

**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, December 20, 2001.

Met at four minutes past eleven o'clock A.M. (Ms. Melconian in the Chair) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

### ***Communications.***

A communication was received from the President announcing the following appointments:

The Senator from Plymouth and Bristol, Mr. Pacheco, to the Workforce Investment Board established by Governor's Executive Order 413; and Dianne Luby to the Commission on the Status of Women established by section 1 of Chapter 138 of the Acts of 1998.

The following communications were severally placed on file:

Communication from the Wonderland Greyhound Park, Inc. (under the provisions of Section 2 of Chapter 128C of the General Laws) submitting copies of simulcasting contracts entered into by Wonderland (received Thursday, December 6, 2001);

Communication from the University of Massachusetts relative to the rules and regulations adopted by the Trustees of the University in 2000 (received Monday, December 3, 2001); and

Communication from the Department of Transitional Assistance relative to its projected deficits (received Friday, December 7, 2001).

### ***Reports.***

The following reports were severally read and placed on file:

A report of the Massachusetts Legal Assistance Corporation (under the provisions of Section 10 of Chapter 221A of the General Laws) submitting a copy of its 2001 annual report (received Wednesday, November 28, 2001);

A report of the Massachusetts Convention Center Authority (under the provisions of Section 5 of Chapter 152 of the Acts of 1997) submitting its quarterly reports on the status of the Boston Convention and Exhibition Center Project (received Thursday, November 29, 2001); and

A report of the Division of Fisheries and Wildlife (under the provisions of Chapter 139 of the Acts of 2000) submitting its annual report on foothold traps (received Tuesday, December 4, 2001).

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

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 the M.C.I. Framingham facility (received Friday, December 7, 2001);

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 inspections of the Bridgewater State Hospital and the Middlesex County Jail (received Thursday, December 13, 2001); and

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. Lancaster, South Middlesex Pre-Release Facility and Hodder House Pre-Release Facility (received Wednesday, December 19, 2001).

### ***Petitions.***

Petitions were presented and referred, as follows:

By Mr. O'Leary, a petition (accompanied by bill, Senate, No. 2205) of Robert A. O'Leary (by vote of the town) for legislation to authorize the town of Brewster to establish a capital investment fund [Local approval received]; and

By the same Senator, a petition (accompanied by bill, Senate, No. 2206) of Robert A. O'Leary (by vote of the town) for legislation to authorize the town of Brewster to establish a road betterment fund [Local approval received];  
**Severally, under Senate Rule 20, to the committee on Local Affairs.**  
**Severally sent to the House for concurrence.**

Mr. Hedlund presented a petition (subject to Joint Rule 12) of Robert L. Hedlund for legislation to further regulate the siting of telecommunications towers,— **and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

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

By Mr. Brewer, for the committee on Natural Resources and Agriculture, on petition, a Resolve providing for an investigation and study by a special commission relative to dairy farming in the Commonwealth (Senate, No. 2182);

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

By Mr. Havern, for the committee on Transportation, on petition, a Bill making a technical change to chapter 235 of the Acts of 2000 (Senate, No. 2202);

**Read and, under Senate Rule 27, referred to the committee on Ways and Means.**

Ms. Resor, for the committee on Steering and Policy, reported that the following matter be placed in the Orders of the Day for the next session:

The House Bill increasing the fee for admitting a person to bail (House, No. 843, changed).

### **PAPERS FROM THE HOUSE.**

A Bill relative to affordable housing in the town of Truro (House, No. 4476,— on petition) [Local approval received],— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

A petition (accompanied by bill, House, No. 4806) of Jose L. Santiago, David M. Torrisi and Barry R. Finegold (with the approval of the mayor and city council) relative to the residency requirement for city employees of the city of Lawrence,— **was referred, in concurrence, to the committee on Public Service.**

A Bill relative to voter registration certificates (House, No. 430,— on petition),— **was read and, under Senate Rule 26, referred to the committee on Steering and Policy.**

Bills

Authorizing the town of Maynard to issue an additional license for the sale of all alcoholic beverages to be drunk on the premises (House, No. 4200,— on petition) [Local approval received];

Authorizing the town of Fairhaven to issue an additional license for the sale of beer and wine (House, No. 4321,— on petition) [Local approval received];

Authorizing the town of Truro to hold a license for the sale of all alcoholic beverages to be drunk on the premises (House, No. 4475,— on petition) [Local approval received];

Authorizing the town of Truro to establish an affordable housing trust fund (House, No. 4477,— on petition) [Local approval received]; and

Providing for a board of public works in the town of Pepperell (House, No. 4585,— on petition) [Local approval received];  
**Were severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

Reports

Of the committee on Education, Arts and Humanities, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 4761) of Carol C. Cleven relative to the tuition costs for certain persons residing both in the city of Lowell and the town of Chelmsford,— and recommending that the same be referred to the committee on Local Affairs.

Of the committee on Local Affairs, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 2191) of Charles E. Shannon and Paul C. Casey (by vote of the town) for legislation to authorize the town of Winchester to establish a retiree healthcare liability trust fund,— and recommending that the same be referred to the committee on Public Service.

**Were severally considered forthwith, under Senate Rule 36, and accepted, in concurrence.**

Reports

Of the committee on Insurance, asking to be discharged from further consideration

Of the petition (accompanied by bill, Senate, No. 763) of Richard T. Moore, Joan M. Menard, Charles E. Shannon and other members of the General Court for legislation to provide equitable coverage for the treatment of substance abuse; and

Of the petition (accompanied by bill, House, No. 2544) of David B. Sullivan and other members of the House relative to insurance coverage for substance abuse treatment;

And recommending that the same severally be referred to the Senate committee on Ways and Means.  
**Were severally considered forthwith, under Senate Rule 36, and accepted, in concurrence.**

### ***Communication.***

The Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS SENATE  
STATE HOUSE, BOSTON 02133-1053

December 10, 2001.

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

Dear Mr. Clerk:

During the course of the session of December 5, 2001, there were several occasions where I was unable to make roll call votes. Had I been in the Chamber at the time I would have voted on these items as such:—

On the collective bargaining bills that were engrossed by the Senate (House, Nos. 4780 through 4787) I would have voted in the affirmative.

I would have voted in the affirmative to override the Acting Governor's vetoes or reductions on the following items:

Item 4513-1113 — Colorectal cancer education.

Item 7061-9200 — Statewide education technology plan.

Item 7007-0950 — Local and regional tourism grants.

Item 4513-1111 — Osteoporosis

Section 28 — Hospital data collection

Item 7003-0604 — CNA Career ladder

Item 6005-0015 — RTA contract assistance

Item 8100-0301 — State police patrols

Item 7030-1002 — Kindergarten expansion

Item 4513-1000 — Family health services

I would have also voted in the affirmative on Senate, No. 2197 — Congressional redistricting.

I would have voted in the negative on the Lees amendment to the Congressional redistricting bill and on the order, offered by Mr. Lees and others, to have a formal session on December 6, 2001, to take up a supplemental budget.

I would appreciate you noting this for the record. Thank you for your consideration in this matter.

Respectfully,

EDWARD J. "CHIP" CLANCY, JR.,  
*First Essex District.*

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

## **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 Acting President and laid before the Acting Governor for her approbation, to wit:

Authorizing the town of Wareham to release their interests in a certain parcel of land (see House, No. 4126); and

Authorizing the town of Needham to establish a post retirement insurance liability fund (see House, No. 4306).

### ***Resolutions.***

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

Resolutions (filed by Mr. Glodis) "congratulating Saint John's High School"; and

Resolutions (filed by Mr. Tisei) "commending Michael Silvio Festa on attaining the rank of Eagle Scout."

### ***Petition.***

On motion of Mr. Moore, Senate Rule 20 and Joint Rule 12 were suspended on the petition, presented by Mr. Moore (accompanied by bill) of Richard T. Moore for legislation relative to extending retirement service credit to elected municipal officials in unpaid positions,— **and the same was referred to the committee on Public Service.**

**Sent to the House for concurrence.**

### ***Report of Committees.***

By Ms. Menard, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Cynthia S. Creem, Linda J. Melconian, David P. Magnani, Dianne Wilkerson and other members of the General Court for legislation relative to the taxation of income in the Commonwealth.

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

**Sent to the House for concurrence.**

## PAPER FROM THE HOUSE.

A petition (accompanied by bill, House, No. 4821) of Brian Knuutila and other members of the General Court relative to authorizing the Division of Capital Asset Management and Maintenance to convey certain easements to the city of Gardner,—**was referred, in concurrence, under suspension of Joint Rule 12, to the committee on State Administration.**

### *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 authorizing the conveyance to the town of Billerica of a certain parcel of land (House, No. 4747),—**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 authorizing the change of use of a certain parcel of land in the town of Billerica.**”

## PAPER FROM THE HOUSE.

The Senate Bill relative to the crimes of assault and battery and assault and battery by means of a dangerous weapon (Senate, No. 167, amended),—came from the House passed to be engrossed, in concurrence, *with an amendment* in section 2, in line 15 [at “A”], by striking out “or (iii)” and inserting in place thereof the following: “(iii) upon a child under the age of 14; or (iv)”.

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

Ms. Jacques presented a motion, that the Senate concur in the House amendment *with a further amendment* in section 2, by striking out subsection (c) and inserting in place thereof the following subsection:—

“(c) Whoever:

(i) by means of a dangerous weapon, commits an assault and battery upon another and by such assault and battery causes serious bodily injury;

(ii) by means of a dangerous weapon, commits an assault and battery upon another who is pregnant at the time of such assault and battery, knowing or having reason to know that the person is pregnant;

(iii) by means of a dangerous weapon, commits an assault and battery upon another who he knows has an outstanding temporary or permanent vacate, restraining or no contact order or judgment issued pursuant to section 18, section 34B or section 34C of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A, or section 15 or 20 of chapter 209C, in effect against him at the time of such assault and battery; or

(iv) is 17 years of age or older and, by means of a dangerous weapon, commits an assault and battery upon a child under the age of 14;

shall be punished by imprisonment in the state prison for not more than 15 years or in the house of correction for not more than 2½ years, or by a fine of not more than \$10,000, or by both such fine and imprisonment.”

**The further amendment was adopted.**

**The Senate then concurred in the House amendment, as amended.**

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

The House Bill authorizing the town of Tyngsborough to issue 2 licenses for the sale of alcoholic beverages to be drunk on the premises (House, No. 4660),—**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 authorizing the town of Tyngsborough to issue 2 additional licenses for the sale of all alcoholic beverages to be drunk on the premises.**”

### *Order Adopted.*

On motion of Mr. Moore,—

*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. Knapik, at thirteen minutes past eleven o’clock A.M., the Senate adjourned to meet on the following day at eleven o’clock A.M.

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