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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Wednesday, November 10, 1999.

Met at eleven minutes before two o'clock P.M. (Ms. Melconian in the Chair).

Communication.

A communication from Western Massachusetts Correctional Alcohol Center submitting its response to the Department of Public Health's inspection on October 15, 1999 (received Wednesday, November 10, 1999),-- **was placed on file.**

Report.

A report of the Department of Public Health (under the provisions of Sections 5 and 20 of Chapter 111 of the General Laws) relative to inspection of M.C.I. Plymouth (received Monday, November 8, 1999),-- **was read and sent to the House for its information.**

Petitions.

Petitions were presented and referred, as follows:

By Mr. Knapik (by request), a petition (subject to Joint Rule 12) of Roland Archambault for legislation relative to the creation of an escrow account to provide for the redemption of defunct businesses' outstanding gift certificates; and

By Mr. Rauschenbach, a petition (subject to Joint Rule 12) of Henri S. Rauschenbach, Therese Murray, Shirley Gomes, Eric Turkington and other members of the General Court for legislation relative to extending the records retention period for unsubstantiated elder abuse assessment reports;

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

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 4885) of Vincent P. Ciampa, Patricia D. Jehlen, Timothy J. Toomey, Jr., and Charles E. Shannon (with the approval of the mayor and city council) relative to the number of licenses for the sale of wines and malt beverages to be drunk on the premises issued by the licensing authority of the city of Somerville,-- was referred, in concurrence, to the committee on Government Regulations.

A Bill directing certain payments to cities and towns by the Massachusetts Port Authority (House, No. 1638,-- on petition),-- was read and, under Senate Rule 27, referred to the committee on Ways and Means.

A report of the committee on Taxation, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 2626) of Barbara Gardner, Stephen M. Brewer, Richard T. Moore and Robert A. Durand relative to the taxation of forest, farm and recreation land, and recommending that the same be referred to the Senate committee on Rules,-- was considered forthwith, under Senate Rule 36, and accepted, in concurrence.

Subsequently, Ms. Melconian, for the committee on Rules, to whom was referred said petition, reported, asking to be

discharged from further consideration, and recommending that the same be recommitted to the committee on Taxation. Under Senate Rule 36, the report was considered forthwith and accepted.

Recess.

There being no objection, at ten minutes before two o'clock P.M., the Chair (Ms. Melconian) declared a recess subject to the call of the Chair; and, at four minutes before six o'clock P.M., the Senate reassembled, Ms. Melconian in the Chair. The Chair (Ms. Melconian) thereupon declared a further recess subject to the call of the Chair; and, at twelve minutes before eight o'clock P.M., the Senate reassembled, the President in the Chair.

Suspension of Senate Rule 38A.

Ms. Melconian 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, there being no objection, on further motion of the same Senator, the rule was suspended without a recorded ye and nay vote.

PAPERS FROM THE HOUSE.

Report of a Committee of Conference.

The House report of the committee of conference, to whom were referred the Senate amendments to the House Bill making appropriations for the fiscal year 2000 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. 4401) [the bill having been amended by the Senate by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 1822; 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 immediately to make appropriations for the fiscal year beginning July 1, 1999, 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."] Reported, in part, a Bill with the same title (House, No. 4900).

Mr. Montigny moved that the rules be suspended to allow the matter to be considered forthwith.

After debate, the question on suspension of the rules, was determined by a call of the yeas and nays, at one minute past eight o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 27 -- nays 9):

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Bernstein, Robert A.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Clancy, Edward J., Jr.	Murray, Therese
Creem, Cynthia Stone	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Jacques, Cheryl A.	Tolman, Steven A.
Jajuga, James P.	Travaglini, Robert E.
Joyce, Brian A.	Tucker, Susan C.
Lynch, Stephen F.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne -- 27.
Melconian, Linda J.	

NAYS.

Creedon, Robert S., Jr.	Rauschenbach, Henri S.
Hedlund, Robert L.	Sprague, Jo Ann
Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R. -- 9.
Pacheco, Marc R.	

ABSENT OR NOT VOTING.

Berry, Frederick E.

Shannon, Charles E. -- 2.

The yeas and nays having been completed at six minutes past eight o'clock P.M., the rules were suspended (more than two-thirds of the members having voted in the affirmative.)

The question on accepting the conference committee report was considered.

After debate, at twenty-eight minutes before eleven o'clock P.M., at the request of Mr. Lees, for the purpose of a minority party caucus, the President declared a recess; and, at twelve minutes past eleven o'clock P.M., the Senate reassembled, the President in the Chair.

The report of the committee of conference was further considered.

The question on acceptance of the conference committee report was determined by a call of the yeas and nays, at twelve minutes past eleven o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 31 -- nays 4):

YEAS.

Antonioni, Robert A.	Melconian, Linda J.
Bernstein, Robert A.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Clancy, Edward J., Jr.	Morrissey, Michael W.
Creem, Cynthia Stone	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	Rauschenbach, Henri S.
Glodis, Guy W.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Hedlund, Robert L.	Tarr, Bruce E.
Jacques, Cheryl A.	Tisei, Richard R.
Jajuga, James P.	Tolman, Steven A.
Joyce, Brian A.	Travaglini, Robert E.
Knapik, Michael R.	Tucker, Susan C.
Lees, Brian P.	Walsh, Marian
Lynch, Stephen F.	Wilkerson, Dianne -- 31.
Magnani, David P.	

NAYS.

Creedon, Robert S., Jr.	Panagiotakos, Steven C.
Pacheco, Marc R.	Sprague, Jo Ann -- 4.

PAIRED.

Frederick E. Berry,	Therese Murray (present) -- 2.
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ABSENT OR NOT VOTING.

Shannon,
Charles E. -- 1

The yeas and nays having been completed at nineteen minutes past eleven o'clock P.M., the report was accepted, in concurrence.

Engrossed Bills -- Land Taking for Conservation, Etc.

Mr. Travaglini in the Chair,-- an engrossed Bill authorizing the town of Chelmsford to convey certain conservation land (see House, No. 4604) (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 minutes past eleven o'clock P.M., as follows, to wit (yeas 36 -- nays 0):

YEAS.

Antonioni, Robert A.	Creem, Cynthia Stone
Bernstein, Robert A.	Fargo, Susan C.
Brewer, Stephen M.	Glodis, Guy W.
Clancy, Edward J., Jr.	Havern, Robert A.
Creedon, Robert S., Jr.	Hedlund, Robert L.
Jacques, Cheryl A.	Pacheco, Marc R.
Jajuga, James P.	Panagiotakos, Steven C.
Joyce, Brian A.	Rauschenbach, Henri S.
Knapik, Michael R.	Resor, Pamela
Lees, Brian P.	Rosenberg, Stanley C.
Lynch, Stephen F.	Sprague, Jo Ann
Magnani, David P.	Tarr, Bruce E.
Melconian, Linda J.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Travaglini, Robert E.
Morrissey, Michael W.	Tucker, Susan C.
Murray, Therese	Walsh, Marian
Nuciforo, Andrea F., Jr.	Wilkerson, Dianne -- 36.

NAYS --0.

ABSENT OR NOT VOTING.

Berry, Frederick Shannon,
E. Charles E. -- 2.

The yeas and nays having been completed at twenty-three 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 Governor for his approbation.

An engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to release certain easements in the town of Reading (see House, No. 4461) (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 eleven o'clock P.M., as follows, to wit (yeas 36 -- nays 0):

YEAS.

Antonioni, Robert A.	Creem, Cynthia Stone
Bernstein, Robert A.	Fargo, Susan C.
Brewer, Stephen M.	Glodis, Guy W.
Clancy, Edward J., Jr.	Havern, Robert A.
Creedon, Robert S., Jr.	Hedlund, Robert L.
Jacques, Cheryl A.	Pacheco, Marc R.
Jajuga, James P.	Panagiotakos, Steven C.
Joyce, Brian A.	Rauschenbach, Henri S.
Knapik, Michael R.	Resor, Pamela
Lees, Brian P.	Rosenberg, Stanley C.
Lynch, Stephen F.	Sprague, Jo Ann
Magnani, David P.	Tarr, Bruce E.
Melconian, Linda J.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Travaglino, Robert E.
Morrissey, Michael W.	Tucker, Susan C.
Murray, Therese Nuciforo, Andrea F., Jr.	Walsh, Marian Wilkerson, Dianne -- 36.

NAYS --0.

ABSENT OR NOT VOTING.

Berry, Frederick Shannon, Charles
E. E. -- 2.

The yeas and nays having been completed at twenty-six 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 Governor for his approbation.

An engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to grant an easement in a certain parcel of land in the city of Boston (see House, No. 2977, 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 re-enacted was determined by a call of the yeas and nays, at twenty-seven minutes past eleven o'clock P.M., as follows, to wit (yeas 36 -- nays 0):

YEAS.

Antonioni, Robert A.	Creem, Cynthia Stone
Bernstein, Robert A.	Fargo, Susan C.
Brewer, Stephen M.	Glodis, Guy W.
Clancy, Edward J., Jr.	Havern, Robert A.
Creedon, Robert S., Jr.	Hedlund, Robert L.
Jacques, Cheryl A.	Pacheco, Marc R.
Jajuga, James P.	Panagiotakos, Steven C.
Joyce, Brian A.	Rauschenbach, Henri S.
Knapik, Michael R.	Resor, Pamela
Lees, Brian P.	Rosenberg, Stanley C.
Lynch, Stephen F.	Sprague, Jo Ann
Magnani, David P.	Tarr, Bruce E.
Melconian, Linda J.	Tisei, Richard R.
Montigny, Mark C.	Tolman, Steven A.
Moore, Richard T.	Travaglini, Robert E.
Morrissey, Michael W.	Tucker, Susan C.
Murray, Therese	Walsh, Marian
Nuciforo, Andrea F., Jr.	Wilkerson, Dianne -- 36.

NAYS --0.

ABSENT OR NOT VOTING.

Berry, Frederick E.	Shannon, Charles E. -- 2.
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The yeas and nays having been completed at twenty-nine minutes past eleven o'clock P.M., the bill was passed to be re-enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Governor for his approbation.

Resolutions.

Brewer, Stephen M.	Morrissey, Michael W.
Clancy, Edward J., Jr.	Murray, Therese
Creedon, Robert S., Jr.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Rauschenbach, Henri S.
Glodis, Guy W.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Hedlund, Robert L.	Sprague, Jo Ann
Jacques, Cheryl A.	Tarr, Bruce E.
Jajuga, James P.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Knapik, Michael R.	Travaglini, Robert E.
Lees, Brian P.	Tucker, Susan C.
Lynch, Stephen F.	Walsh, Marian
Magnani, David P.	Wilkerson, Dianne -- 35.
Melconian, Linda J.	

NAYS.

Panagiotakos,
Steven C. -- 1.

ABSENT OR NOT VOTING.

Berry, Frederick E.	Shannon, Charles E. -- 2.
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The yeas and nays having been completed at two minutes before 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 Governor for his approbation.

Communication.

The Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133

November 10, 1999.

Mr. Patrick F. Scanlan
Clerk of the Senate
Room 335 , State House
Boston, Massachusetts 02133

Dear Mr. Scanlan:

Due to a personal commitment I was unable to be present, had I been present I would have voted in the affirmative on the following matters:

H#2977 - An Act that the Division of Capital Asset Management and Maintenance be authorized to grant an easement in a certain parcel of land in the City of Boston.

H#4461 - An Act to authorize the Division of Capital Asset Management and Maintenance to release certain easements in the Town of Reading.

H#4604 - An Act that the conservation commission of the Town of Chelmsford be authorized to convey a certain parcel of land to the board of selectmen of said town.

H#4900 - An Act making appropriations for the fiscal year 2000 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.

I would respectfully request that a copy of this letter be printed in the Senate Journal as part of the official record for November 10. Thank you in advance for your cooperation in this matter.

Sincerely,
CHARLES E. SHANNON,
State Senator.

On motion of Ms. Melconian, the above statement was ordered printed in the Journal of the Senate.

Order Adopted.

Mr. Montigny offered the following order, to wit:

Ordered, That Joint Rule 12A be suspended to allow the General Court to convene in formal sessions subsequent to the third Wednesday in November 1999 to consider solely the General Appropriations Bill for Fiscal Year 2000.

Mr. Lees moved that the further consideration thereof be postponed until Wednesday, November 17. After remarks, the motion was negatived.

After debate, the question on adoption of the order was determined by a call of the yeas and nays, at twenty minutes past twelve o'clock midnight, on motion of Mr. Lees, as follows, to wit (yeas 35 -- nays 1):

YEAS.

Antonioni, Robert A.

Bernstein, Robert A.

Brewer, Stephen M.

Clancy, Edward J., Jr.

Creedon, Robert S., Jr.

Creem, Cynthia Stone

Fargo, Susan C.

Glodis, Guy W.

Havern, Robert A.

Hedlund, Robert L.

Jacques, Cheryl A.

Jajuga, James P.

Joyce, Brian A.

Lees, Brian P.

Lynch, Stephen F.

Magnani, David P.

Melconian, Linda J.

Montigny, Mark C.

Moore, Richard T.

Morrissey, Michael W.

Murray, Therese

Nuciforo, Andrea F., Jr.

Pacheco, Marc R.

Panagiotakos, Steven C.

Rauschenbach, Henri S.

Resor, Pamela

Rosenberg, Stanley C.

Sprague, Jo Ann

Tarr, Bruce E.

Tisei, Richard R.

Tolman, Steven A.

Travaglini, Robert E.

Tucker, Susan C.

Walsh, Marian

Wilkerson, Dianne -- 35.

NAYS.

Knapik, Michael R. -- 1.

ABSENT OR NOT VOTING.

Berry, Frederick E.

Shannon, Charles E. -- 2.

The yeas and nays having been completed at twenty-two minutes past twelve o'clock midnight (November 11) the order was adopted (more than two-thirds of the members having voted in the affirmative.)

Sent to the House for concurrence.

Order Adopted.

On motion of Ms. Melconian,--

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

Adjournment in memory of C. Eugene Farnam.

Mr. Shannon requested that when the Senate adjourns today, it adjourn in memory of C. Eugene Farnam. Mr. Farnam, formerly of Medford, served in the Massachusetts House of Representatives from 1952-1956, the State Senate from 1958-1961, and as Insurance Commissioner from 1961-1972, who passed away on November 8, 1999.

Accordingly, as a mark of respect to the memory of Frederick R. Tortola, at seven minutes past twelve o'clock noon, on motion of Mr. Knapik, the Senate adjourned to meet again tomorrow at one o'clock P.M.