

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.



JOURNAL OF THE SENATE.

Tuesday, January 24, 2012

Met according to adjournment at one o'clock P.M.

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

Communication.

The President filed the following communication:

OFFICE OF THE PRESIDENT
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON, MA 02133-1007

January 24, 2012

William F. Welch
Office of the Senate Clerk
State House, Room 335
Boston, MA 02133

Dear Mr. Clerk:

After a vote of the caucus of the majority party in the Senate, we have nominated and elected the following members for the mentioned positions and committees as listed below.

Senator John Hart – Assistant Majority Leader. Member, Senate Committee on Ethics & Rules. Member, Senate Committee on Steering & Policy.

Senator Harriette Chandler – Majority Whip.

Senator Karen Spilka – Assistant Majority Whip.

Senator Gale Candaras – Chair, Joint Committee on Economic Development & Emerging Technologies. Member, Joint Committee on Transportation (replacing Senator Spilka), Member – Senate Committee on Global Warming (replacing Senator Spilka).

Senator Katherine Clark – Chair, Joint Committee on Revenue.

Senator William Brownsberger – Chair, Joint Committee on Public Service. Member, Joint Committee on Environment (replacing Sen. Creem), Member, Joint Committee on Municipalities (replacing Sen. Candaras).

Senator James Timilty – Member, Senate Committee on Ways & Means (replacing Sen. Spilka).

Senator Michael Rodrigues – Member, Joint Committee on Revenue (replacing Sen. Spilka).

Sincerely yours,
THERESE MURRAY,
President of the Senate.

Petitions.

Petitions were severally presented and referred, as follows, to wit:

By Mr. Knapik, a petition (subject to Joint Rule 12) of Michael R. Knapik and Donald Humason for legislation to establish the 104th fighter wing fire department; and

By Mr. Petrucci, a petition (subject to Joint Rule 12) of Anthony Petrucci for legislation relative to catering as a production expense;

Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

PAPER FROM THE HOUSE

A Bill relative to kayak safety (House, No. 664,-- on petition),-- was read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

Resolutions.

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

Resolutions (filed by Ms. Spilka, Ms. Murray, Mr. Brewer, Ms. Candaras, Ms. Chandler, Ms. Chang-Díaz, Ms. Clark, Ms. Creem, Mr. DiDomenico, Ms. Donoghue, Mr. Downing, Ms. Fargo, Ms. Flanagan, Mr. Hart, Ms. Jehlen, Messrs. Joyce, Keenan, Montigny, Michael O. Moore, Richard T. Moore, Ross, Rush, Tarr, Timilty and Wolf) "commending the American Heart Association on its celebration of February 2012 as American Heart Month."

Communication.

The Clerk read the following communication:

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

January 23, 2012

Mr. William F. Welch
Clerk of the Senate
State House, Room 335
Boston, MA 02133

Dear Mr. Clerk:

During formal session on Thursday, January 19, 2012, I was absent from the Chamber due to a commitment in my district. As a result, I was not recorded on several roll calls. Had I been present, I would have voted in the following manner:

S2108, Amendment #1, Ruling of the Chair – Yes (RC #140)
S2108, Amendment #12 – No (RC #141)
S2108, Amendment #15 – Yes (RC #142)
S2108, Supplemental Budget Engrossment – Yes (RC #143)

I respectfully request that a copy of this correspondence be printed in the Journal of the Senate at your earliest convenience. Thank you in advance for your assistance in the matter.

Sincerely,
EILEEN M. DONOGHUE,
State Senator
First Middlesex District.

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

Order Adopted.

On motion of Mr. Hart,--

Ordered, That a committee of the Senate be appointed to wait upon His Excellency the Governor, Deval L. Patrick, His Honor Timothy J. Murray, Lieutenant-Governor, Constitutional officers and the Honorable Council and inform them that the Senate is in session and awaits their presence for the swearing in of William N. Brownsberger as Senator from the Second Suffolk and Middlesex District.

Senators Michael O. Moore, Candaras, Timilty and Ross were appointed to the committee.

Subsequently, Ms. Candaras, for the committee, reported, that His Excellency the Governor, Deval L. Patrick, Constitutional officers and members of the Executive Council would immediately attend upon the Senate.

The committee was discharged.

Subsequently, Deval L. Patrick, the Governor, Timothy P. Murray, the Lieutenant-Governor, Steven Grossman, Treasurer and Receiver-General, Suzanne M. Bump, Auditor of the Commonwealth, and members of the Executive Council entered the Senate Chamber under the escort of the Sergeant-at-Arms.

The President recognized several dignitaries in attendance, including officials from the various cities and towns in the Second Suffolk and Middlesex District.

The Honorable William N. Brownsberger, at twelve minutes past one o'clock P.M., before the Governor and Council, did take and subscribe the oath of office as State Senator from the Second Suffolk and Middlesex District.

Remarks of Senator William N. Brownsberger.

Thank you Governor
Madame President
Constitutional Officers
Members of the Governor's Council
Colleagues
Distinguished guests, family and friends.

I really appreciate you all being here.

Madame President, I very much appreciate the gracious and generous welcome that you and your staff and my new colleagues have given me and I'm very much looking forward to working with all of you.

Now sworn, I am the lowest creature on the totem pole in this chamber and I am a little embarrassed to be the center of attention. And I know we have a lot of work to do together.

But I'm going to ask your indulgence to let me talk a little about my family and friends.

Sometimes, I get asked: What kind of name is Brownsberger? The answer is: It's an American name. We all have American names and that's the point.

But in my case there is a little more to say -- there is no other place that our family thinks of as home.

My people came over on different boats from different places through the 17th and 18th centuries and, by the middle of the 19th century, both sides of the family had fought their way to Ohio.

My parents grew up with people who grew up knowing people who had taken the union side in the civil war. The stories of those days -- when we struggled to figure out whether we would live up to the ideals of our Declaration of Independence -- still had a lot of emotional valence.

The men who wore blue
The patriotic women who defied confederate marauders
Abolitionist ministers

My father's great Uncle Wesley was a union scout who was captured and survived imprisonment at Andersonville in Georgia, where half of the prisoners died of malnutrition, exposure or disease. He survived to become a County Sheriff and a minor Ohio politician. He lived long enough to be a politician with a German surname who was militantly anti-German during the run up to World War I.

My mother's family ran a station on the underground railroad and the family included several preachers who served as battlefield chaplains in the union army.

By the turn of the century, people on my father's side had made it out the Oregon trail to the west coast.

My father's mother, Claire Nordyke, grew up in a farm in Napa Valley but became the first woman to take the medical boards in California. She and her husband, Sydney, also a physician, served their Seventh Day Adventist faith as medical missionaries in India, where my father was born.

He followed in their footsteps, as a physician, helping people one at a time. After serving in post-war Korea, he trained in psychiatry. He was the kind of psychiatrist who gave his home phone number to all of his patients. I remember a lot of evenings seeing my father sitting next to the radiator in the kitchen with the wall phone pressed to his ear. By example, he taught me to care for people -- to listen patiently, to try to understand each person's truth and need, to take people one at a time.

My mother's father was a minor person of letters who authored a pocket version of Webster's dictionary that sold well for several decades.

My mother is also a person of letters. She translated the works of several distinguished modern Russian authors. Among them were some soviet dissidents and the struggle for freedom in the Soviet Union was part of the conversation in our house in the 70s and 80s.

She also taught me to be involved in the community. I remember that my first political effort was handing out leaflets for Dolores Mitchell's school committee campaigns in Watertown. I believe that there were three of them. She is now the universally respected director of the Group Insurance Commission.

My mother's sister Mary was a mathematician, not a common path for a woman in the 50s and 60s. She blended mathematics with letters working as a software documentation specialist.

Her husband John Wirkkala was a staff person in this very body.

John and Mary are retired now in New Hampshire and are active in politics there -- local politics and Democratic presidential politics.

My Aunt Elizabeth, my mother's youngest sister, was a leader in the nuclear freeze movement and ran a Congressional campaign for George Bachrach, who held the Second Suffolk and Middlesex state senate seat many years before me. She now runs the Nashua River Watershed Association, living in Lunenburg. Her husband, Michael Imerso is a writer and historian of the Italian-American community that he grew up in in Newark.

My marriage is the closest thing you will find in this time and place to an arranged marriage. My wife's father was also a psychiatrist and he was best man in my parents' wedding.

It worked out well. We have three daughters. My eldest, Rae, is a civil engineer in San Francisco. My middle daughter, Carly, is in college and the one that is most interested in politics and policy, particularly in public health. My youngest daughter, Louise, aspires to run her own theater company someday and is working hard to learn all aspects of that business.

My wife, Carolyn, is a high school teacher. She gets up early, spends the day on her feet, comes home, grades papers for a few hours, goes to bed and then gets up and does it again the next day. The weekends aren't much different.

She isn't usually hands-on in my campaigns, but she tolerates and supports my politics. And she's a good sounding board who keeps me down to earth.

Louise is the only one home with us. We live in a two-family house off Trapelo Road in Belmont -- my folks are downstairs and we are upstairs. It's a nice arrangement.

My first job out of college was for the Massachusetts Taxpayers Foundation. In one of those small world twists, Mike Widmer, now the President of MTF, is my almost next door neighbor. It has been a great privilege to collaborate with him in service to the town of Belmont. He was chair of our finance committee while I was chair of the Board of Selectmen and we did a lot together to put the town on a firmer financial footing. He now serves as moderator for the Town Meeting. His wife, Jeanne, has helped me think about message in all of my campaigns.

After law School, I spent 8 years on Wall Street, mostly building software. Those years taught me a lot about how business organizations have to keep changing and improving to survive. Our duty in the public sector is to keep changing and improving in the same way.

I came back to Boston as an Assistant Attorney General under Scott Harshbarger. I developed an interest in drug policy and sentencing policy. Phil Heymann at Harvard Law School, Mark Moore at the Kennedy School and David Rosenbloom at Boston University gave me a series of great opportunities to contribute to the national conversation about poverty and substance abuse as a teacher, researcher, and consultant. They are great people. Phil's wife Ann has been a great worker in my campaigns as has

Mark's wife, Martha, with whom I sing in the choir at church. David's wife, Alice Richmond, was the first woman to try murder cases in Suffolk county

Ultimately, I got to the point where I felt I really wanted to talk with people with addictions, not about them, and I began working in drug courts. That experience changed a lot of my thinking. I also found that standing next to people in trouble at their time of the greatest need was deeply rewarding. I focused on a criminal defense practice for five years until being elected as State Representative.

Going back, I started in politics as a local activist on school issues. We had a little group of parents trying to assure school quality. Jeanne Mooney organized that group.

One of the School Committee members who came to talk to our group said to us: If you people really want to do anything, one of you needs to run for the Board of Selectmen, because "they are the problem."

It wasn't long afterwards that I got a call from Anne Paulsen inviting me to consider running for Selectman in 1998. She was the leader of the progressives in Belmont. At that time, she was state representative but she had served nine years on the school committee and had been the first woman to serve on Belmont's Board of Selectman. That was actually a tough role to step into. Her aide then was Barbara Miranda. She and Barbara guided me in my first tentative steps as a candidate. Barbara also served as my aide when I got to the House and she now will serve as my chief of staff. I think you will all find that she is a wonderful person to work with. Anne broadened my perspective beyond education issues to consider the needs of the whole town and she and her husband Fred and I continue to work closely on environmental issues.

Jeanne Mooney, who brought that parents' group together, ran my first campaign in 1998. She also ran what was probably my toughest campaign in 2001. Throughout that campaign I was in denial about worsening symptoms from what turned out to be a near-fatal brain tumor, diagnosed weeks after the end of the campaign and removed in successful emergency surgery. That was a tough time that Jean helped me get through.

Paul Solomon is a dear friend. He changed my life in 2002 by getting himself elected to the Board of Selectman and making me chair. Together we were able to streamline town operations, to clarify Belmont's long term financial situation, to make necessary investments for the future. Elizabeth Grob ran his watershed campaign. In 2006, she ran my first campaign for state representative.

Gretchen McClain got me reelected in 2004 -- a tough year in which I was running on the same ballot as a tax increase which I supported.

Kate Foster did a great job for me in this Senate campaign. It was a field campaign and she's a field person. She comes with a whole team -- her sister, Kris, and her parents, Marty Foster and Pat Connolly. I am grateful to all of them for their great efforts in the sprint we had over the past few months.

The gallery and the floor are filled with people who have been very helpful to me and my campaigns, some for years and some who have come to me recently as I have expanded into new territory. I hope to be able to continue to meet their expectations as an advocate for transparency, fiscal responsibility, environmental responsibility and social inclusion through education.

It has been a privilege to represent Cambridge and I've made a lot of friends there. Pat Casola has long been the tenant leader in the Fresh Pond Apartments. City Councilors Minka vanBeuzekom and Leland Cheung are here.

I am now delighted to represent Watertown and Boston -- Mel and Tina Poindexter know a lot about what is going on and have been helping me get oriented. Councilor Susan Falkoff from Watertown is an old family friend.

I want to recognize some of my House colleagues who are here: Lori Ehrlich has somehow turned up at every table I've sat down in the House of Representatives. We just share a lot of interests. It's been great working with her and I look forward continuing to work with her.

Byron Rushing and Gloria Fox have been seatmates on the House Floor. I appreciate their leadership on the three-strikes issue and very much look forward to working with them to serve the Boston neighborhoods that we share.

Marty Walz has been a close collaborator with me on the issue of online learning technology and is doing a lot to help me get to know the issues in Back Bay.

Kevin Honan, who has previously been recognized in this chamber as one of the best-liked people in the building, is liked not only because he is a very nice guy but because he has a very crisp understanding of a great many issues and is very willing to help when asked. I'm also very much looking forward to working with him.

There are other colleagues here who I am not seeing, please forgive me.

So, to my friends and family here, thank you for everything. To my colleagues, thank you for your patience and I'm looking forward to working with you.

On motion of Mr. Baddour, the above remarks were ordered printed in the Journal of the Senate.

His Excellency the Governor, Deval L. Patrick, the Lieutenant Governor, the Constitutional officers, and the members of the Executive Council then withdrew from the Chamber under the escort of the Sergeant-at-Arms.

Seat Assignments.

The President announced the assignment of Senator William N. Brownsberger to seat number 19 on the President's Left, where he was escorted by Senators Hart and Chandler.

The President also announced several new seat assignments for the following members:

John A. Hart, Jr. to seat number 2 on the President's Left;
Harriette L. Chandler to seat number 3 on the President's Left;
Karen E. Spilka to seat number 6 on the President's Left; and
Katherine E. Clark to seat number 12 on the President's Left.

Communication.

The Clerk read the following communication from the Secretary of the Commonwealth, to wit:

THE COMMONWEALTH OF MASSACHUSETTS
SECRETARY OF THE COMMONWEALTH
STATE HOUSE, BOSTON, MASSACHUSETTS 02133

January 24, 2012

To the Honorable Senate:

I have the honor to lay before you the returns of votes cast at the special election held in this Commonwealth on the tenth day of January, for Senator in the General Court, 2nd Suffolk and Middlesex District, together with schedules showing the number of ballots which appear to have been cast for each person voted for.

These returns have been duly canvassed by the Governor and Council, and are now transmitted for examination by the Senate, as required by the Constitution.

Very truly yours,
WILLIAM FRANCIS GALVIN
Secretary of the Commonwealth

FOR STATE SENATOR IN THE GENERAL COURT
2ND SUFFOLK AND MIDDLESEX SENATORIAL DISTRICT
(to fill vacancy)

William N. Brownsberger of Belmont (Democrat) has 4,579 votes
All others 299 votes
Blanks.....101 votes
Total Votes Cast 4,979 votes

On motion of Ms. Flanagan,--

Ordered, That the return of votes for Senator to fill a vacancy in the Second Suffolk and Middlesex District be referred to a special committee to consist of three members.

Senators Chandler, Donoghue, Jehlen and Knapik were appointed the committee.

Subsequently, Ms. Chandler, for the committee, reported, that from an examination of the returns, it appears that the Honorable William N. Brownsberger of Belmont has been duly elected to said district.

The report was read and accepted.

The committee was then discharged.

Matters Taken Out of the Orders of the Day.

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

The House Bill authorizing the town of Natick to grant certain licenses for the sale of wines and malt beverages to be drunk on the premises (House, No. 3725, amended),-- **was read a third time.**

Pending the question on passing the bill to be engrossed, in concurrence, Ms. Spilka and Mr. Ross moved that the bill be amended by striking out section 1 and inserting in place thereof the following section:-

“Section 1. Notwithstanding section 11 of chapter 138 of the General Laws or any other general or special law to the contrary, the town of Natick may grant to restaurants with seating capacities of not less than 15 persons licenses for the sale of wines and malt beverages to be drunk on the premises; provided, however, that not more than 17 licenses for the sale of wine and malt beverages shall be in effect at any 1 time, including licenses issued pursuant to chapter 19 of the acts of 2002. The licenses shall be subject to all of said chapter 138, except said section 11.”

The amendment was adopted.

The bill, as amended, was then passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

The House Bill exempting the position of fire chief in the city of Haverhill from the civil service law (House, No. 3486),-- **was read a third time and passed to be engrossed, in concurrence.**

PAPERS FROM THE HOUSE

A petition (accompanied by bill, House, No. 3894) of Brian S. Dempsey for legislation to establish a sick leave bank for Catherine Blais, an employee of the Trial Court,-- **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on the Judiciary.**

Engrossed Bill.

An engrossed Bill relative to the city clerk of the city of Revere (see House, No. 3656) (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.

Order Adopted.

On motion of Ms. Chandler,--

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

Adjournment in Honor of the Liberation of Auschwitz-Birkenau

The Senator from Middlesex and Norfolk, Ms. Creem, moved that when the Senate adjourns today, it adjourn in honor of the January 27, 1945 liberation of Auschwitz-Birkenau, the largest Nazi death camp.

In 2005, the United Nations General Assembly designated January 27 as International Holocaust Remembrance Day (IHRD), an annual day of commemoration to honor the victims of the Nazi era. The U.N.'s International Holocaust Remembrance Day resolution rejects denial of the Holocaust, and condemns discrimination and violence based on religion or ethnicity.

Accordingly, as a mark of respect to the memory of the liberation of Auschwitz-Birkenau, at sixteen minutes before two o'clock P.M., on motion of Mr. Berry, the Senate adjourned to meet again on Thursday next at eleven o'clock A.M.