost of the project, including interest expenses, shall not exceed \$265,000,000; and provided, however, that said aggregate cost shall include all expenses except for the operation and maintenance costs of Route 3 North as defined in section 1 of this act"; in subsection (L) of said section 4, by striking out the words "including the developers planing bonds on a tax exempt basis;" and inserting in place thereof the following words:— "; provided, that all bonds or financing mechanisms issued by the developer shall be structured so as to be tax exempt"; in said section 4, by inserting after subsection (T) the following subsection:— "(U) said agreement shall be submitted to the inspector general, attorney general, and state auditor for review and approval 45 days prior to the implementation of said agreement"; and in subsection (D) of section 11, by adding the following words:— "; provided, that the provisions of this clause shall not be implemented until such time as legislation is enacted to implement such clause by the general court".

The amendment was adopted.

Mr. Lynch moved to amend the bill, in section 1, by adding the following paragraph:

"The General Court hereby finds and declares that the prompt accomplishment of the public purposes of this act requires the speedy and uninterrupted completion of the project. The commonwealth wishes to avoid the substantial risk of traffic disruption and the attendant safety problems that go with it as well as time delay and resulting additional costs caused by labor disharmony on the construction of this project. Therefore, as a means of assuring labor harmony on the construction of this critical project, the commonwealth, in its capacity as the owner and as a market participant, has decided to require a project labor agreement, including an obligation not to strike at any time on or during this project and a uniform grievance and arbitration procedure."; in section 5, by inserting after the word "developer", in the last sentence, the following words:— "and shall require, as a condition of award of a contract for work on this project, that all employees employed in the construction of said project shall be covered by and paid no less than the wage rate established for such work pursuant to a project labor agreement with the appropriate labor organization or labor organizations, which includes (1) an obligation for any such labor organization and its constituent members not to strike with respect to work on such project; (2) a uniform grievance and arbitration procedure for the resolution of work-related disputes; (3) mutually agreeable uniform work rules and schedules for the project; provided, however, that it shall not be a precondition to the award of a contract that a bidder have previously entered into a collective bargaining agreement with a labor organization, but only that the bidder be willing to execute and comply with said project labor agreement for the project if it is awarded a contract.".

The amendment was adopted.

The bill, as amended, was then passed to be engrossed, in concurrence.

Sent to the House for concurrence in the amendments adopted by the Senate.

Engrossed Bills.

The following engrossed bills (the first two 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 on Saturday, August 1, for his approbation, to wit:

Relative to hiring women on state construction projects (see Senate, No. 2142, amended);

Relative to the consumer and merchant protection act (see Senate, No. 2195, amended); and

Extending certain capital spending authorizations (see House Bill, printed in House, No. 5607, amended).

Engrossed Bill — Land Taking for Conservation, Etc.

An engrossed Bill providing for disposition of land to the Lawrence Redevelopment Authority (see House, No. 5705, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, 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, the question on passing it to be enacted was determined by a call of the yeas and nays, at twenty-two minutes past eleven o'clock P.M., as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.	Montigny, Mark C.
Antonioni, Robert A.	Moore, Richard T.
Bernstein, Robert A.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Norton, Thomas C.
Clancy, Edward J., Jr.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Brien, John D.
Durand, Robert A.	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Havern, Robert A.	Pines, Lois G.
Hedlund, Robert L.	Rauschenbach, Henri S.
Jacques, Cheryl A.	Rosenberg, Stanley C.
Jajuga, James P.	Shannon, Charles E.
Joyce, Brian A.	Tarr, Bruce E.
Keating, William R.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Warren E.
Lees, Brian P.	Travaglini, Robert E.
Lynch, Stephen F.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne
Melconian, Linda J.	

— 39.

NAYS. — 0.

The yeas and nays having been completed at twenty-four minutes past eleven o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Acting Governor on Saturday, August 1, for his approbation.

Engrossed Bill.

An engrossed Bill insuring community investment and the equitable taxation of insurance companies in Massachusetts (see House, No. 5479, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

The question on passing the bill to be enacted was determined by a call of the yeas and nays, at twenty-five minutes past eleven o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.	Montigny, Mark C.
Antonioni, Robert A.	Moore, Richard T.
Bernstein, Robert A.	Morrissey, Michael W.

Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 39.

NAYS. — 0.

The yeas and nays having been completed at twenty-seven minutes past eleven o'clock P.M., the bill was passed to be enacted and it was signed by the President and laid before the Acting Governor on Tuesday, August 4, for his approbation.

Engrossed Bill.

An engrossed Bill relative to environmental cleanup and promoting the redevelopment of contaminated property (see House, No. 5299, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

The question on passing the bill to be enacted was determined by a call of the yeas and nays, at twenty-eight minutes past eleven o'clock P.M., on motion of Mr. Durand, as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.
Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.

Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Shannon, Charles E.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 39.

NAYS. — 0.

The yeas and nays having been completed at half past eleven o'clock P.M., the bill was passed to be enacted and it was signed by the President and laid before the Acting Governor on Saturday, August 1, for his approbation.

***Message from His Honor the Lieutenant-Governor, Acting Governor
Disapprovals and Reductions in General Appropriations Bill.***

A message from His Honor the Lieutenant-Governor, Acting Governor, returning with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 1999 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 5700), which, on Monday, July 20, 1998, had been laid before the Acting Governor for his approbation,— came from the House, in part, item 7114-0101, in section 2, which had been reduced and disapproved, in part, having been passed by the House notwithstanding the reduction of the Acting Governor.

The message (House No. 5768) was read; and the Senate proceeded to reconsider item 7114-0101 which had been reduced and disapproved, in part, in accordance with the provisions of the Constitution.

Item 7114-0101 (Salem State College — GTE/Sylvania) was considered, as follows:

"7114-0101

For a reserve for operation and maintenance costs associated with the acquisition of the GTE/ Sylvania property located in the city of Salem; provided, that not less than \$500,000 shall be expended for design costs and basic infrastructure improvements of the GTE/Sylvania site

.....1,082,885."

[The Acting Governor reduced the item to \$745,885 disapproved the following wording:

"; provided, that not less than \$500,000 shall be expended for design costs and basic infrastructure improvements of the GTE/ Sylvania site" and recommended the following wording:

"; provided, that not less than \$163,000 shall, be expended for design costs and basic infrastructure improvements of the GTE/ Sylvania site"].

The question on passing item 7114-0101 (contained in section 2), notwithstanding the reduction and disapproval, in part, of His Honor the Lieutenant-Governor, Acting Governor, to the contrary, was determined by a call of the yeas and nays, at half past eleven o'clock P.M., as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.
Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Clancy, Edward J., Jr.
Creedon, Robert S., Jr.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.

Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 39.

NAYS. — 0.

The yeas and nays having been completed at twenty-eight minutes before twelve o'clock midnight, item 7114-0101 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Honor the Lieutenant-Governor, Acting Governor, two-thirds of the members present and voting having approved the same. The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Engrossed Bills.

An engrossed Bill making appropriations for the fiscal year 1998 to ensure environmental cleanup and promote the redevelopment of contaminated property (see House, No. 5775) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by Mr. Durand, Acting President (having been appointed by the President, under the provisions of Senate Rule 4, to perform the duties of the Chair). The bill was laid before the Acting Governor on Saturday, August 1, for his approbation.

An engrossed Bill authorizing municipalities to offer financial incentives for rental subsidies to owners of affordable housing (see House, No. 5778) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the President and laid before the Acting Governor on Saturday, August 1, for his approbation.

Engrossed Bill — State Loan.

An engrossed Bill making appropriations for the fiscal year 1998 to provide for certain capital and supplemental appropriations (see House, No. 5427, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was put upon its final passage; and, this being a bill providing for the borrowing of money, in accordance with the provisions of Section 3 of Article LXII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at twenty-six minutes before twelve o'clock midnight, as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.
Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.

Montigny, Mark C.
Moore, Richard T.
Morrisey, Michael W.
Murray, Therese
Norton, Thomas C.

Clancy, Edward J., Jr.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 39.

NAYS. — 0.

The yeas and nays having been completed at twenty-four minutes before twelve o'clock midnight, the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Acting Governor on Saturday, August 1, for his approbation.

Emergency Preamble Adopted.

An engrossed Bill authorizing the simultaneous land exchange of certain parcels of land between the town of Provincetown, the Commonwealth and the United States of America (see Senate, No. 1736), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 4 to 0.**

The bill was signed by the President and sent to the House for enactment.

***Message from His Honor the Lieutenant-Governor, Acting Governor
Disapprovals and Reductions in General Appropriations Bill.***

A message from His Honor the Lieutenant-Governor, Acting Governor, returning with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 1999 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 5700), which, on Monday, July 20, 1998, had been laid before the Acting Governor for his approbation, came from the House, in part, item 0526-0100, in section 2, having been passed by the House notwithstanding the disapproval, in part, and reduction of the Acting Governor.

The message (House, No. 5768) was read; and the Senate proceeded to reconsider item 0526-0100, in section 2, which had been disapproved, in part, and reduced, in accordance with the provisions of the Constitution.

Item 0526-0100 (Massachusetts Historical Commission), was considered, as follows:

"0526-0100

For the operation of the Massachusetts historical commission; provided, that not less than \$50,000 shall be expended for historic preservation grants; provided further, that not less than \$155,000 shall be expended to enhance the historic significance and grounds of Longfellow Park in Cambridge; provided further, that the expenditure of said funds shall be overseen by the Cambridge Historical Commission, in concert with the city of Cambridge. the Federal site administrators of the Longfellow House and the non-profit association Friends of Longfellow House; provided further, that the expenditures support capital improvements to the said park including, but not limited to, landscaping, monument

restoration and improved interpretation of the site; provided further, that funds may be expended from this item for historic lighthouses; provided further, that not less than \$150,000 shall be made available for a matching grant for repairs to the exhibit hall for the Cape Museum of Fine Arts; provided further, that \$150,000 be provided for the restoration and preservation of St. Alphonsus Theater in Boston in accordance with the Secretary of Interior's Standards for the Treatment of Historic Properties, as set forth in 36 C.F.R. Part 68; provided further, that \$100,000 shall be provided for the restoration and preservation, including exterior stabilization, of the Brooks Estate in Medford; provided further, that a grant to the town of Framingham for the restoration of the Hollis street fire station, as appropriated in sections 2A and 2CI of chapter 88 of the acts of 1997, shall be continued in fiscal year 1999; provided further, that \$25,000 shall be provided for the Worcester woman's history project to preserve and exhibit historic artifacts; and provided further, that not less than \$15,900 shall be expended for the renovation for the Adah Hall House in the town of Pembroke, prior appropriation continued
\$1,965,900".

[The Acting governor reduced the item to \$1,325,000 and disapproved the following wording: "; provided further, that funds may be expended from this item for historic lighthouses"; and "; provided further. that not less than \$150,000 shall be made available for the matching grant for repairs to the exhibit hall for the Cape Museum of Fine Arts; provided further that \$150,000 be provided for the restoration and preservation of St. Alphonsus Theater in Boston in accordance with the Secretary of Interior's Standards for the Treatment of Historic Properties. as set forth in 36 C.F.R. Part 68; provided further, that \$100,000 shall be provided for the restoration and preservation, including exterior stabilization, of the Brooks Estate in Medford"; and ; provided further, that \$25,000 shall be provided for the Worcester woman's history project to preserve and exhibit historic artifacts; and provided further, that not less than \$15,900 shall be expended for the renovation for the Adah Hall House in the town of Pembroke"].

The question on passing item 0526-0100 (contained in section 2), notwithstanding the reduction and disapproval, in part, of His Honor the Lieutenant-Governor, Acting Governor, to the contrary, was determined by a call of the yeas and nays, at twenty-three minutes before twelve o'clock midnight, as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.	Montigny, Mark C.
Antonioni, Robert A.	Moore, Richard T.
Bernstein, Robert A.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Norton, Thomas C.
Clancy, Edward J., Jr.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Brien, John D.
Durand, Robert A.	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Havern, Robert A.	Pines, Lois G.
Hedlund, Robert L.	Rauschenbach, Henri S.
Jacques, Cheryl A.	Rosenberg, Stanley C.
Jajuga, James P.	Shannon, Charles E.
Joyce, Brian A.	Tarr, Bruce E.
Keating, William R.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Warren E.
Lees, Brian P.	Travaglini, Robert E.
Lynch, Stephen F.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne
Melconian, Linda J.	

The yeas and nays having been completed at twenty-one minutes before twelve o'clock midnight, item 0526-0100 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Honor the Lieutenant-Governor Acting Governor, two-thirds of the members present and voting having approved the same. The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Engrossed Bill — Land Taking for Conservation, Etc.

An engrossed Bill relative to the disposition of Danvers State Hospital (see Senate, No. 2316, amended) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, 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, the question on passing it to be enacted was determined by a call of the yeas and nays, at twenty minutes before twelve o'clock midnight, as follows, to wit (yeas 36 — nays 3):

YEAS.

Amorello, Matthew J.	Montigny, Mark C.
Antonioni, Robert A.	Moore, Richard T.
Bernstein, Robert A.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Norton, Thomas C.
Clancy, Edward J., Jr.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Brien, John D.
Durand, Robert A.	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Havern, Robert A.	Pines, Lois G.
Hedlund, Robert L.	Rosenberg, Stanley C.
Jacques, Cheryl A.	Shannon, Charles E.
Jajuga, James P.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Keating, William R.	Tolman, Warren E.
Lynch, Stephen F.	Travaglini, Robert E.
Magnani, David P.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne

— 36.

NAYS.

Knapik, Michael R.	Rauschenbach, Henri S.
Lees, Brian P.	

— 3.

The yeas and nays having been completed at nineteen minutes before twelve o'clock midnight, the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Acting Governor on Saturday, August 1, for his approbation.

*Message from His Honor the Lieutenant-Governor, Acting Governor —
Disapprovals and Reductions in General Appropriations Bill.*

A message from His Honor the Lieutenant-Governor, Acting Governor, returning with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the

fiscal year 1999 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 5700), which, on Monday, July 20, 1998, had been laid before the Acting Governor for his approbation,— came from the House, in part, item 4401-1001, in section 2, which had been reduced, having been passed by the House notwithstanding the reduction of the Acting Governor.

The message (House, No. 5768) was read; and the Senate proceeded to reconsider item 4401-1001, in section 2, which had been reduced, in accordance with the provisions of the Constitution.

Item 4401-1001 (welfare reserves) was considered, as follows:

"4401-1001

For a reserve to fund additional services for recipients of transitional aid to families with dependent children benefits; provided, that funds from this item may be expended on former recipients for up to one year after termination of their benefits due to employment or the provisions of subsection (f) of section 110 of chapter 5 of the acts of 1995; provided further, that the department may use funds from this item to fund intensive case management efforts for said recipients that may include, but not be limited to, ongoing family support, community-based referrals, domestic violence referrals, substance abuse referrals, emergency assistance, job search assistance, technical assistance and other social service referrals; provided further, that up to \$4,000,000 may be spent on community college scholarships for degree programs and for other certified post-secondary educational training programs; provided further, that up to \$2,000,000 may be obligated for mentoring programs, including up to \$250,000 for a mentoring program in Hampshire county; provided further, that funds from this item may be expended for employment and training courses, re-employment services, job retention services, structured subsidized employment services, adult basic education, graduate equivalency degree (GED) courses or English as a second language (ESL) courses for such recipients; provided further, that funds from this item may be spent on emergency work-related expenses for said recipients, including emergency transportation costs; provided further, that up to \$5,000,000 may be expended for additional transportation services, including public transportation services; provided further, that said department may oversee a system of skills assessments at a cost of up to \$2,000,000 in fiscal year 1999; provided further, that said assessments may be conducted for each recipient up to three months before the loss of eligibility for said cash assistance for recipients that do not have a high school degree or a graduate equivalency degree; provided further, that said assessments may determine reading levels, math levels, English proficiency, and work history; provided further, that said assessment may determine if recipients face other significant barriers to employment including, but not limited to, disabilities, child behavioral problems, substance abuse, domestic violence, or housing instability; provided further, that no funds shall be expended from this item for cash assistance; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to services; provided further, that nothing stated herein shall be construed as giving rise to enforceable legal rights or enforceable entitlement to any services; provided further, that said department shall provide a status report on fiscal year 1999 expenditures to date and anticipated remaining fiscal year 1999 expenditures from this item to the house and senate committees on ways and means no later than February 1, 1999; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer any unexpended balance remaining in this item at the close of the fiscal year to the Caseload Increase Mitigation Fund, established by section 2NN of chapter 29 of the General Laws
..... 15,000,000".

[The Acting Governor reduced the item to \$9,000,000.]

The question on passing item 4401-1001 (contained in section 2), notwithstanding the reduction of His Honor the Lieutenant-Governor, Acting Governor, to the contrary, was determined by a call of the yeas and nays, at fourteen minutes before twelve o'clock midnight, as follows, to wit (yeas 33 — nays 4):

YEAS.

Amorello, Matthew J.
Antonioni, Robert A.
Bernstein, Robert A.
Brewer, Stephen M.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.

Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
O'Brien, John D.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.

Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.
Montigny, Mark C.

Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 33.

NAYS.

Knapik, Michael R.
Lees, Brian P.

Tarr, Bruce E.
Tisei, Richard R.

— 4.

ABSENT OR NOT VOTING.

Berry, Frederick E.

Clancy, Edward J., Jr.

— 2.

The yeas and nays having been completed at twelve minutes before twelve o'clock midnight, item 4401-1001 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Honor the Lieutenant-Governor, Acting Governor, two-thirds of the members present and voting having approved the same. The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Emergency Preambles Adopted.

An engrossed Bill making certain appropriations and transfers for fiscal year 1998 (see Senate, No. 2306, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 4 to 0. The bill was signed by the President and sent to the House for enactment.**

An engrossed Bill providing for the financing of the Central Artery Project (see Senate, No. 2322), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 4 to 0. The bill was signed by the President and sent to the House for enactment.**

An engrossed Bill authorizing long term leases for offices for the Department of Public Health in the Dudley Square area of the city of Boston (see Senate, No. 2282), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 3 to 0. The bill was signed by the President and sent to the House for enactment.**

***Message from His Honor the Lieutenant-Governor, Acting Governor —
Disapprovals and Reductions in General Appropriations Bill.***

A message from His Honor the Lieutenant-Governor, Acting Governor, returning with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 1999 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No.

5700), which, on Monday, July 20, 1998, had been laid before the Acting Governor for his approbation,— came from the House, in part, item 4403-2120, in section 2, having been passed by the House notwithstanding the disapproval, in part, and reduction of the Acting Governor.

The message (House, No. 5768) was read; and the Senate proceeded to reconsider item 4403-2120, in section 2, which had been disapproved, in part, and reduced, in accordance with the provisions of the Constitution.

Item 4403-2120 (Emergency assistance — Family Shelters) was considered, as follows:

"4403-2120

For certain expenses of the emergency assistance program as herein delineated: (i) contracted family shelters; (ii) transitional housing program; (iii) program to reduce homelessness in Barnstable, Dukes and Nantucket counties; (v) residential education center for single mothers with children; (v) intake centers, so-called; (vi) hotel and motel payments on behalf of homeless families; and (vii) voucher shelters, so-called; provided, that not more than \$76,650 may be expended for the hotel and motel emergency assistance program; provided further, that no funds may be expended for heat or utility arrearages, so-called; provided further, that in promulgating, amending, or rescinding regulations with respect to eligibility or benefits under said program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the appropriation; provided further, that the department is authorized to enter into an interagency service agreement with the division of housing and community development for a program to prevent homelessness: provided further, that not more than \$4,563,333 shall be expended for said program, including not less than \$75,000 for Just a Start Corporation; provided further, that not less than \$26,959,160 shall be expended on contracted family shelters; provided further, that of the amount authorized for said contracted family shelters, not less than \$798,483 shall be expended for the Hyannis Safe Harbor Shelter, so-called; provided further, that of the amount authorized for said contracted family shelters, not less than \$310,000 shall be expended for the operation of the emergency family shelter operated by Emmaus Inc. of Haverhill; provided further, that \$474,956 shall be expended by the Louison foundation of Brockton to operate a six family homeless shelter; provided further, that the department is directed to enter into four contracts to provide transitional housing for homeless families; provided further, that not more than \$1,280,648 shall be expended on said transitional housing program; provided further, that not less than \$300,000 shall be expended for the purpose of a program to reduce homelessness for needy families in Barnstable, Dukes and Nantucket counties as provided in section 253 of chapter 60 of the acts of 1994; provided further, that at least as many shelter spaces as were provided for homeless families during fiscal year 1998 be made available in fiscal year 1999; provided further, that the winter shelters, so-called, be operated year-round; provided further, that \$104,148 shall be expended for a furniture donation pickup van; provided further, that the department shall promulgate regulations to prevent abuse in the emergency assistance program in items 4403-2110 and 4403-2120 of section 2; provided further, that said rules and regulations shall include, but not be limited to, a year to year cross check of recipients to determine if a person has received similar benefits in the previous 36 months; provided further, that if a person has utilized emergency assistance benefits more than once within 36 months, the department is hereby authorized and directed to place said person on a protective payment schedule for the entire period during which said person is receiving said benefits; provided further, that no advance payments shall be paid in fiscal year 1999; provided further, that an otherwise eligible household shall be authorized for temporary emergency shelter even if that household has been authorized to receive a rental arrearage payment within the past 12 months; provided further, that an eligible household shall be sheltered within 20 miles of their home community, unless such household requests otherwise; provided further, that if no such shelter placement is available within 20 miles because of lack of vacancies, the household size and/or composition of such a homeless family, or the concerns of the department regarding the performance and administration of a particular shelter, said household shall be placed in the closest possible appropriate shelter beyond said 20 miles; provided further, that said household shall be transferred to an appropriate shelter within 20 miles of their community at the earliest possible date, unless the household requests otherwise; provided further, that placements made beyond the 20 mile limit shall be reported on a quarterly basis to the secretary of administration and finance, the joint committee on human services and elderly affairs, and the house and senate committees on ways, and means; provided further, that no emergency assistance expenditures shall be paid from this item unless explicitly authorized by this item; provided further, that benefits under this item shall be provided only to residents who are citizens of the United States or aliens. lawfully admitted for permanent residence or otherwise permanently residing under color of law in the United States and shall not be provided to illegal or undocumented aliens; provided further, that notwithstanding the provisions of any general or special law or this item to the contrary, 30 days before promulgating any such eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the house of representative and the senate a determination by the secretary of health and human services that available appropriations for said program will be insufficient to meet projected expenses and a report setting forth such proposed changes; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to services other than to the extent that such rights or entitlements exist pursuant to the regulations promulgated by the department or section 210 of chapter 43 of the acts of 1997; provided further, that nothing stated herein shall be construed as giving rise to enforceable legal rights or enforceable entitlement to any services other than to the extent that such rights or entitlements exist pursuant to the regulations promulgated by the department or said section 210 of said chapter 43; and provided further, that nothing in the two preceding provisos shall authorize the department to alter eligibility criteria or benefit levels, except to the extent that such changes are needed to avoid a deficiency

..... 38,195,028".

[The Acting Governor reduced the item to \$38,090,880 and disapproved the following wording: "; provided further, that \$104,148 shall be expended for a furniture donation pickup van" and "; provided further, that notwithstanding the provisions of any general or special law or this item to the contrary, 30 days before promulgating any such eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the house of representative and the senate a determination by the secretary of health and human services that available appropriations for said program will be insufficient to meet projected expenses and a report setting forth such proposed changes".
The question on passing item 4403-2120 (contained in section 2) notwithstanding the reduction and disapproval, in part, of His Honor the Lieutenant-Governor, Acting Governor, to the contrary, was determined by a call of the yeas and nays, at nine minutes before twelve o'clock midnight, as follows, to wit (yeas 35 — nays 3):

YEAS.

Amorello, Matthew J.	Keating, William R.
Antonioni, Robert A.	Lynch, Stephen F.
Bernstein, Robert A.	Magnani, David P.
Berry, Frederick E.	Melconian, Linda J.
Brewer, Stephen M.	Montigny, Mark C.
Clancy, Edward J., Jr.	Moore, Richard T.
Creedon, Robert S., Jr.	Morrissey, Michael W.
Durand, Robert A.	Murray, Therese
Fargo, Susan C.	Norton, Thomas C.
Hedlund, Robert L.	Nuciforo, Andrea F., Jr.
Jacques, Cheryl A.	O'Brien, John D.
Jajuga, James P.	Pacheco, Marc R.
Joyce, Brian A.	Panagiotakos, Steven C.
Pines, Lois G.	Tolman, Warren E.
Rauschenbach, Henri S.	Travaglini, Robert E.
Rosenberg, Stanley C.	Walsh, Marian
Shannon, Charles E.	Wilkerson, Dianne
Tarr, Bruce E.	

— 35.

NAYS.

Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	

— 3.

ABSENT OR NOT VOTING.

Havern, Robert A.

— 1.

The yeas and nays having been completed at seven minutes before twelve o'clock midnight, item 4403-2120 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Honor the Lieutenant-Governor, Acting Governor, two-thirds of the members present and voting having approved the same.
The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Report of a Committee.

Mr. Rosenberg, for the committee on Ways and Means, on House, No. 5114, reported, in part, a "Bill making appropriations for the fiscal year 1998 to provide for supplementing certain existing appropriations and for certain other activities and projects" (Senate, No. 2323).

[Direct Appropriation: \$70,947,634].

The bill was read. There being no objection, the rules were suspended, on motion of Mr. Jajuga, and the bill (Senate, No. 2323) 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.

Message from His Honor the Lieutenant-Governor, Acting Governor — Disapprovals and Reductions in General Appropriations Bill.

A message from His Honor the Lieutenant-Governor, Acting Governor, returning with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 1999 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 5700), which, on Monday, July 20, 1998, had been laid before the Acting Governor for his approbation,— came from the House, in part, item 7007-0400, in section 2, and item 0330-0302, in section 2, having been passed by the House notwithstanding the disapproval, in part, and reduction of the Acting Governor.

The message (House, No. 5768) was read; and the Senate proceeded to reconsider item 7007-0400, in section 2, and item 0330-0302, in section 2, which had been disapproved, in part, and reduced, in accordance with the provisions of the Constitution.

Item 7007-0400 (Business development — non-profit grants), was considered, as follows:

"7007-0400

For economic development grants to regional and special purpose non-profit entities to be administered by the Massachusetts office of business development; provided, that \$150,000 shall be expended for purposes of a ship building technology institute through the Massachusetts maritime academy; provided further, that not less than \$100,000 shall be expended for the center for women and enterprise; provided further, that not less than \$350,000 shall be obligated to the western Massachusetts precision institute for year two of a three year grant to expand the machinist training program and to extend such services into central Massachusetts; provided further, that not less than \$100,000 shall be expended for the initiative known as the I-495/campaign for shared solutions, so-called; provided further, that no town or municipality's zoning or planning bylaws shall be superseded by any action of the I-495/ campaign of shared solutions; provided further, that not less than \$250,000 shall be expended for the Massachusetts ventures corporation in the pioneer valley region; provided further, that not less than \$275,000 shall be expended for a grant to the south shore tri-town development corporation for the implementation of the reuse plan for the former naval air station at South Weymouth; provided further, that not less than \$200,000 shall be expended for the center for advanced fiberoptic applications in Southbridge contingent upon receipt of matching federal funds; provided further, that not less than \$100,000 shall be expended for the Massachusetts council for quality; provided further, that said funds for said council shall be subject to a 100 per cent matching requirement from local or other public or private sources; provided further, that not less than \$60,000 shall be expended for year two of a three grant for the economic development activities of the Blackstone valley development corporation; provided further, that not less than \$125,000 shall be obligated as final payment for the support of programs operated by a farm workers' organization serving low income persons and the Hispanic population of western Massachusetts contingent on submission of a plan to the house and senate committees on ways and means, not later than December 1, 1998, detailing how said organization's funding will be maintained in fiscal year 2000; provided further, that not less than \$100,000 shall be expended for the Cape Cod Economic Development Council, Inc. of Barnstable county; provided further, that not less than \$50,000 shall be expended for the North Adams Venture Center; provided further, that not less than \$50,000 shall be expended for the purpose of a neighborhood network neighborhood center in the city of Worcester to provide economic stability to the downtown areas; provided further, that not less than \$440,000 shall be expended for minority economic and community development public and non-profit grants to community-based organizations for implementation within minority communities; and provided further, that said office of business development shall submit to the house and senate committees on ways and means a schedule of grants distributed to said community-based organizations from this item no later than October 1, 1998

..... 2,350,000".

[The Acting Governor reduced the item to \$1,850,000 and disapproved the following wording: "; provided, that \$150,000 shall be expended for purposes of a ship building technology institute through the Massachusetts maritime academy; provided further, that not less than \$100,000 shall be expended for the center for women and enterprise; and provided further, that not less than \$100,000 shall be expended for the initiative known as the I-495/campaign for shared solutions, so-called; provided further, that no town or municipality's zoning or planning bylaws shall be superseded by any action of the I-495/campaign of shared solutions"; and "; provided further, that not less than \$100,000 shall be expended for the Massachusetts council for quality;

provided further, that said funds for said council shall be subject to a 100 per cent matching requirement from local or other public or private sources"; and "; provided further, that not less than \$50,000 shall be expended for the purpose of a neighborhood network neighborhood center in the city of Worcester to provide economic stability to the downtown areas"]. The question on passing item 7007-0400 (contained in section 2), notwithstanding the reduction and disapproval, in part, of His Honor the Lieutenant-Governor, Acting Governor, to the contrary, was determined by a call of the yeas and nays, at five minutes before twelve o'clock midnight, as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.	Montigny, Mark C.
Antonioni, Robert A.	Moore, Richard T.
Bernstein, Robert A.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Norton, Thomas C.
Clancy, Edward J., Jr.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Brien, John D.
Durand, Robert A.	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Havern, Robert A.	Pines, Lois G.
Hedlund, Robert L.	Rauschenbach, Henri S.
Jacques, Cheryl A.	Rosenberg, Stanley C.
Jajuga, James P.	Shannon, Charles E.
Joyce, Brian A.	Tarr, Bruce E.
Keating, William R.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Warren E.
Lees, Brian P.	Travaglini, Robert E.
Lynch, Stephen F.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne
Melconian, Linda J.	

— 39.

NAYS. — 0.

The yeas and nays having been completed at three minutes before twelve o'clock midnight, item 7007-0400 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Honor the Lieutenant-Governor, Acting Governor, two-thirds of the members present and voting having approved the same. The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Item 0332-0302, in section 2 (community corrections programs), was considered, as follows:

"0330-0302

For the cost of intensive supervision and community corrections programs; provided, that said programs shall include, but not be limited to, tracking, community service, educational assistance, drug and alcohol testing and treatment, curfew enforcement, home confinement, day reporting, means-tested fines, restitution, and community incapacitation or restraint; provided further, that the number of placements in said programs shall not exceed a daily average goal, of 5,000 intensively-supervised probationers; provided further, that \$156,000 shall be expended for the purpose of providing a community services for women program in the district court of Southern Essex; provided further, that funds from this item shall be expended to cover the costs of said programs that are undertaken and administered by court probation offices and county sheriffs' offices; provided further, that said funds shall be expended for the purpose of providing said programs in Barnstable, Berkshire, Bristol, Dukes, Essex, Franklin, Hampden, Hampshire, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester counties in fiscal year 1999; provided further, that the executive director, of

the office of community corrections of the trial court shall enter into interagency service agreements and memoranda of understanding with said probation offices and sheriffs' offices for the provision of said programs, including the contracting for detention space for probationers arrested for violating probation and awaiting court action and detention space for probationers who have been ordered by the trial court to be supervised at a higher level of restraint; provided further, that said agreements and memoranda shall be entered into at the direction of said executive director; provided further, that said executive director shall submit a spending and management plan for said programs to the house and senate committees on ways and means not later than September 15, 1998; provided further, that said plan shall include the projected number of probationers to be served by each such program and include a description of the oversight and services provided to said probationers, and provided further, that the amount appropriated herein shall fund the annualization of such programs commenced in fiscal year 1998 pursuant to contracts established between said office and sheriffs' offices

..... 6,000,000".

[The Acting Governor reduced the item to \$3,194,000 and disapproved the following wording: "; provided further, that \$156,000 shall be expended for the purpose of providing a community service for women program in the district court of Southern Essex"]. The question on passing item 0330-0302 (contained in section 2), notwithstanding the reduction and disapproval, in part, of His Honor the Lieutenant-Governor, Acting Governor, to the contrary, was determined by a call of the yeas and nays, at two minutes before twelve o'clock midnight, as follows, to wit (yeas 34 — nays 2):

YEAS.

Amorello, Matthew J.	Keating, William R.
Antonioni, Robert A.	Lynch, Stephen F.
Bernstein, Robert A.	Magnani, David P.
Berry, Frederick E.	Melconian, Linda J.
Brewer, Stephen M.	Montigny, Mark C.
Creedon, Robert S., Jr.	Moore, Richard T.
Durand, Robert A.	Morrissey, Michael W.
Fargo, Susan C.	Murray, Therese
Havern, Robert A.	Norton, Thomas C.
Hedlund, Robert L.	Nuciforo, Andrea F., Jr.
Jacques, Cheryl A.	O'Brien, John D.
Jajuga, James P.	Pacheco, Marc R.
Joyce, Brian A.	Pines, Lois G.
Rosenberg, Stanley C.	Tolman, Warren E.
Shannon, Charles E.	Travaglini, Robert E.
Tarr, Bruce E.	Walsh, Marian
Tisei, Richard R.	Wilkerson, Dianne

— 34.

NAYS.

Knapik, Michael R.	Lees, Brian P.
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— 2.

ABSENT OR NOT VOTING.

Clancy, Edward J., Jr.	Rauschenbach, Henri S.
Panagiotakos, Steven C.	

The yeas and nays having been completed at twelve o'clock midnight, item 0330-0302 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Honor the Lieutenant-Governor, Acting Governor, two-thirds of the members present and voting having approved the same.

The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Engrossed Bills — Land Taking for Conservation, Etc.

The following engrossed bills were considered, as follows:

Authorizing the simultaneous land exchange of certain parcels of land between the town of Provincetown, the Commonwealth and the United States of America (see Senate, No. 1736) (which originated in the Senate);

Authorizing the Dennis Water District to convey an easement over certain parcels of land to the town of Dennis (see House Bill, printed in House, No. 5652) (which originated in the House); and

Relative to a certain easement in the town of Wilmington

(see House Bill, printed in House, No. 5268) (which originated in the House).

The bills, having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were put upon their final passage. These being bills 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, the question on passing the bills to be enacted was determined by a call of the yeas and nays, at twelve o'clock midnight, as follows, to wit (yeas 39 —nays 0):

YEAS.

Amorello, Matthew J.

Antonioni, Robert A.

Bernstein, Robert A.

Berry, Frederick E.

Brewer, Stephen M.

Clancy, Edward J., Jr.

Creedon, Robert S., Jr.

Durand, Robert A.

Fargo, Susan C.

Havern, Robert A.

Hedlund, Robert L.

Jacques, Cheryl A.

Jajuga, James P.

Joyce, Brian A.

Keating, William R.

Knapik, Michael R.

Lees, Brian P.

Lynch, Stephen F.

Magnani, David P.

Melconian, Linda J.

Montigny, Mark C.

Moore, Richard T.

Morrissey, Michael W.

Murray, Therese

Norton, Thomas C.

Nuciforo, Andrea F., Jr.

O'Brien, John D.

Pacheco, Marc R.

Panagiotakos, Steven C.

Pines, Lois G.

Rauschenbach, Henri S.

Rosenberg, Stanley C.

Shannon, Charles E.

Tarr, Bruce E.

Tisei, Richard R.

Tolman, Warren E.

Travaglini, Robert E.

Walsh, Marian

Wilkerson, Dianne

NAYS. — 0.

The yeas and nays having been completed at two minutes past twelve o'clock midnight, the bills were passed to be enacted, two-thirds of the members present having agreed to pass the same, and they were signed by the President and laid before the Acting Governor on Saturday, August 1, for his approbation.

Engrossed Bill — State Loan.

An engrossed Bill providing for the financing of the Central Artery Project (see Senate, No. 2322) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was put upon its final passage; and, this being a bill providing for the borrowing of money, in accordance with the provisions of Section 3 of Article LXII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at three minutes past twelve o'clock midnight, as follows, to wit (yeas 38 —nays 0):

YEAS.

Amorello, Matthew J.	Melconian, Linda J.
Antonioni, Robert A.	Montigny, Mark C.
Bernstein, Robert A.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Clancy, Edward J., Jr.	Norton, Thomas C.
Creedon, Robert S., Jr.	Nuciforo, Andrea F., Jr.
Durand, Robert A.	O'Brien, John D.
Fargo, Susan C.	Pacheco, Marc R.
Havern, Robert A.	Panagiotakos, Steven C.
Hedlund, Robert L.	Pines, Lois G.
Jacques, Cheryl A.	Rosenberg, Stanley C.
Jajuga, James P.	Shannon, Charles E.
Joyce, Brian A.	Tarr, Bruce E.
Keating, William R.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Warren E.
Lees, Brian P.	Travaglini, Robert E.
Lynch, Stephen F.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne

— 38.

NAYS. — 0

ABSENT OR NOT VOTING.

Rauschenbach, Henri S.

— 1.

The yeas and nays having been completed at five minutes past twelve o'clock midnight, the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Acting Governor on Saturday, August 1, for his approbation.

Engrossed Bills.

The following engrossed bills (both 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 on Saturday, August 1, for his approbation, to wit:

Making certain appropriations and transfers for fiscal year 1998 (see Senate, No. 2306); and

Authorizing long term leases for offices for the Department of Public Health in the Dudley Square area of the city of Boston (see Senate, No. 2282).

An engrossed Bill relative to the establishment of the Cape Cod open space land acquisition program (see House, No. 5568) (which originated in the House), **having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and was signed by the President and laid before the Acting Governor on Monday, August 3, for his approbation.**

***Message from His Honor the Lieutenant-Governor, Acting Governor —
Disapprovals and Reductions in General Appropriations Bill.***

A message from His Honor the Lieutenant-Governor, Acting Governor, returning with his disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 1999 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 5700), which, on Monday, July 20, 1998, had been laid before the Acting Governor for his approbation,— came from the House, in part, several of said items and section 415 having been passed by the House notwithstanding the reduction or disapproval of the Acting Governor.

The message (House, No. 5768) was read; and the Senate proceeded to reconsider item 0640-0300, in section 2, which had been disapproved, in part, and reduced, section 415 which had been disapproved, and items 8324-1500 and 0330-0301, in section 2, which had been disapproved, in part, and reduced, in accordance with the provisions of the Constitution.

Item 0640-0300, in section 2 (Massachusetts Cultural Council) was considered, as follows:

"0640-0300

For the services and operations of the council; provided, that notwithstanding the provisions of any general or special law to the contrary, the council may expend the amounts herein appropriated for the purposes of the council as provided in sections 52 to 58, inclusive, of chapter 10 of the General Laws in such amounts and at such times as the council may determine pursuant to section 54 of said chapter 10; provided further, that 25 per cent of this appropriation shall be transferred quarterly from the Arts Lottery Fund to the General Fund; provided further, that any funds expended from this item for the benefit of schoolchildren shall be expended for the benefit of all Massachusetts schoolchildren and on the same terms and conditions; provided further, that the council shall not expend funds from this item for any recipient that, in any program or activity for Massachusetts schoolchildren, does not apply the same terms and conditions to all such schoolchildren; provided further, that \$1,000,000 of the funds appropriated herein shall be used to assist cultural organizations in augmenting or initiating endowments to promote the financial stability of such organizations, said assistance shall be in the form of challenge grants to said organizations; provided further, that in order to receive such grants a cultural organization must raise an amount at least equal to the amount of the grant for said organization's endowment; provided further, that funds provided by such grants shall, in perpetuity, be used solely to provide free or reduced rate public programs or services to citizens of the commonwealth; provided further, that no grant made under this program shall exceed \$100,000; provided further, that \$50,000 shall be expended for the Riverside Theater Works, so-called; and provided further, that persons employed under this item shall be considered employees within the meaning of section 1 of chapter 150E of the General Laws and shall be placed in the appropriate bargaining units
..... 14,000,000".

[The Acting Governor reduced the item to \$13,950,000 and disapproved the following wording: "; provided further, that \$50,000 shall be expended for the Riverside Theater Works, so-called"].

The question on passing item 0640-0300 (contained in section 2), notwithstanding the reduction and disapproval, in part, of His Honor the Lieutenant-Governor, Acting Governor, to the contrary, was determined by a call of the yeas and nays, at seven minutes past twelve o'clock midnight, as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.

Antonioni, Robert A.

Bernstein, Robert A.

Berry, Frederick E.

Brewer, Stephen M.

Clancy, Edward J., Jr.

Creedon, Robert S., Jr.

Durand, Robert A.

Montigny, Mark C.

Moore, Richard T.

Morrissey, Michael W.

Murray, Therese

Norton, Thomas C.

Nuciforo, Andrea F., Jr.

O'Brien, John D.

Pacheco, Marc R.

Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Keating, William R.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 39.

NAYS. — 0.

The yeas and nays having been completed at nine minutes past twelve o'clock midnight, item 0640-0300 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Honor the Lieutenant-Governor, Acting Governor, two-thirds of the members present and voting having approved the same. The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Section 415 (Traffic speed on Route 3 — Study) was considered, as follows:

"SECTION 415. The executive office of transportation and construction shall conduct a daily study of traffic speed on the portion of state highway route 3 south of the city of Boston. Specifically, such study shall be conducted daily, at four hourly intervals, beginning at 6:30 a.m. and continuing to 9:30 a.m. for the northbound lanes and measuring the amount of time required to travel from the interchange with state highway route 53, at exit 13, in the town of Hanover, to the exit for Kneeland street in the city of Boston. Such study shall also be conducted daily, at four hour intervals, beginning at 3:30 and continuing until 6:30 p.m. Said executive office shall file a quarterly report with the joint committee on transportation in the legislature on the results of such study, including any recommendation for increasing the speed traveled on said state highway route 3 during the hours being studied."

The question on passing section 415 notwithstanding the disapproval of His Honor the Lieutenant-Governor, Acting Governor, to the contrary, was determined by a call of the yeas and nays, at nine minutes past twelve o'clock midnight, as follows, to wit (yeas 34 — nays 3):

YEAS.

Amorello, Matthew J.
Antonioni, Robert A.
Bernstein, Robert A.
Berry, Frederick E.
Brewer, Stephen M.
Creedon, Robert S., Jr.
Durand, Robert A.
Fargo, Susan C.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.

Montigny, Mark C.
Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
Pacheco, Marc R.
Panagiotakos, Steven C.
Pines, Lois G.
Rauschenbach, Henri S.
Rosenberg, Stanley C.
Shannon, Charles E.
Tarr, Bruce E.

Keating, William R.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.

Tolman, Warren E.
Travaglini, Robert E.
Walsh, Marian
Wilkerson, Dianne

— 34.

NAYS.

Knapik, Michael R.
Lees, Brian P.

Tisei, Richard R.

— 3.

ANSWERED "PRESENT".

O'Brien, John D. — 1.

— 1.

ABSENT OR NOT VOTING.

Clancy, Edward J., Jr.

— 1.

**The yeas and nays having been completed at twelve minutes past twelve o'clock midnight, section 415 stands, in concurrence, notwithstanding the objections of His Honor the Lieutenant Governor, Acting Governor, two-thirds of the members present and voting having approved the same.
The matter was sent to the Secretary of the Commonwealth endorsed accordingly.**

Item 8324-1500, in section 2 (Massachusetts Firefighting Academy) was considered, as follows:

"8324-1500

For the fire training program, including the Massachusetts fire training council certification program, municipal and non-municipal fire training, and expenses of said fire training council; provided, that notwithstanding the provisions of any general or special law to the contrary, the estimated expenses of the administration of the academy, including the estimated expenses of training facilities and curriculum for firefighting personnel and training programs. shall not exceed \$2,599,879 per fiscal year; provided further, that not less than \$48,992 shall be available for the community-based fire prevention program in the Fall River area; provided further, that \$24,779 shall be expended for equipment for the Newburyport fire department technical rescue team; provided further, that the funds necessary to support this item shall be assessed upon insurance companies writing fire, homeowners multiple peril or commercial multiple peril policies on property situated in the commonwealth and paid within 30 days after receiving notice of such assessment from the commissioner of insurance; provided further, that not less than \$32,500 shall be provided for the community based fire prevention program in the city of Malden; and provided further, that the secretary of administration and finance shall report monthly to the house and senate committees on ways and means on the justification regarding any restriction on the hiring of fire training personnel and shall explain the derived savings to the Local Aid Fund by not hiring such personnel in this item

..... 2,599,879".

[The Acting Governor reduced the item to \$2,493,608 and disapproved the following wording: "; provided further, that not less than \$48,992 shall be available for the community-based fire prevention program in the Fall River area; provided further, that \$24,779 shall be expended for equipment for the Newburyport fire department technical rescue team"; and "; provided further, that not less than \$32,500 shall be provided for the community based fire prevention program in the city of Malden; and provided further that the secretary of administration and finance shall report monthly to the house and senate committees on ways and means on the justification regarding any restriction on the hiring of fire training personnel and shall explain the derived savings to the Local Aid Fund by not hiring such personnel in this item"].

The question on passing item 8324-1500 (contained in section 2), notwithstanding the reduction and disapproval, in part, of His

Honor the Lieutenant-Governor, Acting Governor, to the contrary, was determined by a call of the yeas and nays, at twelve minutes past twelve o'clock midnight, as follows, to wit (yeas 39 — nays 0):

YEAS.

Amorello, Matthew J.	Montigny, Mark C.
Antonioni, Robert A.	Moore, Richard T.
Bernstein, Robert A.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Norton, Thomas C.
Clancy, Edward J., Jr.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Brien, John D.
Durand, Robert A.	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Havern, Robert A.	Pines, Lois G.
Hedlund, Robert L.	Rauschenbach, Henri S.
Jacques, Cheryl A.	Rosenberg, Stanley C.
Jajuga, James P.	Shannon, Charles E.
Joyce, Brian A.	Tarr, Bruce E.
Keating, William R.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Warren E.
Lees, Brian P.	Travaglini, Robert E.
Lynch, Stephen F.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne
Melconian, Linda J.	

— 39.

NAYS. — 0.

The yeas and nays having been completed at fourteen minutes past twelve o'clock midnight, item 8324-1500 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Honor the Lieutenant-Governor, Acting Governor, two-thirds of the members present and voting having approved the same. The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Item 0330-0301, in section 2 (community corrections administration) was considered, as follows:

"0330-0301

For the salary and expenses of the executive director and staff of the trial court office of community corrections; provided, that not less than \$100,000 shall be expended for the implementation of a changing lives through literature program; provided further, that not less than \$211,000 shall be expended for the operation of the Suffolk county courts' community service program, so-called, to be supervised by the chief justice for administration and management; provided further, that \$90,000 shall be expended for a drug treatment on demand' drug offender program, so-called, in the district court of Lawrence; provided further, that \$150,000 shall be expended on an alternative probation program honor court', so-called, in the district court of Hampshire (Northampton); and provided further, that not more than \$50,000 shall be expended for a study to establish for offenders convicted of repeat drunk driving offenses an intermediate sanction secure residential facility that shall provide rehabilitative treatment and an aftercare monitoring program

..... 2,718,138".

[The Acting Governor reduced the item to \$2,205,893 and disapproved the following wording: "; provided, that not less than \$100,000 shall be expended for the implementation of a changing lives through literature program; provided further, that not less than \$211,000 shall be expended for the operation of the Suffolk county courts' community service program, so-called, to be

supervised by the chief justice for administration and management"].

The question on passing item 0330-0301 (contained in section 2), notwithstanding the reduction and disapproval, in part, of His Honor the Lieutenant-Governor, Acting Governor, to the contrary, was determined by a call of the yeas and nays, at twenty-two minutes past twelve o'clock midnight, as follows, to wit (yeas 37 — nays 1):

YEAS.

Amorello, Matthew J.	Melconian, Linda J.
Antonioni, Robert A.	Montigny, Mark C.
Bernstein, Robert A.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Clancy, Edward J., Jr.	Norton, Thomas C.
Creedon, Robert S., Jr.	Nuciforo, Andrea F., Jr.
Durand, Robert A.	O'Brien, John D.
Fargo, Susan C.	Pacheco, Marc R.
Havern, Robert A.	Panagiotakos, Steven C.
Hedlund, Robert L.	Pines, Lois G.
Jacques, Cheryl A.	Rosenberg, Stanley C.
Jajuga, James P.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Keating, William R.	Tolman, Warren E.
Knapik, Michael R.	Travaglini, Robert E.
Lees, Brian P.	Walsh, Marian
Lynch, Stephen F.	Wilkerson, Dianne
Magnani, David P.	

— 37.

NAYS.

Rauschenbach, Henri S.

— 1.

ABSENT OR NOT VOTING.

Shannon, Charles E.

— 1.

The yeas and nays having been completed at twenty-five minutes past twelve o'clock midnight, item 0330-0301 (contained in section 2) stands, in concurrence, notwithstanding the objections of His Honor the Lieutenant-Governor, Acting Governor, two-thirds of the members present and voting having approved the same. The matter was sent to the Secretary of the Commonwealth endorsed accordingly.

Committee of Conference Report.

A report, in part, of the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendments to the House Bill making appropriations for the fiscal year nineteen hundred and ninety-nine for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 5501) (*amended by the Senate by striking out all*

after the enacting clause and inserting in place thereof the text of Senate document numbered 2230; and by striking out the striking out the emergency preamble and inserting in place thereof the following emergency preamble:

"*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is immediately to make appropriations for the fiscal year beginning July 1, 1998, and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."), recommending, a "Bill abolishing the county governments of Hampshire, Essex, and Berkshire counties, and transferring essential county functions to the commonwealth (House, No. 5780),— came from the House. The report was read.

The rules were suspended, on motion of Ms. Fargo, and the report was considered forthwith and accepted, in concurrence.

Order Adopted.

On motion of Mr. Durand,—

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

Adjournment in Memory of Former Senate President John E. Powers.

Mr. Lynch moved that when the Senate adjourns today, it adjourn in memory of former Senate President John E. Powers of Hyannis, formerly of South Boston. Mr. Powers served as a member of the House of Representatives from 1939-1946, served in the Senate from 1947-1964, and served as President of the Senate from 1959-1964. Mr. Powers also served as Clerk of the Supreme Judicial Court for Suffolk County. The motion prevailed.

Accordingly, as a mark of respect to the memory of former Senate President John E. Powers, at half past twelve o'clock midnight, on motion of Mr. Lees, the Senate adjourned to meet on the following Wednesday at eleven o'clock A.M.