

JOURNAL OF THE HOUSE.

Thursday, January 14, 2010.

Met according to adjournment, at eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Prayer. God, Our Creator, the Ultimate Source of Goodness and Truth, we take this moment to turn our attention and thoughts to You and to spiritual realities. We believe that Your gift of knowledge enables us to understand issues more clearly and Your gift of wisdom to make right and ethical decisions. On Monday, a national holiday, we observe and celebrate Dr. Martin Luther King, Jr. Day. As a nation, we take the time to reflect on the courage, determination and the accomplishments of Dr. King, a clergyman, religious leader and a champion of the civil, human and religious rights of each individual in our society. As a religious leader, he believed that we are created by God and in His image. His dedication to just and moral causes continues to have a profound beneficial and lasting effect on our society and our communities.

Grant your blessings to the Speaker, the members and employees of this House and their families.

Pledge of allegiance. At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Silent Prayers.

Ruth Linsky. The Speaker being in the Chair, the members, guests and employees then stood in a moment of silent tribute to the memory of Ruth Linsky. Mrs. Linsky, the mother of Representative Linsky of Natick, passed away earlier today.

Haiti—earthquake victims. The members, guests and employees then stood in a moment of silent tribute to the memory of the thousands of victims of Tuesday's earthquake in Haiti.

Statement Concerning Representative Coakley-Rivera of Springfield.

A statement of Mr. Mariano of Quincy concerning Ms. Coakley-Rivera of Springfield was spread upon the records of the House, as follows:

Statement concerning Ms. Coakley-Rivera of Springfield. MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Coakley-Rivera of Springfield will not be present in the House Chamber for today's sitting due to a previously scheduled furlough day. Her missing of roll calls today will be due entirely to the reason stated.

Statement Concerning Representative Evangelidis of Holden.

A statement of Mr. Jones of North Reading concerning Mr. Evangelidis of Holden was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Evangelidis of Holden, is unable to be present in the House Chamber for today's sitting due to a previously scheduled commitment. His missing of roll calls today will be due entirely to the reason stated.

Statement concerning Mr. Evangelidis of Holden.

Statement Concerning Representative Humason of Westfield.

A statement of Mr. Jones of North Reading concerning Mr. Evangelidis of Holden was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Humason of Westfield, is unable to be present in the House Chamber for today's sitting due to a previously scheduled out-of-town commitment. His missing of roll calls today will be due entirely to the reason stated.

Statement concerning Mr. Humason of Westfield.

Statement Concerning Representative Kulik of Worthington.

A statement of Mr. Mariano of Quincy concerning Mr. Kulik of Worthington was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Kulik of Worthington, is unable to be present in the House Chamber for today's sitting because he is attending a legislative conference outside of the Commonwealth sponsored by SARL (State Agricultural and Rural Leaders). His missing of roll calls today will be due entirely to the reason stated.

Statement concerning Mr. Kulik of Worthington.

Statement Concerning Representative Perry of Sandwich.

A statement of Mr. Jones of North Reading concerning Mr. Perry of Sandwich was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Perry of Sandwich, is unable to be present in the House Chamber for today's sitting due to a previously scheduled out-of-town commitment. His missing of roll calls today will be due entirely to the reason stated.

Statement concerning Mr. Perry of Sandwich.

Statement Concerning Representative Linsky of Natick.

A statement of Mr. Mariano of Quincy concerning Mr. Linsky of Natick was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Linsky of Natick, is unable to be present in the House Chamber for today's sitting due to the death of his mother. His missing of roll calls today will be due entirely to the reason stated.

Statement concerning Mr. Linsky of Natick.

Statement Concerning Representative Scibak of South Hadley.

A statement of Mr. Mariano of Quincy concerning Mr. Scibak of South Hadley was spread upon the records of the House, as follows:

Statement concerning Mr. Scibak of South Hadley.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Scibak of South Hadley, is unable to be present in the House Chamber for today's sitting due to a long-standing family commitment. His missing of roll calls today will be due entirely to the reason stated.

Statement Concerning Representative Wallace of Boston.

A statement of Mr. Mariano of Quincy concerning Mr. Wallace of Boston was spread upon the records of the House, as follows:

Statement concerning Mr. Wallace of Boston.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Wallace of Boston, is unable to be present in the House Chamber for today's sitting due to illness. His missing of roll calls today will be due entirely to the reason stated.

Annual Report.

Retirees,—cost-of-living adjustment.

The annual report of the Public Employee Retirement Administration Commission (under sections 21, 102 and 103 of Chapter 32 of the General Laws) relative to the percentum change in the average cost-of-living as shown by the United States consumer price index for the year 2009 compared with such index for the year 2008 (House, No. 4427), was referred to the committee on Public Service. Sent to the Senate for concurrence.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Tyler Conrad.

Resolutions (filed by Mrs. Haddad of Somerset) congratulating Tyler Conrad on receiving the Eagle Award of the Boy Scouts of America;

Justin Pavao.

Resolutions (filed by Mrs. Haddad of Somerset) congratulating Justin Pavao on receiving the Eagle Award of the Boy Scouts of America;

Matthew St. George.

Resolutions (filed by Mrs. Haddad of Somerset) congratulating Matthew St. George on receiving the Eagle Award of the Boy Scouts of America;

Maria O'Toole.

Resolutions (filed by Mr. Keenan of Salem) congratulating Maria O'Toole on the occasion of her thirtieth year of employment with the Commonwealth;

Jay Berner.

Resolutions (filed by Mr. Naughton of Clinton) recognizing Colonel Jay Berner's dedication as Commander of the Third Legal Support Organization;

Alan J. MacKinnon.

Resolutions (filed by Representatives Rush of Boston, Provost of Somerville and Sanchez of Boston) honoring Alan J. MacKinnon for his inspirational act of charity in support of the family of Surendra Dangol;

A. Thomas DeMaio.

Resolutions (filed by Mr. Smizik of Brookline) congratulating A. Thomas DeMaio on the occasion of his retirement; and

Janet Garon.

Resolutions (filed by Mr. Smola of Palmer) honoring Janet Garon on the occasion of her retirement;

Mr. Binienda of Worcester, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Michlewitz of Boston, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

Mr. Rice of Gardner presented a petition (subject to Joint Rule 12) of Robert L. Rice, Jr., Steven M. Walsh and others relative to recreation officers within the Department of Correction; and the same was referred, under rule 24, to the committee on the Judiciary.

Department of Correction,—recreation officers.

Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. McMurtry of Dedham, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on the Judiciary. Sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

By Mr. Brownsberger of Belmont, a petition (subject to Joint Rule 12) of William N. Brownsberger, Kay Khan, and others for legislation to establish a repower emergency task force for the purpose of implementing changes for the reduction of carbon emissions in the Commonwealth.

Carbon emissions.

By Mr. Donato of Medford, a petition (subject to Joint Rule 12) of Paul J. Donato for legislation to grant veteran status to Kevin P. Shea of the city of Medford for certain service in the armed forces.

Kevin Shea,—veteran status.

By Mr. Evangelidis of Holden, a petition (subject to Joint Rule 12) of Lewis Evangelidis, Jennifer L. Flanagan and others for legislation to further regulate the sentencing of persons found "guilty except insane" of murder in the courts of the Commonwealth.

Murder,—insanity.

Mr. Falzone of Saugus, a petition (subject to Joint Rule 12) of Mark V. Falzone for legislation to authorize the Department of Revenue to grant certain sick leave credit to Gail Sarno as an employee of the Department of the Attorney-General.

Gail Sarno,—sick leave.

Mr. Flynn of Bridgewater and Senator Pacheco, a joint petition (subject to Joint Rule 12) of David L. Flynn and Marc R. Pacheco that the Teachers' Retirement Board be directed to grant certain retirement credit to Robert W. Otto for time served in the armed forces.

Robert W. Otto,—creditable service.

By Fresolo of Worcester, a petition (subject to Joint Rule 12) of John P. Fresolo that sewerage treatment operators of the Department of Correction be placed in Group 4 of the public employees retirement law.

Public employees,—Group 4.

By Mr. Kane of Holyoke, a petition (subject to Joint Rule 12) of Michael F. Kane that certain persons involved in embalming or funeral directing be authorized to be employed as supervisors of cemeteries or crematories.

Embalmers, etc.

Industrial hemp production,—licensing.

By Mrs. Richardson of Framingham (by request), a petition (subject to Joint Rule 12) of Jim Pillsbury for legislation to require the licensing by the Department of Agriculture of persons or businesses engaged in the production of industrial hemp.

Contractors,—payroll records.

By Mr. Walsh of Boston, a petition (subject to Joint Rule 12) of Martin J. Walsh for legislation to require contractors on public works projects to submit weekly payroll records to contracting agencies.

Seat belts.

By Mr. Webster of Pembroke (by request), a petition (subject to Joint Rule 12) of Brian D. Crawford for legislation to authorize certain passengers in motor vehicles to ride without seat belts.

Severally referred, under Rule 24, to the committee on Rules.

Papers from the Senate.

Correctional employees,—assaults.

A Bill to punish assault and battery by means of a bodily substance upon correctional facility employees (Senate, No. 997, amended in line 17 by striking out the figure "5" and inserting in place thereof the figures "2½") (on a petition), passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Boston,—driver texting.

A petition (accompanied by bill, Senate, No. 2246) of Anthony W. Petrucelli (with the approval of the mayor and city council) for legislation to ban texting while driving in the city of Boston, was referred, in concurrence, to the committee on Transportation.

Petitions were referred, in concurrence, under suspension of Joint Rule 12, as follows:

Disabled,—foreclosures.

Petition (accompanied by bill, Senate, No. 2250) of Samantha Hemmingsen for legislation relative to long-term disability and foreclosure prevention. To the committee on the Judiciary.

Recreational vehicles,—excise taxes.

Petition (accompanied by bill, Senate, No. 2248) of Michael W. Morrissey for legislation to establish a study commission relative to payment of fair and reasonable excise taxes on recreational vessels; and

Seniors,—circuit breaker tax credit.

Petition (accompanied by bill, Senate, No. 2249) of Michael W. Morrissey and Kevin Coughlin for legislation relative to the senior circuit breaker tax credit. Severally to the committee on Revenue.

Reports of Committees.

Brockton,—dumping.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the House Bill prohibiting certain dumping in the city of Brockton (House, No. 4190) be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Pedone of Worcester, the bill was read a second time forthwith; and it was ordered to a third reading.

Boston,—ammunition.

By Mr. Donato of Medford, for the committee on Municipalities and Regional Government, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 4059) of Martin J. Walsh and others (with the approval of the mayor and city council) relative to the possession of armor piercing ammunition

the city of Boston,— and recommending that the same be referred to the committee on the Judiciary.

Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence.

By Mr. Keenan of Salem, for the committee on Tourism, Arts and Cultural Development, on a petition, a Resolve to further extend the time within which the special commission established to investigate, study and designate 1,000 great places in the Commonwealth shall file its final report (House, No. 4424). Read; and referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

One thousand great places,—study.

By Mr. Moran of Boston, for the committee on Election Laws, on a petition, a Bill relative to the date town officials assume office in the town of Wayland (House, No. 4256).

Wayland,—town officials.

By Mr. O'Flaherty of Chelsea, for the committee on the Judiciary, on a petition, a Bill relative to the estate of homestead (House, No. 1591).

Homestead.

By the same member, for the same committee, on a petition, a Bill relative to juror service (House, No. 1631).

Juror service.

By the same member, for the same committee, on a petition, a Bill to improve juror service (House, No. 1633)

Id.

By the same member, for the same committee, on a petition, a Bill relative to assault and battery on health care providers (House, No. 1696)

Health providers.

By the same member, for the same committee, on a petition, a Bill establishing a sick leave bank for Tree Borden, an employee of the Norfolk district attorney's office (House, No. 4400).

Tree Borden,—sick leave.

By the same member, for the same committee, on House, No. 1300, a Bill making gun law violations subject to dangerousness hearing determinations (House, No. 4428).

Gun laws,—hearings.

By Mr. Donato of Medford, for the committee on Municipalities and Regional Government, on a petition, a Bill amending Chapter 7 of the Acts of 2007 relative to the town of Belmont other post employment benefit trust fund (House, No. 4223).

Belmont,—benefits.

By the same member, for the same committee, on a petition, a Bill amending the requirements regarding the method of determination of the allocation of the number of town meeting members among precincts in the town of Shrewsbury (House, No. 4305).

Shrewsbury,—town meeting.

By the same member, for the same committee, on a petition, a Bill authorizing the town of Norwood to acquire the Norwood Post VFW #2452 building for the ability to lease it to veterans' organizations (House, No. 4383).

Norwood,—VFW Post 2452.

By the same member, for the same committee, on a petition, a Bill to provide the voters of the town of Bridgewater a choice of charters for new forms of government (House, No. 4413)

Bridgewater,—town charters.

By Mr. Spellane of Worcester, for the committee on Public Service, on a petition, a Bill establishing a sick leave bank for Janet Ochner, an employee of the Department of Developmental Services (House, No. 4402).

Janet Ochner,—sick leave.

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Engrossed Bill.

Bill enacted.

The engrossed Bill increasing the membership on the Williamstown Board of Library Trustees (see House, No. 1921) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Recesses.

Recesses.

At a quarter after eleven o'clock A.M., on motion of Mr. Peterson of Grafton (Mr. Donato of Medford being in the Chair), the House recess until the hour of two o'clock P.M.; and at ten minutes after two o'clock the House was called to order with Mr. Donato in the Chair.

The House thereupon took a further recess, on motion of Mr. deMacedo of Plymouth, until half past two o'clock; and at that time the House was called to order with Mr. Donato in the Chair.

The House thereupon took a further recess, on motion of Mr. Peterson of Grafton, subject to the call of the Chair; and at twenty-five minutes after four o'clock the House was called to order with Mr. Petrolati of Ludlow the Chair.

Matter Discharged from the Orders of the Day.

The House Bill relative to unpaid municipal fines (House, No. 3588), reported by the committee on Bills in the Third Reading to be correctly drawn, was discharged from its position in the Orders of the Day and read a third time, under suspension of Rule 47, on motion of Mr. Pedone of Worcester.

After remarks on the question on passing the bill to be engrossed, Mr. Smith of Everett moved to amend it after line 36 by inserting the following paragraph:

"Section 8A. A municipal officer charged with enforcement of this section shall make a good faith attempt to locate the violator of this provision prior to issuing a violation or fine."

The amendment was adopted.

After remarks on the question on passing the bill, as amended, to be engrossed (the Speaker being in the Chair), the sense of the House was taken by yeas and nays at the request of Mr. Michelwitz of Boston; and on the roll call (Mr. Petrolati of Ludlow being in the Chair) 143 members voted in the affirmative and 1 in the negative.

[See Ye and Nay No. 279 in Supplement.]

Therefore the bill (House, No. 3588, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Engrossed Bill — Land Taking.

Boston,— lease land.

The Speaker being in the Chair,—
The engrossed Bill relative to the leasing of certain parcels of land in the city of Boston (see House, No. 4356, amended) (which originated in the House), which had been returned to the House by the Governor with recommendation of amendment, having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be re-enacted, the sense of the House was taken by yeas and nays (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); and on the roll call 144 members voted in the affirmative and 0 in the negative.

[See Ye and Nay No. 280 in Supplement.]

Therefore the bill was passed to be re-enacted, in its amended form; and it was signed by the acting Speaker and sent to the Senate.

The House Bill authorizing the city of Gardner to convey certain park land (see House, No. 612, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (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); and on the roll call 144 members voted in the affirmative and 0 in the negative.

[See Ye and Nay No. 281 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Papers from the Senate.

A report of the committee of conference on the disagreeing votes of the two branches, with reference to the House amendments (striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4423, and striking out the title and inserting in place thereof the following title: "An Act relative to the achievement gap.") of the Senate Bill relative to education reform (Senate, No. 2216, amended), recommending passage of a Bill relative to the achievement gap (Senate, No. 2247), came from the Senate with the endorsement that it had been accepted by said branch.

Under suspension of the rules, on motion of Mr. Mariano of Quincy, the report was considered forthwith.

After debate on the question on acceptance of the report, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 98 members voted in the affirmative and 47 in the negative.

[See Ye and Nay No. 282 in Supplement.]

Therefore the report of the committee of conference was accepted, in concurrence.

Engrossed Bill.

The engrossed Bill relative to the achievement gap (Senate, No. 2247), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Bill re-enacted (land taking),— ye and nay No. 280.

Gardner,— convey land.

Bill enacted (land taking),— ye and nay No. 281.

Education achievement gap.

Conference committee report accepted,— ye and nay No. 282.

Education achievement gap.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LCVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 52 to 0. Sent to the Senate for concurrence.

Bill
enacted.

Subsequently (Mr. Donato of Medford being in the Chair), the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the Senate) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Order.

Next
sitting.

On motion of Mr. DeLeo of Winthrop,—
Ordered, That when the House adjourns today, it adjourn to meet on Tuesday next at eleven o'clock A.M.

Mr. Smith of Everett then moved that as a mark of respect to the memory of Sumner Gage Whittier, a member of the House from Everett in 1941 and 1942, a member of the State Senate from 1943 to 1952, inclusive, Lieutenant-Governor of the Commonwealth from 1953 to 1956, inclusive, and Administrator of Veterans' Affairs of the United States under President Dwight D. Eisenhower, the House adjourn; and the motion prevailed.

Accordingly, without proceeding to consideration of the matters in the Orders of the Day, at twenty-nine minutes after six o'clock P.M., on motion of Mrs. Poirier of North Attleborough (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following Tuesday at eleven o'clock A.M., in an Informal Session.