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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, October 15, 2009.

Met according to adjournment at two o'clock P.M. (Mr. Rosenberg in the Chair).

Communication.

A communication from the Honorable Richard R. Tisei, Senate Minority Leader, announcing the appointment of Senator Scott P. Brown (pursuant to Section 1 of Chapter 60 of the Acts of 2009) to the Regionalization Advisory Commission,— **was placed on file.**

Distinguished Guests.

There being no objection, the President introduced, in the rear of the Chamber, Sean and Ellen Cruise-Vaughn, residents of Castle-Ree, County Roscommon, Ireland. They are cousins and guests of Senator Kennedy of Brockton, who have made a special trip from Ireland to attend a 100 year celebration for Senator Kennedy's mother. The Senate welcomed them with applause and they withdrew from the Chamber.

PAPERS FROM THE HOUSE.

Petitions were severally referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4276) of Christine E. Canavan, Michael D. Brady and others (with the approval of the mayor and city council) relative to establishing a moratorium of foreclosures in the city of Brockton;

Petition (accompanied by bill, House, No. 4277) of Christine E. Canavan, Geraldine Creedon and others (with the approval of the mayor and city council) relative to the protection of tenants of foreclosed property in the city of Brockton;

Petition (accompanied by bill, House, No. 4278) of Christine E. Canavan, Geraldine Creedon and others (with the approval of the mayor and city council) relative to judicial approval of foreclosures of residential mortgages in the city of Brockton;

Severally to the committee on the Judiciary.

Petition (accompanied by bill, House, No. 4279) of Cleon H. Turner and Robert A. O'Leary (by vote of the town) relative to the board of water commissioners in the town of Brewster;

To the committee on Municipalities and Regional Government.

Petition (accompanied by bill, House, No. 4280) of Timothy J. Toomey, Jr., William N. Brownsberger and others (with the approval of the city council) relative to certain members of the retirement system in the city of Cambridge;

To the committee on Public Service.

Recess.

There being no objection, at one minute past two o'clock P.M., the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair; and, at eight minutes past three 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.

Resolutions.

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

Resolutions (filed by Ms. Menard) “congratulating the Fall River Branch of the Salvation Army of Massachusetts on the occasion of its one hundred and twenty-fifth anniversary”; and

Resolutions (filed by Mr. Pacheco) “congratulating Lucy Mulready on the occasion of her one hundredth birthday”.

PAPERS FROM THE HOUSE.

Engrossed Bill.

An engrossed Bill ratifying, validating and confirming the election calendar established by the city of Peabody for elections to be held in 2009 (see House, No. 4219) (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 signed by the President and laid before the Governor for his approbation.

Engrossed Bill—Land Taking for Conservation Etc.

An engrossed Bill authorizing the town of Sandwich to exchange certain parcels of land (see Senate, No. 21, 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 a quarter past three o’clock P.M., as follows, to wit (*yeas 34 — nays 0*) [**Yeas and Nays No. 139**]:

YEAS.	
Baddour, Steven A.	Flanagan, Jennifer L.
Berry, Frederick E.	Galluccio, Anthony D.
Brewer, Stephen M.	Hart, John A., Jr.
Brown, Scott P.	Hedlund, Robert L.
Buoniconti, Stephen J.	Jehlen, Patricia D.
Candaras, Gale D.	Joyce, Brian A.
Chandler, Harriette L.	Kennedy, Thomas P.
Chang-Diaz, Sonia	Knapik, Michael R.
Creem, Cynthia Stone	Montigny, Mark C.
Donnelly, Kenneth J.	Moore, Michael O.
Downing, Benjamin B.	Moore, Richard T.
Fargo, Susan C.	Murray, Therese
Pacheco, Marc R.	Timilty, James E.
Petrucelli, Anthony.	Tisei, Richard R.
Rosenberg, Stanley	Tolman, Steven A.

C.	
Spilka, Karen E.	Tucker, Susan C.
Tarr, Bruce E.	Walsh, Marian — 34.
NAYS— 0.	
ABSENT OR NOT VOTING.	
Eldridge, James B.	Morrissey, Michael W.
McGee, Thomas M.	O’Leary, Robert A.
Menard, Joan M.	Panagiotakos, Steven C. — 6.

The yeas and nays having been completed at twenty minutes past three 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.

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

Relative to the appointment of a certain civil service class as firefighters in the city of Boston (Senate, No. 2032);
Relative to the charter of the town of Orleans (House, No. 4086); and
Authorizing the city of Methuen to lease a building to the Head Start Program of the Greater Lawrence Community Action Council (House, No. 4261);

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

The Senate Bill establishing a sick leave bank for Terry Howard, an employee of the Department of Public Health (Senate, No. 2131, amended),— **was read a third time and passed to be engrossed.**
Sent to the House for concurrence.

The House Bill authorizing the town of Winchester to issue 5 licenses for the sale of all alcoholic beverages to be drunk on the premises for restaurants containing 70 or more seats (House, No. 4259),— **was read a second time.**

Pending the question on ordering the bill to a third reading, Ms. Jehlen moved that the bill be amended by striking out section 1 and inserting in place thereof the following section:—

“SECTION 1. Notwithstanding sections 11 and 17 of chapter 138 of the General Laws, the licensing authority of the town of Winchester may grant not more than 5 licenses for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138 to restaurants having a seating capacity of not less than 70 persons. The licenses shall be subject to all of said chapter 138, except said section 17.”

The amendment was adopted.

The bill, as amended, was then ordered to a third reading. There being no objection, the rules were suspended, on motion of Ms. Jehlen, and the bill was read a third time and passed to be engrossed, in concurrence, with the amendment, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act authorizing the town of Winthrop to grant 5 licenses for the sale of all alcoholic beverage to be drunk on the premises of certain restaurants”.

Sent to the House for concurrence in the amendment.

The Senate Bill relative to kayaks (Senate, No. 974),— **was read a third time.**

After debate, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at eighteen minutes before four o’clock P.M., on motion of Mr. Hedlund, as follows, to wit (*yeas 29 — nays 4*) [**Yeas and Nays No. 140**]:

YEAS.	
Baddour, Steven A.	Joyce, Brian A.
Berry, Frederick E.	Kennedy, Thomas P.
Brewer, Stephen M.	Montigny, Mark C.
Buoniconti,	Moore, Michael O.

Stephen J.	
Candaras, Gale D.	Moore, Richard T.
Chandler, Harriette L.	Pacheco, Marc R.
Chang-Diaz, Sonia	Petrucelli, Anthony
Creem, Cynthia Stone	Rosenberg, Stanley C.
Donnelly, Kenneth J.	Spilka, Karen E.
Downing, Benjamin B.	Tarr, Bruce E.
Fargo, Susan C.	Timilty, James E.
Flanagan, Jennifer L.	Tolman, Steven A.
Galluccio, Anthony D.	Tucker, Susan C.
Hart, John A., Jr.	Walsh, Marian — 29.
Jehlen, Patricia D.	
NAYS.	
Brown, Scott P.	Knapik, Michael R.
Hedlund, Robert L.	Tisei, Richard R. — 4.
ABSENT OR NOT VOTING.	
Eldridge, James B.	Morrissey, Michael W.
McGee, Thomas M.	O’Leary, Robert A.
Menard, Joan M.	Panagiotakos, Steven C. — 6.

**Mr. Hart in the Chair, the yeas and nays having been completed at fourteen minutes before four o’clock P.M., the bill was passed to be engrossed.
Sent to the House for concurrence.**

The Senate Bill authorizing an exchange of certain parcels of land for Martha’s Vineyard Hospital (Senate, No. 2146) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time.**
Pending the question on passing the bill to be engrossed, on motion of Mr. Tisei, the further consideration thereof was postponed until the next session.

The House Bill relative to clean energy (House, No. 4253),— **was read a third time.**
Pending the question on passing the bill to be engrossed, on motion of Mr. Tarr, the further consideration thereof was postponed until Tuesday, October 20.

The Senate Bill updating the animal control laws of Massachusetts (Senate, No. 406),— **was considered, the main question being on ordering the bill to a third reading.**
The pending motion, previously moved by Mr. Tisei, to lay the matter on the table was considered; and it was negatived.
The pending amendment previously moved by Ms. Jehlen and Messrs. Montigny and Rosenberg substituting a new draft entitled “An Act further regulating animal control” (Senate, No. 2172),— was considered.
Mr. Tisei moved that the pending amendment (Jehlen et al) be amended in section 9, by striking the section in its entirety and inserting in place thereof the following section:—

“Section 9. Said chapter 140 is hereby further amended by striking out section 139, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:— Section 139. (a) The fee for every license shall, except as otherwise provided, be determined by a city or town but such fee shall be not more than \$3 for a spayed or neutered dog and shall not exceed \$6 for an intact dog.

(b) If a certificate of a registered veterinarian who spayed or neutered a dog has been shown to a city or town clerk, the license fee shall be lower than that of an intact animal. If the city or town clerk is satisfied that the certificate of the veterinarian who spayed or neutered the dog cannot be obtained, the clerk may instead accept a receipt of a bill from the veterinarian who performed the operation, a statement signed under the penalties of perjury by a veterinarian registered and practicing in the commonwealth describing the dog and stating that the veterinarian has examined the dog, which appears to have been spayed or neutered and thereby deprived of the power of propagation.

(c) No fee shall be charged for a license issued pursuant to this section: (i) for a service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder; or (ii) for a dog owned by a person aged 70 years or older. A license fee or part thereof shall not be refunded because of the subsequent death, loss, spaying or removal from the commonwealth or other disposal of the dog, nor shall a license fee or part thereof paid by mistake be paid or recovered back after it has been paid over to a city or town under section 147.”

The President in the Chair, after debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-four minutes before five o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 6 — nays 27*) [**Yeas and Nays No. 141**]:

YEAS.	
Brown, Scott P.	Tarr, Bruce E.
Hedlund, Robert L.	Timilty, James E.
Knapik, Michael R.	Tisei, Richard R. — 6.
NAYS.	
Baddour, Steven A.	Jehlen, Patricia D.
Berry, Frederick E.	Joyce, Brian A.
Brewer, Stephen M.	Kennedy, Thomas P.
Buoniconti, Stephen J.	Montigny, Mark C.
Candaras, Gale D.	Moore, Michael O.
Chandler, Harriette L.	Moore, Richard T.
Chang-Diaz, Sonia	Pacheco, Marc R.
Creem, Cynthia Stone	Petrucelli, Anthony
Donnelly, Kenneth J.	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Tolman, Steven A.
Flanagan, Jennifer L.	Tucker, Susan C.
Galluccio, Anthony D.	Walsh, Marian — 27.
Hart, John A., Jr.	
ABSENT OR NOT VOTING.	

Eldridge, James B.	Morrissey, Michael W.
McGee, Thomas M.	O’Leary, Robert A.
Menard, Joan M.	Panagiotakos, Steven C. — 6.

Mr. Rosenberg in the Chair, the yeas and nays having been completed at twenty minutes before five o’clock P.M., the amendment was rejected.

After further remarks, Mr. Knapik moved that the matter 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.

Order Adopted.

On motion of Ms. Walsh,—

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.

Moment of Silence.

At the request of the Chair (Mr. Rosenberg), the members, guests and employees stood in a moment of silence and reflection to the memory of George J. Buttrick of Hingham.

Adjournment in Memory of George J. Buttrick.

The Senator from Plymouth and Norfolk, Mr. Hedlund, requested that when the Senate adjourns today, it adjourn in memory of George J. Buttrick of Hingham.

George Buttrick proudly served our country in the U.S. Army Air Corps, 14th Airforce, 22nd Squadron during World War II. His service during World War II earned Mr. Buttrick a Purple Heart and Distinguished Flying Cross. Mr. Buttrick was also active in local and state political affairs serving on the Hingham Light Board. Mr. Buttrick leaves behind a cousin, Steve Buttrick of Weymouth.

Accordingly, as a mark of respect to the memory of George J. Buttrick, at twelve minutes before five o’clock P.M., on motion of Mr. Tisei, the Senate adjourned to meet again on Monday next at eleven o’clock A.M.