

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

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



Wednesday, May 10, 2000.

Met at five minutes past eleven o'clock A.M. (Ms. Melconian in the Chair).

PAPER FROM THE HOUSE.

Notice was received that the House of Representatives has called a joint session of the two houses, conformably to the provisions of Article XLVIII, as amended by Article LXXXI, of the Amendments to the Constitution, for the purpose of considering the following proposals for legislative amendments to the Constitution:

Proposal for a legislative amendment to the Constitution relative to a vacancy in the office of Governor or Lieutenant Governor (see, House, No. 1724), — with reference to which the committee on Election Laws has reported recommending that the amendment ought to pass with an amendment substituting therefor a proposal with the same title (Senate, No. 1773);

Proposal for a legislative amendment to the Constitution relative to the expenditure of monies from the Highway Fund (see House, No. 1876),— with reference to which the committee on transportation has reported recommending that the amendment ought to pass;

Proposal for an initiative amendment to the Constitution providing for a parental choice in education program (see House, No. 4978), — with reference to which the House had referred to the committee on the Judiciary [no concurrent action having been taken by the Senate];

[NOTE: This matter was not placed on the Calendar for the Joint Session of the two branches for Wednesday, May 10, 2000. See communication from David E. Sullivan, Counsel to the Senate, on page 1382.]

Proposal for a legislative amendment to the Constitution repealing the requirement that a person be able to read English and write his name in order to vote (House, No. 5146) be taken from the files of the preceding General Court (see House, No. 478 of 1997) [previously agreed to by the preceding General Court];

Proposal for a legislative amendment to the Constitution abolishing durational residence requirement for voting (House, No. 5147) be taken from the files of the preceding General Court [see House, No. 496 of 1997] [previously agreed to by the preceding General Court]; and

Proposal for a legislative amendment to the Constitution relative to the right to vote for incarcerated persons (House, No. 5148) be taken from the files of the preceding General Court [see House, No. 1105 of 1997] [previously agreed to by the preceding General Court].

Communication.

The following communication was received from the Counsel to the Senate on Wednesday, May 10, 2000, to wit:—

COMMONWEALTH OF MASSACHUSETTS
COUNSEL TO THE SENATE
ROOM 200 - STATE HOUSE
BOSTON, MASSACHUSETTS 02133-1053

May 9, 2000.

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

Dear Mr. Clerk:

I am writing at your request to advise you, in your capacity as Clerk of the Joint Session (see Joint Rule 24), about the legal status of the Initiative Petition of Cornelius J. Chapman, Jr. and others “for a Constitutional Amendment to Enact a Parental Choice in Education Program” (printed as House, No. 4978).

In my February 3 letter to you on this subject, I called your attention to the Attorney General’s September 1, 1999 letter, refusing to certify that this initiative petition “contains only subjects . . . not excluded by the popular initiative” under article 48 of the Amendments to the Massachusetts Constitution (copies of both letters attached). The Attorney General’s letter concluded that article 48 excludes this initiative petition from consideration on two separate grounds: that it amends the “Anti-Aid Amendment” (Mass. Const. amend. art. 18), and that it “relates to . . . religious institutions.” I advised you then that, since the Attorney General determined that this initiative measure failed to meet the requirements of article 48, it was “not properly introduced and pending before the General Court.” *Opinion of the Justices*, 422 Mass. 1212 (1996).

In response to my earlier letter, the supporters of this initiative constitutional amendment, claiming that the provisions of article 48 upon which the Attorney General relied violated the federal Constitution, sought from the United States District Court a preliminary injunction ordering the Attorney General to certify this initiative petition in time for the present joint session. On May 5, the court denied that injunction, ruling against the plaintiffs on the merits of their claim. *Boyette v. Galvin*, No. 98-CV-10377-GAO. This decision by the federal court further supports my earlier conclusion.

Therefore, because the Attorney General has determined that this initiative measure fails to comply with our state constitution, it is not properly pending before the General Court. It follows that it cannot be laid before the Joint Session, and thus that it should not appear in the calendar.

Very truly yours,
DAVID E. SULLIVAN,
Counsel to the Senate.

The communication was placed on file.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:—

Resolutions (filed by Mr. Hedlund) “on motorcycle awareness and safety”;
Resolutions (filed by Mr. Hedlund) “congratulating the Weymouth High School Academic Decathlon Team”;
Resolutions (filed by Mr. Hedlund) “congratulating the Weymouth High School Wildcat Band”;
Resolutions (filed by Mr. Lees) “congratulating Doctor Jack T. Enjy”;
Resolutions (filed by Ms. Murray) “on the fiftieth anniversary of the Korean War”; and
Resolutions (filed by Ms. Murray) “honoring the Royal Canadian Legion, Branch #120.”

Petition.

On motion of Ms. Resor, Senate Rule 20 and Joint Rule 12 were suspended on the petition, presented by Mr. Bernstein (accompanied by bill) of Robert A. Bernstein, Brian P. Lees, Frederick E. Berry, Ronald Mariano and other members of the General Court for legislation relative to allowing certain military personnel to receive group insurance discounts,— **and the same was referred to the committee on Insurance.**

Sent to the House for concurrence.

Report of Committees.

By Ms. Melconian, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Robert A. Bernstein, Harold P. Naughton, Jr., Stephen M. Brewer, William J. McManus II and other members of the General Court for legislation to amend the Upper Blackstone Water Pollution Abatement District relative to voting by members of the board to provide for weighted voting by board members from the city of Worcester, the buy-in costs for new members of the district.

Senate Rule 36 was suspended, on motion of Ms. Fargo, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Natural Resources and Agriculture.

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 5155) of Philip Travis relative to elected officials of the Seekonk Water District,— **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Public Service.**

A Bill establishing a sick leave bank for Mary Ellen Mastrorilli, an employee of the Norfolk County Sheriff's Office (House, No. 5040,— on petition),— 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, 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 establishing a sick leave bank for an employee of the Norfolk County Sheriff's Office".

A Bill relative to the annual observance of Candle Safety Day (House, No. 5041,— on petition),— was read.

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

Order Adopted.

On motion of Mr. Rosenberg,—

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

On motion of Mr. Tisei, at thirteen minutes past eleven o'clock A.M., the Senate adjourned to meet again tomorrow at eleven o'clock A.M.
