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## UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



### JOURNAL OF THE SENATE.

Thursday, January 12, 2012

Met at fourteen minutes past one o'clock P.M. (Mr. Brewer in the Chair).

#### *Distinguished Guests.*

There being no objection, the President introduced, in the rear of the Chamber, the Bourne High School Football Team. They were recognized for winning their first Super Bowl title last month and becoming the Division 3A Champions. The team was accompanied by Coach John McIntyre, Principal Amy Cetner, Assistant Principal Jordan Geist and the assistant coaching staff. The Senate welcomed them with applause and they withdrew from the Chamber.

#### *Communication.*

A communication from the American St. Regis Men's Council, on behalf of all American St. Regis Indians announcing the formation and adoption of the Constitution of the Original American St. Regis Indian Republic of the Americas and their choice to exercise exclusive, inalienable human and sovereign rights (received in the Office of the Clerk of the Senate on Thursday, June 12, 2012 at twenty-three minutes before twelve o'clock noon),-- **was placed on file.**

#### *Petitions.*

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

By Mr. Rosenberg, a petition (accompanied by bill, Senate, No. 2106) of Stanley C. Rosenberg (with the approval of the mayor and city council) for legislation relative to the charter of the city of Northampton [Local approval received.];

**Referred, under Senate Rule 20, to the committee on Municipalities and Regional Government.  
Sent to the House for concurrence.**

By Mr. McGee (by request), a petition (subject to Joint Rule 12) of Mrs. Donna Whalen and the fifth grade class at the Brickett Elementary School for legislation relative to vehicle idling; and

By Mr. Michael O. Moore, a petition (subject to Joint Rule 12) of Michael O. Moore, Harriette L. Chandler, John J. Binienda and James J. O'Day for legislation designating World Voice Week;

**Severally referred, under Senate Rule 20, to the committees on Rule of the two branches.**

#### **PAPER FROM THE HOUSE**

A petition (accompanied by bill, House, No. 3819) of Aaron Michlewitz (with the approval of the mayor and city council) relative to decennial division of wards and precincts in the city of Boston,-- **was referred, in concurrence, to the committee on Election Laws.**

*Recess.*

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

The President, members, guests and staff 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 Mr. Montigny) "congratulating the Honorable Barney Frank on his keynote speech to the city of New Bedford's 2012 Reverend Doctor Martin Luther King, Junior, Program"; and

Resolutions (filed by Mr. Tarr) "congratulating Chief Edward Nolan on the occasion of his retirement from the North Reading Police Department."

**PAPERS FROM THE HOUSE**

*Engrossed Bill – Amended.*

An engrossed Bill authorizing the town of Becket to continue the employment of the Chief of Police, William Elovirta (see House, No. 3509) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,-- **was laid before the Senate.**

**On motion of Mr. Downing, Senate Rule 49 was suspended.**

**Mr. Downing then moved that the bill be amended by striking out the emergency preamble.**

**The amendment was adopted.**

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

*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 President and laid before the Governor for his approbation, to wit:

Authorizing the town of Peru to establish a fire station construction fund (see Senate, No. 1878);

Authorizing the town of Foxborough to establish an age limit for original appointment to the position of police officer (see Senate, No. 1887);

Relative to the granting of a club license for the sale of all alcoholic beverages to be drunk on the premises in the town of Lincoln (see House, No. 3533);

Further regulating the selectman-town manager form of government in the town of Foxborough (see House, No. 3649); and

Further defining a scenic byway in the towns of Arlington, Lexington, Lincoln and Concord (see House, No. 3712, amended).

*Order.*

Ms. Flanagan offered the following order, to wit:

*Ordered*, That a convention of the two branches be held at a half past six o'clock P.M., on Monday, January 23, 2012, for the purpose of receiving such communication as the Governor, Deval L. Patrick may be pleased to make to them relating to the concerns of the Commonwealth.

**There being no objection, the rules were suspended, on motion of Ms. Chandler, and the order was adopted.**

**Sent to the House for concurrence.**

*Report of a Committee.*

Mr. Berry, for the committee on Ethics and Rules, reported that the following matter be placed in the Orders of the Day for the next session:

The House Bill relative to enhancing the practice of nurse midwives (House, No. 3815).

**There being no objection, the rules were suspended, on motion of Mr. Richard T. Moore, and the bill was read a second time, ordered to a third reading and read a third time, its title having been changed by the committee on Bills in the Third Reading, to read as follows: "An Act relative to enhancing the practice of nurse-midwives".**

**Pending the question on passing the bill to be engrossed, in concurrence, on motion of Mr. Tarr, the further consideration thereof was postponed until Thursday, January 19.**

*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 a ballot question in the town of Arlington relative to the granting of licenses for the sale of wines and malt beverages to be drunk on the premises in certain theaters (House, No. 3647) (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, in concurrence, Mr. Donnelly moved that the bill be amended striking out section 2 and inserting in place thereof the following section:-**

“Section 2. If a majority of votes cast in answer to the question is in the affirmative, the town of Arlington shall be taken to have authorized the granting of licenses for the sale of wines and malt beverages to be drunk on the premises in privately operated enclosed entertainment facilities with minimum seating capacities of 100 that are used primarily for the presentation of motion pictures or dramatic, comedic or musical performances. Licenses granted under this act shall be subject to all other provisions 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.**

*Orders of the Day.*

The Orders of the Day were considered, as follows:

The Senate Bill to establish employment leave and safety remedies to victims of domestic violence, stalking and sexual assault (Senate, No. 918, amended),-- **was read a third time.**

**After debate, and pending the question on passing the bill to be engrossed, Ms. Creem moved that the bill be amended in Section 1, by adding the following subsection:-**

“(7) This section shall not be construed to exempt an employer from complying with chapter 258B, section 14B of chapter 268 or any other general or special law or to limit the rights of any employee under said chapter 258B, said section 14B of chapter 268 or any other general or special law.”

After remarks, the amendment was adopted.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at twenty-four minutes past two o'clock P.M., on motion of Ms. Creem, as follows, to wit (*34 yeas – 0 nays*) [**Yeas and Nays No. 139**]:

**YEAS**

Baddour, Steven A.	Kennedy, Thomas P.
Brewer, Stephen M.	Knapik, Michael R.
Candaras, Gale D.	McGee, Thomas M.
Chandler, Harriette L.	Montigny, Mark C.
Chang-Diaz, Sonia	Moore, Michael O.
Clark, Katherine M.	Moore, Richard T.
Creem, Cynthia Stone	Murray, Therese
DiDomenico, Sal N.	Pacheco, Marc R.
Donoghue, Eileen M.	Petrucelli, Anthony
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B	Ross, Richard J.
Fargo, Susan C.	Rush, Michael F.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Jehlen, Patricia D.	Timilty, James E
Joyce, Brian A.	Welch, James T.
Keenan, John F.	Wolf, Daniel A. — <b>34.</b>

**NAYS —0.**

**ANSWERED “PRESENT”.**

Hedlund, Robert L.

— 1.

**ABSENT OR NOT VOTING**

Berry, Frederick E. Donnelly, Kenneth J.

Hart, John A., Jr. Rosenberg, Stanley C. —  
4.

**The yeas and nays having been completed at twenty-eight minutes past two o'clock P.M., the bill was passed to be engrossed.**

**Sent to the House for concurrence.**

**PAPER FROM THE HOUSE**

*Emergency Preamble Adopted.*

An engrossed Bill relative to the election of the Freetown Lakeville Regional School District committee members (see Senate, No. 2095), 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 19 to 0. The bill was signed by the President and sent to the House for enactment.**

*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 Senate Bill relative to certain affordable housing in the city of Taunton (Senate, No. 2062),-- **was read a third time.** Pending the question on passing the bill to be engrossed, Messrs. Tarr, Hedlund, Knapik and Ross moved to amend the bill in section 1, by striking out, in lines 5 and 6, the words “, but subject to sections 26 to 27H, inclusive, of chapter 149 of the General Laws,” and inserting in place thereof the following words:- “; provided, however, that any municipality may choose to accept the exemptions provided for in this bill for any federally funded HOPE VI project or project with similar procurement requirements, making any such construction and development activity exempt from any general or special law related to the procurement and award of contracts for the construction, reconstruction, installation, demolition, maintenance or repair of buildings, streets or other infrastructure by a public agency, but shall be subject to sections 26 to 27H, inclusive, of chapter 149 of the General Laws; and provided further that such exemption shall not extend beyond 2 years after acceptance of the exemptions as provided in this act by the municipality”.

**After remarks, Mr. Pacheco rose to a point of order, which, being stated, was that the amendment was beyond the scope of the bill.**

**The Chair ruled that the point of order was WELL taken. Even though a local bill may be amended in certain instances, the above amendment would have transformed the bill from a local bill to a general bill.**

**The amendment was laid aside.**

**After further remarks, the bill was passed to be engrossed.**

**Sent to the House for concurrence.**

**PAPER FROM THE HOUSE**

An engrossed Bill relative to the election of the Freetown Lakeville Regional School District committee members (see Senate, No. 2095) (which originated in the Senate), 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 Mr. Brewer,--

*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 Ms. Chandler, at six minutes before three o'clock P.M., the Senate adjourned to meet again on Tuesday next at eleven o'clock A.M.