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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, June 28, 2012.

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

Distinguished Guests.

There being no objection, the President introduced, in the rear of the Chamber, the family of Staff Sergeant Matthew A. Pucino. Staff Sergeant Pucino was a decorated war hero who was killed in action in Afghanistan. The Legislature recognized his valor and efforts by naming bridges in Bourne as the Staff Sergeant Matthew A. Pucino Bridge. The Senate welcomed them with applause and they withdrew from the Chamber. They were accompanied by Representatives DeMacedo and Hunt.

Reports of a Committee.

By Mr. Welch, for the committee on Municipalities and Regional Government, on Senate, Nos. 1005 and 2285, an Order relative to authorizing the joint committee on Municipalities and Regional Government to make an investigation and study of certain current Senate documents relative to municipalities and local government issues (Senate, No. 2330); and

By Mr. Donnelly, for the committee on State Administration and Regulatory Oversight, on Senate, No. 2053, an Order relative to authorizing the joint committee on State Administration and Regulatory Oversight to make an investigation and study of a certain current Senate document relative to state administration and regulatory oversight (Senate, No. 2331);

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

By Mr. Welch, for the committee on Municipalities and Regional Government, on petition, a Bill regulating the use of second hand motor vehicle licenses in the city of Everett (Senate, No. 2276) [Local approval received];

By the same Senator, for the same committee, on petition, a Bill to revise and restate the charter of the city of Westfield (Senate, No. 2288) [Local approval received];

By the same Senator, for the same committee, on petition, a Bill relative to the Redevelopment Authority in the town of Wilmington (Senate, No. 2289) [Local approval received]; and

By the same Senator, for the same committee, on petition, a Bill amending the charter of the town of Plymouth (Senate, No. 2295) [Local approval received];

Severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

There being no objection at one minute past one o'clock P.M., the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair; and, at three 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. Richard T. Moore) “congratulating the Milford High School Scarlet Hawks Softball Team on winning the Division I State Championship”;

Resolutions (filed by Mr. Pacheco) “congratulating Captain William J. Hollman, United States Navy, on his retirement as Reserve Component Chief of Staff, United States Third Fleet”;

Resolutions (filed by Messrs. Rush and Brewer, Ms. Chandler, Ms. Clark, Messrs. Donnelly and Eldridge, Ms. Fargo and Messrs. Hedlund, Knapik, Michael O. Moore, Richard T. Moore, Pacheco, Rosenberg and Tarr) “memorializing the Congress of the United States to pass legislation recognizing the veterans remembered flag as a national symbol of service”;

Resolutions (filed by Ms. Spilka) “honoring the memory of Allen Robert Loane on the dedication of the Allen Robert Loane Square in the town of Natick”; and

Resolutions (filed by Mr. Tarr) “honoring the life and legacy of former United States Marine and City of Boston Police Officer Paul H. Ryan.”

PAPER FROM THE HOUSE

Committee of Conference Report.

A report of the committee of conference of the disagreeing votes of the two branches, with reference to the Senate amendments to the House Bill making appropriations for the fiscal year 2013 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. 4101) (amended by the Senate by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2275), reported, in part, the accompanying bill (House, No. 4219) -- **came from the House, and was read.**

The rules were suspended, on motion of Mr. Brewer, and the report was accepted, in concurrence.

Emergency Preamble Adopted.

An engrossed Bill providing for dementia-specific training for certain employees of long-term care facilities (see House, No. 3947, amended), 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 9 to 0. The bill was signed by the President and sent to the House for enactment.**

Report of Committees.

By Ms. Spilka, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Eileen M. Donoghue and Colleen M. Garry for legislation to establish a sick leave bank for June Graham, an employee of the Department of Public Health.

Senate Rule 36 was suspended, on motion of Mr. Hart, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the House for concurrence.

Order Adopted.

Mr. Welch offered the following order:

Ordered, That notwithstanding the provisions of Joint Rule 10, the joint committee on Municipalities and Regional Government be granted until Tuesday July 31, 2012 to make its final report on current Senate document numbered 1927 relative to municipalities and local government issues.

Under Joint Rule 29, referred to the committees on Rules of the two branches, acting concurrently.

Subsequently, Ms. Spilka, for the said committees, reported, recommending that the order ought to be adopted.

The rules were suspended, on motion of Mr. Welch, the order was considered forthwith and adopted.

Sent to the House for concurrence.

PAPER FROM THE HOUSE

Engrossed Bill.

An engrossed Bill validating the actions taken at a certain town election held in the town of Rowe (see House Bill, printed in House, No. 4194) (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, two-thirds of the members present having voted in the affirmative, and signed by the President and laid before the Governor for his approbation.

Matter Taken Out of the Notice Section.

The House Bill relative to Hamilton Development Corporation (House, No. 3710),-- was read a second time and was amended, on motion of Mr. Tarr, in section 17, by striking out the first 2 sentences and inserting in place thereof the following 2 sentences:- "Notwithstanding any general or special law to the contrary, the town, acting through the board of selectmen, may lease, for a term not to exceed 60 years, any improved or unimproved land owned by the town within the development zone. The terms and conditions of the lease shall be determined by the board of selectmen in consultation with the town manager; provided, however, those terms and conditions shall be for public purposes consistent with this act."

The bill, as amended, was then ordered to a third reading.

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a third time and passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

Reports of a Committee.

By Mr. Brewer, for the committee on Ways and Means, that the House Bill establishing a sick bank for Michael Regan, an employee of the Massachusetts Department of Transportation (House, No. 4005),-- **ought to pass.**

There being no objection, the rules were suspended, on motion of Mr. McGee, and the bill was read 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 establishing a sick leave bank for Michael Regan, an employee of the Massachusetts Department of Transportation".

By Mr. Brewer, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Mr. Clifton Watson, an employee of the Registry of Motor Vehicles (House, No. 4159),-- ought to pass, with an amendment by striking out, in lines 3, 5, 9 and 10, each time they appear, the words "of motor vehicles"; by striking out, in line 5, the word "Watson's" and inserting in place thereof the following word:- "Watson"; and by striking out the title and inserting in place thereof the following title:- "An Act establishing a sick leave bank for Clifton Watson, an employee of the Registry of Motor Vehicles."

There being no objection, the rules were suspended, on motion of Mr. Welch, and the bill was read second time and was amended, as recommended by the committee on Ways and Means.

The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

PAPER FROM THE HOUSE.

The Senate further regulating the probate code and establishing a trust code (Senate, No. 2128, amended,-- **came from the House passed to be engrossed, in concurrence with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in House documents numbered 4223."**

The rules were suspended, on motion of Ms. Creem, the House amendment was considered forthwith and adopted, in concurrence.

Orders of the Day.

The Orders of the Day were considered as follows:

Resolutions [offered by Mr. Eldridge et al] memorializing the Congress of the United States to pass and send to the states for ratification a Constitutional amendment to restore the First Amendment and fair elections to the people,-- **was considered, the main question being on adoption.**

After remarks, and pending the question on adoption of the resolutions, Messrs. Tarr, Hedlund, Knapik and Ross moved that the resolutions be amended by striking the text in its entirety and inserting in place thereof the following:-

WHEREAS, THE FIRST AMENDMENT OF THE CONSTITUTION PROVIDES THAT "CONGRESS SHALL MAKE NO LAW . . . ABRIDGING THE FREEDOM OF SPEECH"; AND

WHEREAS, THE UNITED STATES SUPREME COURT RECOGNIZED IN MONITOR PATRIOT COMPANY V. ROY THAT THE CONSTITUTIONAL GUARANTEE OF FREEDOM OF SPEECH HAS "ITS FULLEST AND MOST URGENT APPLICATION" IN THE CONTEXT OF POLITICAL EXPRESSION AND IN THE CONDUCT OF CAMPAIGNS FOR POLITICAL OFFICE; AND

WHEREAS, THE UNITED STATES SUPREME COURT FURTHER INSTRUCTED IN NAACP V. ALABAMA THAT THE FREE SPEECH RIGHTS OF THE FIRST AMENDMENT ARE "UNDENIABLY ENHANCED BY GROUP ASSOCIATION" AND IN BUCKLEY V. VALEO THAT FREE SPEECH RIGHTS ARE PROTECTED FROM UNDUE RESTRICTIONS ON MONEY SPENT ON POLITICAL COMMUNICATIONS; AND

WHEREAS, IN DEFERENCE TO THE IMPORTANCE OF THE UNFETTERED EXCHANGE OF POLITICAL IDEAS, THE SUPREME COURT HAS APPLIED THE STRICTEST OF SCRUTINY TO STATUTES ATTEMPTING TO LIMIT THE POLITICAL EXPRESSIONS OF CORPORATIONS AND UNIONS; AND

WHEREAS, THE UNITED STATES SUPREME COURT'S RULING IN CITIZENS UNITED V. THE FEDERAL ELECTIONS COMMISSION OVERTURNED RESTRICTIONS PROHIBITING CORPORATIONS AND UNIONS FROM SPENDING THEIR GENERAL TREASURY FUNDS IN ELECTIONS; AND

WHEREAS, THE DISPARATE ABILITY OF LARGE ORGANIZATIONS SUCH AS CORPORATIONS AND UNIONS TO SPEND MONEY MAY DILUTE THE INFLUENCE OF INDIVIDUAL CITIZENS IN THE DEMOCRATIC PROCESS; NOW THEREFORE BE IT

RESOLVED, THAT THE MASSACHUSETTS SENATE HEREBY MEMORIALIZES THE 112TH CONGRESS OF THE UNITED STATES TO ENSURE VOTERS HAVE AN OPPORTUNITY, INCLUDED BUT NOT LIMITED TO VOTING TO RATIFY A CONSTITUTIONAL AMENDMENT, THAT GUARANTEES FULL AND FAIR PARTICIPATION IN THE ELECTORAL PROCESS AND THE ABILITY TO MAKE INFORMED DECISIONS WITHOUT UNDUE INFLUENCE FROM ANY ONE GROUP OR SPECIAL INTEREST; AND BE IT FURTHER

RESOLVED, THAT A COPY OF THESE RESOLUTIONS BE TRANSMITTED FORTHWITH BY THE CLERK OF THE SENATE TO THE PRESIDENT OF THE UNITED STATES, TO THE PRESIDING OFFICER OF EACH BRANCH OF CONGRESS AND TO THE MEMBERS THEREOF FROM THE COMMONWEALTH OF MASSACHUSETTS.

Pending the question on adoption of the amendment, Mr. Tarr moved that the amendment be printed in the calendar pursuant to the provisions of Senate Rule 31; and the motion was seconded by Mr. Knapik.

Accordingly, the matter was laid over under the provisions of Senate Rule 31 until the next session

PAPERS FROM THE HOUSE

Engrossed Bill.

An engrossed Bill designating certain bridges in the town of Bourne as the Staff Sergeant Matthew A. Pucino Bridges (see Senate, No. 2218) (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.

Committee of Conference Report.

A report of the committee of conference of the disagreeing votes of the two branches, with reference to the Senate amendments to the House making appropriations for the fiscal year 2013 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. 4101) (amended by the Senate by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2275, reported, in part, the accompanying bill (House, No. 4200) - - came from the House, and was read.

The rules were suspended, on motion of Mr. Brewer, and the report was considered forthwith.

Mr. Hart in the Chair, after remarks, the question on acceptance of the report of the committee of conference was determined by a call of the yeas and nays, at one minute past four o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 38 -- nays 0) [Yeas and Nays No. 237]

YEAS

Brewer, Stephen M. Keenan, John F.

Brownsberger, William N. Kennedy, Thomas P.

Candaras, Gale D. Knapik, Michael R.

Chandler, Harriette L. McGee, Thomas M.

Chang-Diaz, Sonia Montigny, Mark C.

Clark, Katherine M. Moore, Michael O.

Creem, Cynthia Stone Moore, Richard T.

DiDomenico, Sal N. Murray, Therese

Donnelly, Kenneth J. Pacheco, Marc R.

Donoghue, Eileen M. Petrucci, Anthony

Downing, Benjamin B. Rodrigues, Michael J.

Eldridge, James B. Rosenberg, Stanley C.

Fargo, Susan C. Ross, Richard J.

Finegold, Barry R. Rush, Michael F.

Flanagan, Jennifer L. Spilka, Karen E.

Hart, John A., Jr. Tarr, Bruce E.

Hedlund, Robert L. Timilty, James E.

Jehlen, Patricia D. Welch, James T.

Joyce, Brian A. Wolf, Daniel A. — 38.

NAYS — 0.

ABSENT OR NOT VOTING

Berry, Frederick E. —1.

The yeas and nays having been completed at four minutes after four o'clock P.M., the report was accepted, in concurrence.

Engrossed Bill.

An engrossed Bill providing for dementia-specific training for certain employees of long-term care facilities (see House, No. 3947, amended) (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 Acting President (Mr. Hart) (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. Emergency Preamble Adopted.

An engrossed Bill further regulating the probate code and establishing a trust code (see Senate, No. 2128, amended), 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 11 to 0.

The bill was signed by the Acting President (Mr. Hart) and sent to the House for enactment.

Engrossed Bill — Land Taking for Conservation, Etc.— State Loan.

An engrossed Bill establishing the social innovation financing trust fund and authorizing the lease of the Henderson Boat House (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 put upon its final passage; and, this being a bill providing for the taking of land and other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution; and, this being a bill that provided for the borrowing of money, in accordance with the provisions of Section 3 of Article LXII of the Amendments to the Constitution, after remarks, the question on passing it to be enacted was determined by a call of the yeas and nays, at ten minutes past four o'clock P.M., as follows, to wit (yeas 37 — nays 0) [Yeas and Nays No. 238]:

YEAS

Brewer, Stephen M. Keenan, John F.
Brownsberger, William N. Kennedy, Thomas P.
Candaras, Gale D. Knapik, Michael R.
Chandler, Harriette L. McGee, Thomas M.
Chang-Diaz, Sonia Montigny, Mark C.
Clark, Katherine M. Moore, Michael O.
Creem, Cynthia Stone Moore, Richard T.
DiDomenico, Sal N. Pacheco, Marc R.
Donnelly, Kenneth J. Petrucci, Anthony
Donoghue, Eileen M. Rodrigues, Michael J.
Downing, Benjamin B. Rosenberg, Stanley C.
Eldridge, James B. Ross, Richard J.
Fargo, Susan C. Rush, Michael F.
Finegold, Barry R. Spilka, Karen E.
Flanagan, Jennifer L. Tarr, Bruce E.
Hart, John A., Jr. Timilty, James E.
Hedlund, Robert L. Welch, James T.
Jehlen, Patricia D. Wolf, Daniel A. — 37.

Joyce, Brian A.

NAYS — 0.

ABSENT OR NOT VOTING

Berry, Frederick E. —1.

The yeas and nays having been completed at thirteen minutes past four 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 Acting President (Mr. Hart) and laid before the Governor for his approbation.

Engrossed Bill.

An engrossed Bill further regulating the probate code and establishing a trust code (see Senate, No. 2128, amended) (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 Acting President (Mr. Hart) and laid before the Governor for his approbation.

Emergency Preamble Adopted; Engrossed Bill Enacted.

An engrossed Bill making appropriations for the fiscal year 2013 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. 4200), 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 5 to 0.

The bill was signed by the Acting President (Mr. Hart) and sent to the House for enactment.

Subsequently, 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 (Mr. Hart) and laid before the Governor for his approbation.

Order Adopted.

On motion of Mr. Tarr,--

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 a calendar.

Adjournment in Memory of Edward J. Noonan, Sr.

The Senator from Middlesex and Norfolk, Ms. Spilka, moved that when the Senate adjourns today, it adjourn in memory of Edward J. Noonan, Sr.

Edward J. Noonan, Sr., age 76, a longtime resident of Framingham, died peacefully, Tuesday, June 26, 2012 at his home in Framingham. He was the husband of 51 years to Judith E. (Brestel) Noonan of Framingham.

Mr. Noonan served in the U.S. Army as a Corporal during the Korean War. He was a graduate of Ohio University class of 1960 and Northeastern University where he received his M.B.A. Mr. Noonan owned Ed Noonan Associates in Framingham where he was a manufacturers' representative. He also served as a Framingham Town Meeting Member for 14 years, was a member of the Capital Budget Committee for 7 years and served as the Town Moderator for 8 years. He was very involved in Boy Scouts serving in many capacities when his sons were active in Troop 12, Framingham. He loved spending time with his family and cherished his 11 grandchildren.

Besides his wife Judith, he is survived by three children, Edward J. Noonan, Jr. and his wife Christine of Bangor, Maine, Karen Venuto and her husband James of Poughkeepsie, New York and David Noonan and his wife Cheli Mennella of Colrain, Massachusetts; and his grandchildren, Allison Noonan, Emily, Stephanie, Mark, David, Jackie and Chelsea Venuto, Ivy, Cedar and Bodhi Noonan. He is also survived by his siblings, Roger and Christine. He was the grandfather of the late Clark Noonan and son of the late Gladys Phillips Schatz.

Accordingly, as a mark of respect to the memory of Edward J. Noonan, Sr., at twenty-nine minutes past four o'clock P.M., on motion of Mr. Tarr, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.