

**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, June 16, 2004.

Met at four minutes past one o'clock P.M. (Ms. Menard in the Chair).

There being no objection, at five minutes past one o'clock P.M., the Chair (Ms. Menard) declared a recess subject to the call of the Chair; and, at a quarter past one o'clock P.M., the Senate reassembled, the President in the Chair.

The President, members, guests and employees then recited the pledge of allegiance to the flag.

### **Petition.**

Mr. Joyce presented a petition (accompanied by bill, Senate, No. 2393) of Brian A. Joyce, Joseph R. Driscoll and Bruce J. Ayers (by vote of the town) for legislation to authorize the town of Randolph to establish a town charter [Local approval received,— and the same was referred, under Senate Rule 20, to the committee on Local Affairs and Regional Government. Sent to the House for concurrence.

### **Paper from the House.**

A Bill modernizing the transportation system of the Commonwealth (House, No. 4771, printed as amended, — on House, No. 4758, in part),— was read and, under Senate Rule 26B, referred to the committee on Long-Term Debt and Capital Expenditures.

### **Resolutions.**

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows—  
Resolutions (filed by Messrs. Havern, Antonioni and Brown, Ms. Fargo, Ms. Resor, Mrs. Sprague and Mr. Tolman) “on the occasion of the retirement of Dr. Ronald J. Fitzgerald”;  
Resolutions (filed by Mr. Knapik) “on the retirement of John F. Cullinan”;  
Resolutions (filed by Mr. Pacheco) “on the retirement of Police Chief Harold “Buster” Ashley”; and  
Resolutions (filed by Mrs. Sprague) “congratulating Ryan David Stott of Walpole upon his elevation to the rank of Eagle Scout.”

### **Communication.**

The Clerk read the following communication:—

Commonwealth of Massachusetts  
Massachusetts Senate  
State House, Boston 02133-1053

June 15, 2004.

William Welch, Clerk  
State House  
Boston, MA 02133

Dear Mr. Clerk,

Due to a family medical emergency, I was unable to attend the formal session on April 29, 2004. Had I been present I would have voted on the following matters:

No. 505 - Yes	No. 509 - Yes	No. 512 - Yes	No. 515 - Yes
No. 506 - Yes	No. 510 - Yes	No. 513 - Yes	No. 516 - Yes
No. 507 - Yes	No. 511 - Yes	No. 514 - Yes	No. 517 - Yes
No. 508 - Yes			

Sincerely,

David P. Magnani,  
*State Senator.*

On motion of Mr. Rosenberg, the above communication was ordered printed in the Journal of the Senate.

### **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 Acting President (Mr. Rosenberg, having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair) and laid before the Governor for his approbation, to wit:

Relative to the Sandwich water district (see Senate, No. 1163, amended);

Establishing the Ipswich affordable housing trust fund (see Senate, No. 1987, amended);

Amending the charter of the town of Andover (see House, No. 3887, changed);

Authorizing the town of Bellingham to establish a compensated absence fund (see House, No. 4102); and

Authorizing the town of Greenfield to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (see House, No. 4743).

#### **Orders of the Day.**

The Orders of the Day were considered, as follows:

Bills

To regulate motor vehicles on Nantucket (Senate, No. 1368);

Clarifying the eligibility of the employees of the Montachusett Regional Planning Commission to participate in the Commonwealth's group insurance plan (Senate, No. 1399);

Authorizing the Board of Selectmen of Acton to lease a certain parcel of land (Senate, No. 1981);

Relative to the town of Swansea (Senate, No. 2325);

Relative to mitigation fees in a business development overlay district in the town of Wareham (Senate, No. 2348);

Authorizing the town of North Andover to grant open space restrictions (House, No. 3847);

Validating the special town election held in the town of Goshen (printed in House, No. 4244); and

Authorizing the city of Lowell to pay an unpaid bill (House, No. 4521);

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

The Senate bills

Relative to municipal light plant department security deposits (Senate, No. 2211);

Providing timely access to emergency contraception (Senate, No. 546) (its title having been changed by the committee on Bills in the Third Reading);

Providing for the issuance of a distinctive registration plate for the Esplanade Association (Senate, No. 2091); and

Establishing a self-sufficiency standard in the Commonwealth (Senate, No. 2391) (its title having been changed by the committee

on Bills in the Third Reading);  
Were severally read a third time and passed to be engrossed, in concurrence.

The House Bill establishing a one trial system for civil cases (House, No. 732),— was read a third time.  
After remarks, Mr. Rosenberg in the Chair, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at twenty-four minutes past one o'clock P.M., as follows, to wit (yeas 39 — nays 0) [Yeas and Nays No. 582]:

**YEAS.**

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 39.
Melconian, Linda J.	

**NAYS — 0.**

The yeas and nays having been completed at twenty-nine minutes past one o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendment previously adopted by the Senate.  
Sent to the House for concurrence in the amendment.

The House Bill relative to compensation for certain erroneous felony convictions (House, No. 4255), — was read a third time.  
After remarks, the question on passing it to be engrossed, in concurrence, was determined by a call of the yeas and nays, at twenty minutes before two o'clock P.M., as follows, to wit (yeas 39 — nays 0) [Yeas and Nays No. 583]:

**YEAS.**

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.

Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 39.
Melconian, Linda J.	

NAYS — 0.

The yeas and nays having been completed at seventeen minutes before two o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendment previously adopted by the Senate.  
Sent to the House for concurrence in the amendment.

The Senate Bill relative to the worker's compensation exclusive remedy (Senate, No. 72, amended), — was considered, the question being on passing the bill to be engrossed.  
On motion of Mr. Hart, the further consideration thereof was postponed until Wednesday, June 23, 2004.

The Senate Bill relative to the modification of the helmet law (Senate, No. 1363), — was considered, the main question being on ordering it to a third reading.

The pending motion, previously moved by Mr. Morrissey, that the Senate reconsider the vote by which it had adopted the amendment moved by Mr. Shannon, striking out all after the enacting clause and inserting in place thereof the following text:— "The first paragraph of section 7 of chapter 90 of the General Laws, is hereby amended by inserting after the words 'public parade', inserted by chapter 24 of the acts of 2004, the following words:— 'or funeral procession'." — was considered; and reconsideration prevailed.

Pending the recurring question on adoption of the amendment, Mr. Shannon moved that further consideration thereof be postponed until Tuesday, July 6, 2004.

After debate, the question on postponement was determined by a call of the yeas and nays, at four minutes past two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 15 — nays 24) [Yeas and Nays No. 584]:

YEAS.

Berry, Frederick E.	O'Leary, Robert A.
Chandler, Harriette L.	Pacheco, Marc R.
Creem, Cynthia Stone	Resor, Pamela
Hart, John A., Jr.	Shannon, Charles E.
McGee, Thomas M.	Tucker, Susan C.
Menard, Joan M.	Walsh, Marian
Moore, Richard T.	Wilkerson, Dianne — 15.
Nuciforo, Andrea F., Jr.	

NAYS.

Antonioni, Robert A.	Lees, Brian P.
Baddour, Steven A.	Magnani, David P.
Barrios, Jarrett T.	Melconian, Linda J.
Brewer, Stephen M.	Montigny, Mark C.

Brown, Scott P.	Morrissey, Michael W.
Creedon, Robert S., Jr.	Murray, Therese
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Rosenberg, Stanley C.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A. — 24.

The yeas and nays having been completed at ten minutes past two o'clock P.M., the motion to postpone was negatived. Pending the recurring question on adoption of the amendment offered by Mr. Shannon, and pending the main question on ordering the bill to a third reading, Mr. Shannon moved that the matter be laid on the table; and, under the provisions of Senate Rule 24, the further consideration thereof was laid over until the next session.

There being no objection, during consideration of the Orders of the Day, the following matter was taken up for consideration: 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 making appropriations for the fiscal year 2005 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. 4601) (amended by the Senate by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2401), reports, in part, a Bill making appropriations for the fiscal year 2005 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. 4850),— came from the House, and was read.

There being no objection, the rules were suspended, on motion of Ms. Murray, and the report was considered forthwith. After remarks, the question on accepting the report, in concurrence, was determined by a call of the yeas and nays, at nineteen minutes before three o'clock P.M., on motion of Ms. Murray, as follows, to wit (yeas 38 — nays 1) [Yeas and Nays No. 585]:

#### YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 38.

**NAY.**

Lees, Brian P. — 1.

The yeas and nays having been completed at a quarter before three o'clock P.M., the report was accepted, in concurrence.

### **Orders of the Day.**

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

The House Bill relative to campaign finance (House, No. 1268, changed), — was considered; the question being on ordering the bill to a third reading.

Mr. Lees moved that the bill be laid on the table; and, in accordance with the provisions of Senate Rule 24, the consideration of the motion to lay on the table was postponed, without question, until the next session.

The Senate report of the committee on Insurance, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 912) of John Hayes, Steven A. Tolman, Susan C. Fargo, John A. Hart, Jr. and other members of the General Court for legislation to establish a choice/no-fault bodily injury system in automobile insurance,— was considered, the question being on accepting it. On motion of Mr. Tolman, the report was amended by substituting a “Bill relative to consumer choice in motor vehicle insurance” (Senate, No. 2394); and the bill was read and, under Senate Rule 26, referred to the committee on Steering and Policy.

The Senate Bill further regulating home improvement contractors (Senate, No. 2352),— was considered; and it was passed to be engrossed.

Sent to the House for concurrence.

The engrossed Bill relative to criminal offender record information checks for assisted living employees (see House, No. 4390, amended), which had been returned by His Excellency the Governor, with his objections thereto in writing (for message, see House, No. 4694) and having previously passed the House, notwithstanding said objections, — was considered.

The pending motion, previously moved by Ms. Creem, to lay the matter on the table was considered; and the matter was laid on the table.

### **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 Governor for his approbation, to wit:

Relative to certain commercial contracts of insurance (see House, No. 1700); and

Providing for filling vacancies in the office of mayor, city councilor-at-large, ward councilor and school committee member of the city of Revere (see House, No. 4681).

An engrossed Bill relative to the dissemination of criminal offender record information to the operators of camps for children (see House, No. 4610, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was considered.

Mr. Lees moved that the engrossed bill be laid on the table; and, in accordance with the provisions of Senate Rule 24, the consideration of the motion to lay on the table was postponed, without question, until the next session.

A petition (accompanied by bill, House, No. 4864) of Paul J. Donato that the Division of Capital Asset Management and Maintenance be authorized to release a restriction on a certain parcel of land in the city of Medford for the construction of a World War II monument dedicated to the memory of armed forces personnel from said city, — was referred, in concurrence, under suspension of Joint Rule 12, to the committee on State Administration.

### **Recess.**

There being no objection at four minutes past three o'clock P.M., the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair; and, at four o'clock P.M., the Senate reassembled, the President in the Chair.

### **Papers from the House.**

Emergency Preamble Adopted; Engrossed Bill Enacted.

An engrossed Bill making appropriations for the fiscal year 2005 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. 4850), 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.

Subsequently, Mr. Magnani in the Chair (having been appointed by the President under authority conferred by Senate Rule 4, to perform the duties of the Chair) the bill, which originated in the House, came from the House with the endorsement that it had been enacted in that branch.

The Senate then passed the bill to be enacted; and it was signed by the Acting President (Magnani) and laid before the Governor for his approbation.

### **Ordered Adopted.**

On motion of Mr. Havern,—

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

On motion of the same Senator, at twenty-four minutes past four o'clock P.M., the Senate adjourned to meet on the following Monday at eleven o'clock A.M.