

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

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



Thursday, July 1, 1999.

Met at eighteen minutes before twelve o'clock noon.

Communication.

A communication from the Boston Redevelopment Authority (under the provisions of Section 4(f) of Chapter 152 of the Acts of 1997) relative to certain notices to acquire land by eminent domain in conjunction with the development of the Boston Convention and Exhibition Center; copies having been forwarded to the Senate chair of the joint committee on Transportation (received Wednesday, June 30, 1999),— **was placed on file.**

Reports.

The following reports were severally read and sent to the House for its information:

A report of the Water Resources Commission (under the provisions of Section 8C of Chapter 21 of the General Laws) submitting a report of its approval to grant an increase in the capacity of the Braintree-Weymouth Interceptor sewer (received Monday, June 28, 1999); and

A report, transmitted by Senator Steven C. Panagiotakos, and prepared by Thomas B. Shea and Robert J. Nicolosi of the University of Massachusetts at Lowell Biology department (under the provisions of item 9110-0100 of Section 2 of Chapter 194 of the Acts of 1998) relative to the causes and potential cures for Alzheimer's Disease and associated forms of dementia (received Wednesday, June 30, 1999).

Distinguished Guest.

There being no objection, during consideration of the Orders of the Day, the President introduced students from the Doherty Middle School in Andover and students from the North Middlesex Regional High School in Townsend. The students respectively represented their schools in the odyssey of the Mind competition held at the University of Tennessee in Knoxville and distinguished themselves by winning first place in their respective divisions, becoming the world champions. They were the guests of Senators Tucker and Antonioni.

Petition.

Mr. Hedlund presented a petition (subject to Joint Rule 12) of Robert L. Hedlund for legislation relative to emergency personnel at long term care facilities,— **and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

Reports of Committees.

By Ms. Murray, for the committee on Human Services and Elderly Affairs, on petition, a Bill establishing a commission to study compensation to providers of human services and health services for compliance with certain statutes, rules, regulations and mandatory policies and guidelines (Senate, No. 605);

By Mr. Joyce, for the committee on Public Service, on petition, a Bill relative to a study of dental insurance for retired public employees (Senate, No. 1284); and

By Ms. Wilkerson, for the committee on State Administration, on petition, a Bill establishing the Massachusetts maritime heritage commission (Senate, No. 1469);

Severally read and, under Joint Rule 29, referred to the committees on Rules of the two branches, acting concurrently.

By Mr. Morrissey, for the committee on Government Regulations, on Senate, Nos. 342 and 408, an Order relative to authorizing the joint committee on Government Regulations to sit during the recess of the General Court for the purpose of making an investigation and study of certain current Senate documents relative to racing activities in the Commonwealth (Senate, No. 1893);

By the same Senator, for the same committee, on Senate, No. 354 and on House, Nos. 28 and 31 (residue), an Order relative to authorizing the joint committee on Government Regulations to sit during the recess of the General Court for the purpose of making an investigation and study of certain current Senate and House documents relative to the Division of Registration (Senate, No. 1894);

By Mr. Joyce, for the committee on Public Service, on Senate, Nos. 277, 1182, 1194, 1222, 1254, 1256, 1293, 1306, 1315, 1316, 1330, 1335, 1341, 1348, 1386, 1763 and 1806, an Order relative to authorizing the joint committee on Public Service to sit during the recess of the General Court for the purpose of making an investigation and study of certain current Senate documents relative to miscellaneous retirement issues (Senate, No. 1902);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1185), an order relative to authorizing the joint committee on Public Service to sit during the recess of the General Court for the purpose of making an investigation and study of a certain current Senate document numbered 1185, relative to civil service (Senate, No. 1903);

By the same Senator, for the same committee, on Senate, Nos. 1187 and 1188, an order relative to authorizing the joint committee on Public Service to sit during the recess of the General Court for the purpose of making an investigation and study of various Senate documents relative to public safety officers (Senate, No. 1904);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1189), an Order relative to authorizing the joint committee on Public Service to sit during the recess of the General Court for the purpose of making an investigation and study of Senate document numbered 1189, relative to employees of the trial Court (Senate, No. 1905);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1193), an order relative to authorizing the joint committee on Public Service to sit during the recess of the General Court for the purpose of making an investigation and study of Senate document numbered 1193, relative to the health and fitness standards of police officers and fire fighters (Senate, No. 1906);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1381), an Order relative to authorizing the joint committee on Public Service to sit during the recess of the General Court for the purpose of making an investigation and study of Senate document numbered 1381, relative to survivor benefits (Senate, No. 1907);

By the same Senator, for the same committee, on Senate, Nos. 1276 and 1280, an order relative to authorizing the joint committee on Public Service to sit during the recess of the General Court for the purpose of making an investigation and study of various Senate documents relative to administration (Senate, No. 1908);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1360), an Order relative to authorizing the joint committee on Public Service to sit during the recess of the General Court for the purpose of making an investigation and study of Senate document numbered 1360, relative to employee rights (Senate, No. 1909);

By the same Senator, for the same committee, on Senate, Nos. 1203, 1208 and 1387, an Order relative to authorizing the joint committee on Public Service to sit during the recess of the General Court for the purpose of making an investigation and study of various Senate documents relative to employment benefits (Senate, No. 1910); and

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1340), an Order relative to authorizing the joint committee on Public Service to sit during the recess of the General Court for the purpose of making an investigation and study of Senate document numbered 1340, relative to creditable service (Senate, No. 1911);

Severally referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

By Mr. Lynch, for the committee on Commerce and Labor, on petition (accompanied by bill, Senate, No. 100), a Bill to educate citizens about consumer rights (Senate, No. 1901);

By Mr. Bernstein, for the committee on Insurance, on petition, a Bill to amend the insurance laws to correlate the amount of loss of time cash benefits paid with a percentage of the insured's earnings (Senate, No. 684);

By Mr. Creedon, for the committee on the Judiciary, on petition, a Bill improving the administration and management of the judicial system of the Commonwealth (Senate, No. 877);

By Mr. Joyce, for the committee on Public Service, on Senate, No. 1190 and House, No. 3359, a Bill relative to the retirement of Nathan Zoll (Senate, No. 1190);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1782), a Bill authorizing the state

employees' retirement board to pay a certain retirement benefit to the surviving spouse of John O'Neil (Senate, No. 1912);
By the same Senator, for the same committee, on Senate, Nos. 1268 and 1300 and House, Nos. 1084, 1473, 1622, 1837 and 2968, a Bill extending creditable service for military, Peace Corps and Vista service (Senate, No. 1914); and
By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1358), a Bill relative to the optional retirement program for certain public employees (Senate, No. 1915); and
By Ms. Wilkerson, for the committee on State Administration, on petition, a Bill relative to the Department of Public Health within the city of Boston (Senate, No. 1857);

Severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

By Mr. Tolman, for the committee on Local Affairs, on petition, a Bill providing for the establishment of a traffic commission in the city of Lynn (Senate, No. 1860) [Local approval received];

Read and, under Senate Rule 26, placed in the orders of the Day for the next session.

Committees Discharged.

Ms. Murray, for the committee on Human Services and Elderly Affairs, reported, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 1821) of Susan C. Fargo, John A. Lepper, Linda J. Melconian, Kevin W. Fitzgerald and other members of the General Court for legislation to amend the child support enforcement act of 1998, relative to access to birth certificates,—and recommending that the same be referred to the committee on the Judiciary;
Mr. Pacheco, for the committee on Natural Resources and Agriculture, reported, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 1048) of Bruce E. Tarr and Anthony J. Verga for legislation to direct the Industrial Finance Agency to expend a certain sum of money for the rehabilitation of waterfront areas for industrial and commercial development; and

Ms. Wilkerson, for the committee on State Administration, reported, asking to be discharged from further consideration Of the petition (accompanied by bill, Senate, No. 1419) of James P. Jajuga, Kevin L. Finnegan, Brian S. Dempsey, Andrea F. Nuciforo, Jr., and other members of the General Court for legislation to establish the Massachusetts individual savings account program;

Of the petition (accompanied by bill, Senate, No. 1478) of Bruce E. Tarr for legislation to require the printing of the State Building Code to be on a certain paper stock;

Of the petition (accompanied by bill, Senate, No. 1482) of Robert E. Travaglini, Emanuel G. Serra and Joe Falzone for legislation to designate Ode to Massachusetts as the Ode of the Commonwealth;

Of the petition (accompanied by bill, Senate, No. 1483) of Robert E. Travaglini, Bruce E. Tarr, Stephen F. Lynch, Dianne Wilkerson and other members of the General Court for legislation to reduce the surcharge on Boston vehicular rental contracts;

Of the petition (accompanied by bill, Senate, No. 1491) of Marian Walsh for legislation relative to vehicular rental transaction contracts in the city of Boston; and

Of the petition (accompanied by bill, Senate, No. 1492) of Dianne Wilkerson, Gloria L. Fox and Charlotte Golar Richie for legislation relative to certain vehicular rental transaction contracts;

And recommending that the same severally be referred to the Senate committee on Ways and Means.

Under Senate Rule 36, the reports were severally considered forthwith and accepted.

Severally sent to the House for concurrence in the discharge of the joint committees.

Ms. Melconian, for the committees on Rules of the two branches, acting concurrently, reported, asking to be discharged from further consideration

Of the Senate Resolve establishing a special commission on the impact of community health centers (Senate, No. 484);

Of the Senate Order relative to authorizing the joint committee on Election Laws to sit during the recess of the General Court for the purpose of making an investigation and study of Senate document numbered 324, relative to voting list access (Senate, No. 1870);

Of the Senate Order relative to authorizing the joint committee on Election Laws to sit during the recess of the General Court for the purpose of making an investigation and study of various Senate documents relative to election matters (Senate, No. 1871);

Of the Senate Order relative to authorizing the joint committee on Health Care to make an investigation and study of various Senate documents relative to health care issues (Senate, No. 1874);

Of the Senate Order relative to authorizing and directing the joint committee on Public Service to make an investigation and study of various Senate documents relative to creditable service (Senate, No. 1878);

Of the Senate Order relative to authorizing and directing the joint committee on Public Service to make an investigation and study of various Senate documents relative to creditable service issues (Senate, No. 1879);

Of the Senate Order relative to authorizing the joint committee on Housing and Urban Development to make an investigation and study of Senate document numbered 556, relative to the operation and provision of assisted living services in the Commonwealth (Senate, No. 1882);

Of the Senate Order authorizing and directing the joint committee on Taxation to make an investigation and study of various Senate documents relative to excise, income, property and sales taxes (Senate, No. 1883);

Of the Senate Order relative to authorizing and directing the joint committee on Criminal Justice to make an investigation and study of various Senate documents relative to criminal justice issues (Senate, No. 1884);

Of the Senate Order relative to authorizing and directing the joint committee on Criminal Justice to make an investigation and study of Senate document numbered 198, relative to establishing sentencing guidelines (Senate, No. 1885);
Of the Senate Order authorizing the joint committee on the Judiciary to make an investigation and study of Senate documents relative to abortion, evidence, court jurisdiction, abuse and protection orders, medical records and various other matters (Senate, No. 1886);
Of the Senate Order relative to authorizing and directing the joint committee on Criminal Justice to make an investigation and study of Senate and House documents relative to criminal street gang activity (Senate, No. 1887); and
Of the Senate Order relative to authorizing and directing the joint committee on Criminal Justice to make an investigation and study of various House documents relative to racketeering activity (Senate, No. 1888);
And recommending that the same severally be referred to the Senate committee on Rules.
Under Senate Rule 36, the reports were severally considered forthwith and accepted.

PAPER FROM THE HOUSE.

A message from His Excellency the Governor recommending legislation relative to authorizing certain expenditures by the town of Webster (House, No. 4475),— **was referred, in concurrence, to the committee on Local Affairs.**

Orders of the Day.

The Orders of the Day were considered, as follows:

The Senate bills

Making it a felony to commit assault and battery on emergency room personnel (Senate, No. 169);

To enhance individual learning in children (Senate, No. 268);

Relative to the reporting of abuse of children (Senate, No. 588);

Further regulating certain activities (Senate, No. 939);

To regulate the speed of school buses on limited access highways (Senate, No. 1111);

To provide insurance for public safety personnel (Senate, No. 1352);

Providing that no other flag or pennant be flown higher than the American flag (Senate, No. 1448);

Promoting the protection of Cider Mill Park in the city of Worcester by approving the conveyance of a conservation restriction to the Greater Worcester Land Trust, Inc. (Senate, No. 1739); and

Exempting the position of deputy chief of police in the town of Milton from the provisions of the civil service laws (printed as House, No. 4143);

Were severally read a second time and ordered to a third reading.

The Senate Bill authorizing towns to provide for their printing of the annual reports on a fiscal year basis (Senate, No. 946) (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 Senate reports

Of the committee on Public Service, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 1211) of Robert A. Havern for legislation to clarify health insurance coverage for public school teachers;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 1214) of Cheryl A. Jacques and Lida E. Harkins for legislation to authorize the Needham town meeting to approve a cost of living increase for members of the Needham contributory retirement system;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 1243) of Richard Piper for legislation to require all state and municipal employees to be subject to periodic examinations by appointing authorities;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 1244) of Richard Piper for legislation to require the periodic competency testing of all state environmental employees of the Commonwealth;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 1245) of Richard Piper for legislation to require periodic physical and mental competency testing of all state and municipal firefighters in the Commonwealth;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 1246) of Richard Piper for legislation to require periodic physical and mental competency testing of all state and municipal police officers in the Commonwealth;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 1282) of Richard T. Moore, Timothy J. Toomey, Jr., the Retired State, County and Municipal Employees Association of Massachusetts, by Ralph W. White, president, and other members of the General Court for legislation relative to granting cost of living adjustments to non-contributory retirees; and

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 1321) of Thomas C. Norton and the Massachusetts Police Association, by James M. Machado, for legislation relative to residency requirements for police and fire

department personnel in cities and towns;
Were severally considered; and they were accepted.

PAPER FROM THE HOUSE.

There being no objection, during consideration of the orders of the Day, a petition (accompanied by bill, House, No. 4482) of Francis L. Marini, Ronald W. Gauch, Mary S. Rogeness, George N. Peterson, Jr., Bradley H. Jones, Jr., and David H. Tuttle relative to establishing an open space land acquisition program in the Commonwealth,— **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Taxation.**

Matters Taken Out of the Orders of the Day.

There being no objection, during consideration of the Orders of the Day, the following matters were taken out of the orders of the Day and considered, as follows:

The Senate Bill authorizing the town of Abington to issue an additional license for the sale of alcoholic beverages to be drunk on the premises (Senate, No. 1856),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed.**

Sent to the House for concurrence.

The House bills

Authorizing the town of Hudson to convey an easement across a certain parcel of land used for conservation purposes (House, No. 2563) ; and

Authorizing the town of Shirley to establish a sewer commission (House, No. 4270);

Were severally read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Reports of Committees.

There being no objection, during consideration of the Orders of the Day, the following matters were considered, as follows:

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 L. Hedlund relative to town meeting or city council approval of such local board of health regulations concerning septic or cesspool systems as exceed state-mandated standards.

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

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 L. Hedlund for legislation relative to technical corrections in laws pertaining to taxation.

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

Severally sent to the House for concurrence.

PAPERS FROM THE HOUSE.

There being no objection, during consideration of the orders of the Day, a Bill authorizing certain expenditures by the town of Webster (printed in House, No. 4475,— being a message from His Excellency the Governor),— was read.

There being no further 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.

Engrossed Bills — Land Taking for Conservation, Etc.

There being no objection, during consideration of the Orders of the Day, an engrossed Bill relative to the redevelopment of the former Lawrence Mills property in the city of Lowell (see Senate, No. 1726, 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 six minutes before twelve o'clock noon, as follows, to wit (yeas 37 — nays 0):

YEAS.

Bernstein, Robert A.

Moore, Richard T.

Berry, Frederick E.
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.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.
Montigny, Mark C.

Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
Pacheco, Marc R.
Panagiotakos, Steven C.
Rauschenbach, Henri S.
Resor, Pamela
Rosenberg, Stanley C.
Shannon, Charles E.
Sprague, Jo Ann
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Steven A.
Travaglini, Robert E.
Tucker, Susan C.
Walsh, Marian — 37.

NAYS.--- 0

ABSENT OR NOT VOTING.

Antonioni, Robert A.

Wilkerson, Dianne — 2.

The yeas and nays having been completed at one minute before twelve o'clock noon, 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.

There being no objection, during consideration of the Orders of the Day, an engrossed Bill relative to the conveyance of certain land from Nantucket County to the town of Nantucket (see House, No. 3977) (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 one minute before twelve o'clock noon, as follows, to wit (yeas 37 — nays 0):

YEAS.

Bernstein, Robert A.
Berry, Frederick E.
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.

Moore, Richard T.
Morrissey, Michael W.
Murray, Therese
Norton, Thomas C.
Nuciforo, Andrea F., Jr.
Pacheco, Marc R.
Panagiotakos, Steven C.
Rauschenbach, Henri S.
Resor, Pamela
Rosenberg, Stanley C.

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

Shannon, Charles E.
Sprague, Jo Ann
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Steven A.
Travaglini, Robert E.
Tucker, Susan C.
Walsh, Marian — 37.

NAYS.--- 0

ABSENT OR NOT VOTING.

Antonioni, Robert A.

Wilkerson, Dianne — 2.

The yeas and nays having been completed at two minutes past twelve o'clock noon, 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.

There being no objection, during consideration of the Orders of the Day, an engrossed Bill authorizing Nantucket County to convey certain land to the town of Nantucket and the Massachusetts Audubon Society, Inc. (see House, No. 3978) (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 three minutes past twelve o'clock noon, as follows, to wit (yeas 37 — nays 0):

YEAS.

Bernstein, Robert A.
Berry, Frederick E.
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.
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.
Pacheco, Marc R.
Panagiotakos, Steven C.
Rauschenbach, Henri S.
Resor, Pamela
Rosenberg, Stanley C.
Shannon, Charles E.
Sprague, Jo Ann
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Steven A.
Travaglini, Robert E.
Tucker, Susan C.
Walsh, Marian — 37.

NAYS.--- 0

ABSENT OR NOT VOTING.

Antonioni, Robert A.

Wilkerson, Dianne — 2.

The yeas and nays having been completed at five minutes past twelve o'clock noon, 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.

There being no objection, during consideration of the Orders of the Day, an engrossed Bill authorizing the city of Boston to convey certain land to the Boston Housing Authority (see House, No. 4218) (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 six minutes past twelve o'clock noon, as follows, to wit (yeas 37 — nays 0):

YEAS.

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.

Creem, Cynthia Stone

Pacheco, Marc R.

Fargo, Susan C.

Panagiotakos, Steven C.

Glodis, Guy W.

Rauschenbach, Henri S.

Havern, Robert A.

Resor, Pamela

Hedlund, Robert L.

Rosenberg, Stanley C.

Jacques, Cheryl A.

Shannon, Charles E.

Jajuga, James P.

Sprague, Jo Ann

Joyce, Brian A.

Tarr, Bruce E.

Knapik, Michael R.

Tisei, Richard R.

Lees, Brian P.

Tolman, Steven A.

Lynch, Stephen F.

Travaglini, Robert E.

Magnani, David P.

Tucker, Susan C.

Melconian, Linda J.

Walsh, Marian — 37.

Montigny, Mark C.

NAYS.--- 0

ABSENT OR NOT VOTING.

Antonioni, Robert A.

Wilkerson, Dianne — 2.

The yeas and nays having been completed at eight minutes past twelve o'clock noon, 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.

Emergency Preamble Adopted.

There being no objection, during consideration of the Orders of the Day, an engrossed Bill further extending the time for which certain land in Norfolk County may be used as a temporary minimum security alternative correction center (see House, No. 4419, 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 8 to 0. The bill was signed by the President and sent to the House for enactment.**

Engrossed Bills.

There being no objection, during consideration of the Orders of the Day, 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, two-thirds of the members present having voted in the affirmative, and were signed by the President and laid before the Governor for his approbation, to wit:

Validating a certain vote passed by the town of Westborough (see House Bill, printed in House, No. 4393); and
Authorizing certain expenditures by the town of Webster (see House Bill, printed in House, No. 4475).

An engrossed Bill relative to the West Boylston Water District (see House, No. 4041) (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 Governor for his approbation.**

Report of a Committee.

There being no objection, during consideration of the Orders of the Day, Mr. Montigny, for the committee on Ways and Means, pursuant to the provisions of Senate Rule 19, reported a "Bill relative to appropriations from the Commonwealth Stabilization Fund" (Senate, No. 1913).

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

Order Adopted.

There being no objection, during consideration of the Orders of the Day, Mr. Clancy offered an order relative to requesting the opinions of the Honorable the Justices of the Supreme Judicial Court on an important question of law relative to enactment of Senate, No. 1913, "An Act relative to appropriations from the Commonwealth Stabilization Fund" (Senate, No. 1916).

The rules were suspended, on motion of Mr. Clancy, and the order was considered forthwith and adopted.

Recess.

There being no objection, at twenty-two minutes past twelve o'clock noon, the President declared a recess subject to the call of the Chair; and, at twenty-nine minutes past twelve o'clock noon, the Senate reassembled, the President in the Chair.

The Orders of the Day were further considered, as follows:

The Senate Bill to maintain privacy (Senate, No. 161),— **was read a second time and ordered to a third reading.**

The House Bill relative to the sex offender registry (House, No. 4387, printed as amended),— was read a third time.

Mr. Creedon moved to amend the bill, in section 1, in section 178C, in the definition of "Sex offense involving a child", by adding the following sentence:— "An offense which is criminal only because of the age of the victim shall not be considered a sex offense involving a child if the perpetrator is 18 years of age or younger."

The amendment was *rejected*.

Ms. Creem moved to amend the bill by striking out sections 3 to 8, inclusive.

The amendment was *rejected*.

Ms. Creem moved to amend the bill, in section 8, by striking out subsection (b) of section 12; by striking out, in the first line of subsection (a) of section 13, the words "the person" and inserting in place thereof the following words:— "an adult"; and by striking out, in the second line of subsection (a) of section 13, the words "or youth".

The amendment was *rejected*.

Ms. Creem moved to amend the bill, in section 8, by inserting in line 140, after the word "center" the following words:— "or, if such person is a youth who has been adjudicated as a delinquent, to the department of youth services until he reaches his twenty-first birthday, and then to the treatment center".

After remarks, the amendment was adopted.

Ms. Creem moved to amend the bill, in section 8, by adding the following paragraph:—

"SECTION 16. The department of correction and the department of youth services shall annually prepare reports describing the

treatment offered to each person who has been committed to the treatment center or the department of youth services as a sexually dangerous person and, without disclosing the identity of such persons, describe the treatment provided. The annual reports shall be submitted, on or before January 1, 2000 and every November 1 thereafter, to the clerk of the house of representatives and the clerk of the senate, who shall forward the same to the house and senate committees on ways and means and to the joint committee on criminal justice. The treatment center shall submit on or before September 1, 1999 its plan for the administration and management of the treatment center to the clerk of the house of representatives and the clerk of the senate, who shall forward the same to the house and senate committees on ways and means and to the joint committee on criminal justice. The treatment center shall promptly notify said committees of any modifications to said plan.

After remarks, the amendment was adopted.

Ms. Creem moved to amend the bill, in section 2, in paragraph (b) of subsection (2) of section 178K, by adding the following sentence:—"The board shall give a level 2 designation to a sex offender who at the time of offense is a juvenile, only when immediate public safety concerns outweigh the expected public safety benefits of effective rehabilitation."; and in said section 2, in the third paragraph of paragraph (c) of said subsection (2) of said section 178K, by adding the following sentence:—"The board shall give a level 3 designation to a sex offender who at the time of offense is a juvenile, only when immediate public safety concerns outweigh the expected public safety benefits of effective rehabilitation."

The amendment was *rejected*.

Ms. Creem moved to amend the bill, in section 2, in section 178C, by striking out the definition of "Sex Offender" and inserting in place thereof the following definition:—

"'Sex Offender', a person who resides or works in the commonwealth and who has been convicted of a sex offense or a person released from incarceration or parole or probation supervision or custody for such a conviction, or a person who has been adjudicated a sexually dangerous person under section 14 of chapter 123A, as in force at the time of adjudication, or a person released from civil commitment pursuant to section 9 of said chapter 123A, whichever last occurs, on or after August 1, 1984, or a person who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense or a person released from custody with the department of youth services for such an adjudication on or after August 1, 1994."

The amendment was *rejected*.

Ms. Creem moved to amend the bill by inserting after section 10 the following section:—

"SECTION 10A. Chapter 261 of the General Laws is hereby amended by inserting after section 27G the following section:—
Section 27H. In any proceeding before the sex offender registry board, established by section 178K of chapter 6, the offender shall have a right to petition the board for the payment of extra fees and costs as defined in section 27A. If the offender is indigent as defined in said section 27A, the board shall not deny any request with respect to extra fees and costs, except in compliance with the procedures and standards of section 27C. In any case where the board denies a request for payment, the offender may appeal the board's decision to the superior court, under the procedures and standards of section 27D.

The amendment was *rejected*.

Ms. Creem moved to amend the bill by adding the following section:—

"SECTION 19. The parole board shall conduct a study relative to the costs of the establishment of community parole supervision for life. The study shall include, but not be limited to, the costs of hiring additional personnel, training, technology system upgrades, and the expansion of the intensive parole program for sex offenders on a state-wide basis. The parole board shall file the results of such study with the house and senate committees on ways and means and the joint committee on criminal justice not later than November 1, 1999."

The amendment was adopted.

Mr. Nuciforo moved to amend the bill, in section 2, in the proposed third sentence of the third paragraph of paragraph (c) of subsection(2) of section 178K, by striking out the words "preponderance of the evidence" and inserting in place thereof the following words:—"clear and convincing evidence".

The amendment was *rejected*.

Mr. Nuciforo moved to amend the bill, in section 2, in the proposed section 178C, in the definition of "sex offense", by striking out the words "second and subsequent adjudication or conviction for open and gross lewdness and lascivious behavior under the provisions of section 16 of said chapter 272;".

The amendment was *rejected*.

Ms. Creem moved to amend the bill, in section 2, in section 178C, in the definition of "Sex offender", by inserting after the words "convicted of a sex offense" the following words:—"other than open and gross lewdness under section 16 of chapter 272".

The amendment was *rejected*.

Messrs. Bernstein and Montigny moved to amend the bill, in section 2, by striking out the sentence in lines 418 to 427, inclusive, and inserting in place thereof the following sentence:—"The duty of a sex offender required to register pursuant to this chapter and to comply with the requirements hereof shall, unless sooner terminated by the board under the provisions of section 178L, end 20 years after such sex offender has been convicted or adjudicated or has been released from all custody or supervision, whichever last occurs, unless such sex offender was convicted of two or more sex offenses, to the extent required by federal law, committed on different occasions or a sexually violent offense, or the sentencing court has determined such sex offender to be a sexually violent predator, in which cases the duty to register shall never be terminated."

After remarks, the amendment was adopted.

Ms. Creem moved to amend the bill, in section 2, by inserting after the words "August 1, 1981", in line 104, the following sentence:—"This definition shall not include a juvenile adjudicated before August 1, 1992, as a delinquent juvenile by reason of

open and gross lewdness and lascivious behavior under section 16 of said chapter 272".
After remarks, the amendment was adopted.

Statement of Senator Cynthia Stone Creem.

Pending the question on passing the bill to be engrossed, Ms. Creem addressed the Senate, as follows:—

Mr. President: I rise to express my concerns with this legislation as currently drafted.

As Senate Chair of the Criminal Justice Committee, I have spent a lot of time with this issue. I have met with interested parties from all sides of the ideological spectrum and with differing views as to how our Commonwealth should reconfigure its sex offender laws.

I have also spoken to many of my colleagues here about this matter and learned from their experiences and views. I single out Senators Bernstein and Walsh for assisting me on this issue. I greatly appreciate all the help they both have afforded me.

Overall, I believe that we have made significant progress toward creating an improved sex offender registry and in instituting a lifetime parole program.

I believe that I share common ground with all of you in the belief that Massachusetts should have a fully functional registry that protects public safety and informs our constituents about sexually violent offenders in their midst.

I also count myself as a strong supporter of lifetime parole. I perceive lifetime parole to be absolutely necessary if we are to ensure that possibly dangerous criminals are closely monitored when they complete their sentences and re-enter our communities.

Nevertheless, despite the progress we have made to improve this legislation and my support for the spirit of this bill, I still have serious concerns with the merits and constitutionality of civil commitment and the overly broad scope of the registry.

Civil commitment was abandoned in Massachusetts as a failed policy less than a decade ago.

I believe we return to it without fully understanding the ramifications of its reinstatement.

I fear that the procedure established by this bill to civilly commit sex offenders may prove exceedingly costly to taxpayers and burdensome to our justice system.

I question its constitutionality and also its workability. People in civil commitment may never undergo treatment during their confinement. They can refuse treatment. Therefore, I am not convinced that better options are not available outside of an institution.

A major concern of mine with this bill is the inclusion of juvenile offenders in both the civil commitment statute and on the sex offender registry.

Juvenile offenders respond better to treatment than adults. They still have a chance. But this bill as currently drafted treats them as adults, even for relatively low-level offenses, and this is not a provision I can support.

I also believe that we have not gone far enough to render the registry functional. If this bill becomes law, we still we be left with an enormous backlog, full of non-violent offenders who have committed no further crimes since their first offense.

This I feel is a disservice to our constituents who deserve a registry that clearly denotes dangerous criminals and is simple to understand.

Lastly, I am concerned that this bill, while implementing a lifetime parole program, does not offer adequate resources to make lifetime parole effective.

We have an intensive treatment parole program for sex offenders based in Framingham with a zero recidivism rate. But, we have not devoted any more resources to expand this program. Lifetime parole is a worthwhile endeavor but it must be afforded adequate funding to make a difference and prevent further crime.

We have not provided adequate funding for lifetime parole under this legislation.

Colleagues, as I stated earlier, I support the spirit of this legislation. We all want to protect our children, neighbors and friends from sexually dangerous individuals.

I just believe we can do better and I will continue to work on this bill when it is considered in conference committee.

Thank you.

On motion of Ms. Creem, the above statement was ordered printed in the journal of the Senate.

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

YEAS.

Antonioni, Robert A.

Bernstein, Robert A.

Berry, Frederick E.

Brewer, Stephen M.

Clancy, Edward J., Jr.

Creedon, Robert S., Jr.

Moore, Richard T.

Morrissey, Michael W.

Murray, Therese

Norton, Thomas C.

Nuciforo, Andrea F., Jr.

Pacheco, Marc R.

Creem, Cynthia Stone
Fargo, Susan C.
Glodis, Guy W.
Havern, Robert A.
Hedlund, Robert L.
Jacques, Cheryl A.
Jajuga, James P.
Joyce, Brian A.
Knapik, Michael R.
Lees, Brian P.
Lynch, Stephen F.
Magnani, David P.
Melconian, Linda J.
Montigny, Mark C.

Panagiotakos, Steven C.
Rauschenbach, Henri S.
Resor, Pamela
Rosenberg, Stanley C.
Shannon, Charles E.
Sprague, Jo Ann
Tarr, Bruce E.
Tisei, Richard R.
Tolman, Steven A.
Travaglini, Robert E.
Tucker, Susan C.
Walsh, Marian
Wilkerson, Dianne — 39.

NAYS. — 0

The yeas and nays having been completed at eight minutes past one o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendments adopted by the Senate. [For text of Senate amendments, see Senate, No. 1930, printed as amended.]

Sent to the House for concurrence in the amendments.

Order Adopted.

Mr. Creedon offered the following order; and, under the rules, it was referred to the committees on Rules of the two branches, acting concurrently, to wit:

Ordered, That, notwithstanding the provisions of Joint Rule 10 the committee on the Judiciary be granted until Saturday, July 31, 1999 within which to make its final report on current Senate documents numbered 776, 777, 781, 783, 790, 804, 850, 851, 875, 918 and current House document numbered 3712.

Subsequently, Ms. Melconian, for the said committee, reported that the order ought to be adopted. There being no objection, the order was considered forthwith and adopted.

Sent to the House for concurrence.

Communication.

The Clerk read the following communication:

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

Dear Mr. Clerk:

On Thursday, July 1, 1999, I was unable to be present for roll call votes taken on the following land takings.

S1726 - relative to the redevelopment of the former Lawrence Mills property in the city of Lowell;

H3977 - relative to the conveyance of certain land from Nantucket County to the town of Nantucket;

H3978 - authorizing Nantucket County to convey certain land to the town of Nantucket and the Massachusetts Audubon Society, Inc.; and

H4218 - authorizing the city of Boston to convey certain land to the Boston Housing Authority.

Had I been present, I would have voted in the affirmative on all four land takings. I would greatly appreciate your assistance with the printing of this communication in the Senate Journal. Thank you in advance for assistance with this matter.

Sincerely,
Robert A. Antonioni,
State Senator.

On motion of Mr. Antonioni, the above statement was ordered printed in the Journal of the Senate.

Order Adopted.

On motion of Ms. Melconian,—

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

On motion of Mr. Lees, at twenty-eight minutes past one o'clock P.M., the Senate adjourned to meet on the following Tuesday at eleven o'clock A.M.
