

JOURNAL OF THE HOUSE.

Wednesday, June 29, 2016.

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).

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.

Message from the Governor.

Blandford,—town election.

A message from His Excellency the Governor (under Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to validating the actions taken at the annual town election held in the town of Blandford (House, No. 4449), was filed this day in the office of the Clerk.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on the Election Laws. Sent to the Senate for concurrence.

Statement of Representative DiZoglio of Methuen.

A statement of Ms. DiZoglio of Methuen was spread upon the records of the House, as follows:

Statement of Ms. DiZoglio of Methuen.

MR. SPEAKER: I would like to call to the attention of the House the fact that I cannot be present in the House Chamber for the remainder of today's sitting because I will be attending the wake of my late grandfather, John DiZoglio. If I could be present for the question on passing to be engrossed the House Bill relative to the judicial enforcement of noncompetition agreements (House, No. 4434), I would vote in the affirmative. My missing of any roll calls for the remainder of today's sitting will be due entirely to the reason stated.

Statement Concerning Representative Dooley of Norfolk.

A statement of Mrs. Poirier of North Attleborough concerning Mr. Dooley of Norfolk was spread upon the records of the House, as follows:

Statement concerning Mr. Dooley of Norfolk.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Dooley of Norfolk, is unable to be present in the House Chamber for today's sitting and tomorrow's sitting because he is attending the induction ceremony of his daughter Caroline as she becomes a Midshipman at the United States Naval Academy. His missing of roll calls today and tomorrow is due entirely to the reason stated.

Statement Concerning Representative Naughton of Clinton.

A statement of Mr. Rushing of Boston concerning Mr. Naughton of Clinton 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 Naughton of Clinton, is unable to be present in the House Chamber for today's sitting and tomorrow's sitting because he is bringing his son to the United States Naval Academy to begin Plebe summer at the start of his college career there. His missing of roll calls today and tomorrow will be due entirely to the reason stated.

Statement concerning Mr. Naughton of Clinton.

Statement Concerning Representative Peisch of Wellesley.

A statement of Mrs. Haddad of Somerset concerning Ms. Peisch of Wellesley 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 Peisch of Wellesley, is unable to be present in the House Chamber for today's sitting and tomorrow's sitting due to a previously scheduled commitment connected to her duties as House Chair of the committee on Education. Her missing of roll calls today and tomorrow will be due entirely to the reason stated.

Statement concerning Ms. Peisch of Wellesley.

Statement Concerning Representative Stanley of Waltham.

A statement of Mr. Bradley of Hingham concerning Mr. Stanley of Waltham 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 Stanley of Waltham, is unable to be present in the House Chamber for today's sitting and tomorrow's sitting because of a scheduling conflict that has taken him outside of the Commonwealth. His missing of roll calls today and tomorrow will be due entirely to the reason stated.

Statement concerning Mr. Stanley of Waltham.

Guests of the House.

During the session, Mr. Markey of Dartmouth took the Chair, declared a brief recess, and introduced Pamela Gauvin-Fernandes and her twins, Jack and Abby Fernandes. Pamela was a two-time New England diving champ at the ages of eleven and twelve. She was the number one diver on the east coast and third in the country. While attending the University of New Hampshire, she was on both the swimming and diving teams. At age of 19 she was diagnosed with cystic fibrosis, a genetic disease that deteriorates the lungs. Despite here diagnosis, she continued swimming and diving. She put herself through law school and became an assistant District Attorney in Bristol County.

Pamela Gauvin-Fernandes.

On February 5, 2013 she received a lifesaving double lung transplant. Her recovery has been incredible. Last year she participated in the Transplant Games of America, where she competed in five swimming events, winning a gold medal in each event. At the age of 48 she registered the best time of any female in any age group. She was the number one swimmer at the event.

Representative Markey then presented Ms. Gauvin-Fernandes with Citations of the House commending her on her many accomplishments. She then addressed the House.

Ms. Gauvin-Fernandes and her children were the guests of Representatives Markey and Fiola of Fall River.

Resolutions.

Mr. Donato of Medford being in the Chair,—

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

Ronald LaBelle. Resolutions (filed by Messrs. Cabral of New Bedford, Koczera of New Bedford, Straus of Mattapoisett, Markey of Dartmouth and Schmid of Westport) honoring Commissioner Ronald H. LaBelle on the occasion of his retirement from the city of New Bedford;

John Czekanski. Resolutions (filed by Ms. Hogan of Stow) congratulating John Czekanski on receiving the Eagle Award of the Boy Scouts of America;

Michael Czekanski. Resolutions (filed by Ms. Hogan of Stow) congratulating Michael T. Czekanski on receiving the Eagle Award of the Boy Scouts of America; and

Julian Travis. Resolutions (filed by Ms. Hogan of Stow) congratulating Julian H. Travis on receiving the Eagle Award of the Boy Scouts of America;

Mr. Galvin of Canton, 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. Kafka of Stoughton, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

Petitions severally were presented and referred as follows:

Fairhaven,— liquor license. By Mr. Straus of Mattapoisett, a petition (accompanied by bill, House, No. 4444) of William M. Straus (by vote of the town) that the town of Fairhaven be authorized to issue an additional license for the sale of wine and malt beverages to be drunk on the premises. To the committee on Consumer Protection and Professional Licensure.

Mendon,— land. By Mr. Fernandes of Milford, a petition (accompanied by bill, House, No. 4445) of John V. Fernandes (by vote of the town) that the town of Mendon be authorized to convey a certain parcel of land in said town to John D. Gannett, Jr., and Ute D. Gannett;

Natick,— subdivision roads. By Mr. Linsky of Natick, a petition (accompanied by bill, House, No. 4446) of David Paul Linsky and Richard J. Ross (by vote of the town) relative to the procedures for municipal acceptance of subdivision roads in the town of Natick; and

Orleans,— land. By Ms. Peake of Provincetown, a petition (accompanied by bill, House, No. 4447) of Sarah K. Peake and Daniel A. Wolf (by vote of the town) relative to authorizing the town of Orleans to amend a certain conservation restriction;

Severally to the committee on Municipalities and Regional Government.

Ware,— David A. Powers. By Mr. Smola of Warren, a petition (accompanied by bill, House, No. 4448) of Todd M. Smola, Anne M. Gobi and Donald R. Berthiaume, Jr. (by vote of the town) relative to the appointment of David A. Powers to the position of fire fighter in the town of Ware, notwithstanding the maximum age requirements. To the committee on Public Service.

Severally sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

Police,— assaults. By Representative Frost of Auburn and Senator Moore, a joint petition (subject to Joint Rule 12) of Paul K. Frost, Michael O. Moore and

others relative to fines and punishment for committing assault or assault and battery on law enforcement officers while in the performance of their duties.

By Mr. Muratore of Plymouth, a petition (subject to Joint Rule 12) of Mathew J. Muratore (by vote of the town) that the commissioner of Capital Asset Management and Maintenance be authorized to grant easements over certain parcels of land at the southern end of Pilgrim Memorial State Park.

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

Papers from the Senate.

The House Bill further regulating the sale of alcoholic beverages in the city of Somerville (House, No. 4184, amended), came from the Senate 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 Senate document numbered 2379. The amendment was referred, under Rule 35, to the committee on Bills in the Third Reading.

Bills

Providing consumers with equal protection for all real estate appraisals (Senate, No. 2377) (on Senate bill No. 131); and

Relative to the licensure of insurance adjusters in the Commonwealth (Senate, No. 2378) (on Senate bill No. 494);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33, to the committee on Ways and Means.

Bills

To prevent animal suffering and death (Senate, No. 2369, amended in section 1, in line 5, by striking out the word "or" and inserting in place thereof the word "and"; in section 8, in line 55, by striking out the word "this", and also in line 55, by inserting after the following: "(b)" the following: ", and the agency or municipality that employs the officer or fire fighter", in lines 57 to 65, inclusive, by striking out the subsection contained in those lines and inserting in place thereof the following subsection:

"(e) After making reasonable efforts to locate the motor vehicle's owner, a person other than a law enforcement officer, animal control officer or fire fighter shall not enter a motor vehicle to remove an animal to protect the health and safety of that animal in immediate danger unless the person: (i) notifies law enforcement or calls 911 before entering the vehicle; (ii) determines that the motor vehicle is locked or there is no other reasonable means for exit and uses not more force than reasonably necessary to enter the motor vehicle and remove the animal; (iii) has a good faith and reasonable belief, based upon known circumstances, that entry into the vehicle is reasonably necessary to prevent imminent danger or harm to the animal; (iv) remains with the animal in a safe location in reasonable proximity to the vehicle until law enforcement or another first responder arrives." (as changed by the Senate committee on Bills in the Third Reading); and, in line 68, by striking out the word "punished" and inserting in place thereof the words "a civil infraction punishable" (on Senate, No. 878); and

Abandoned animals.

Protecting abandoned animals in vacant buildings (Senate, No. 2375, amended in section 1, in lines 8 and 12; in section 2, in line 25; in section 4, in lines 36 and 40; and section 5, in lines 55 and 59, by inserting after the word "animal", in each instance, the words "or animal remains") (on Senate bill No. 2174);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Huntington,—health insurance.

A petition (accompanied by bill, Senate, No. 2376) of Benjamin B. Downing and Stephen Kulik (by vote of the town) for legislation relative to the provision of health insurance in the town of Huntington, was referred, in concurrence, to the committee on Public Service.

Reports of Committees.

General Appropriation Bill.

Mr. Dempsey of Haverhill, for the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2305) of the House Bill making appropriations for the fiscal year 2017 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. 4201), reported, in part, a bill with the same title (House, No. 4450) [Appropriation: \$39,145,688,537.00]. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Nangle of Lowell, for said committee, then reported, that the matter be scheduled for consideration by the House; and, under said rule, it was placed in the Orders of the Day for the next sitting, the question being on acceptance.

Brewster,—Nickerson State Park.

Mr. Dempsey of Haverhill, for the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2305) of the House Bill making appropriations for the fiscal year 2017 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. 4201), reported, in part, a Bill relative to Nickerson State Park (House, No. 4451). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Nangle of Lowell, for said committee, then reported, that the matter be scheduled for consideration by the House; and, under said rule, it was placed in the Orders of the Day for the next sitting, the question being on acceptance.

Springfield,—land.

By Mr. Galvin of Canton, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the petition of José F. Tosado and Eric P. Lesser that the commissioner of Capital Asset Management and Main-

tenance be authorized to convey certain parcels of land in the city of Springfield. Under suspension of the rules, on motion of Mr. Nangle of Lowell, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on State Administration and Regulatory Oversight. Sent to the Senate for concurrence.

By Mr. Straus of Mattapoisett, for the committee on Transportation, on House, Nos. 2934, 2935, 2939, 2940, 2941, 2942, 2943, 2944, 2945, 2946, 2948, 2950, 2954, 2955, 2959, 2960, 2962, 2967, 2969, 2970, 2971, 2972, 2973, 2978, 2979, 2981, 2988, 2989, 2990, 2991, 2994, 2997, 2999, 3001, 3004, 3005, 3010, 3013, 3016, 3017, 3019, 3027, 3029, 3034, 3038, 3040, 3043, 3046, 3047, 3051, 3056, 3057, 3059, 3061, 3062, 3063, 3064, 3067, 3070, 3075, 3077, 3079, 3080, 3081, 3082, 3084, 3087, 3089, 3092, 3103, 3104, 3105, 3106, 3109, 3110, 3111, 3112, 3113, 3115, 3118, 3122, 3123, 3124, 3125, 3314 and 3706, an Order relative to authorizing the committee on Transportation to make an investigation and study of certain House documents concerning transportation issues (House, No. 4438). Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Transportation,—study.

Subsequently, Mr. Galvin of Canton, for said committees, reported asking to be discharged from further consideration of the order; and recommending that the same be referred to the House committee on Rules.

Under Rule 42, the report was considered forthwith; and it was accepted.

Subsequently, Mr. Galvin of Canton, for said committee on Rules, reported, in part, asking to be discharged from further consideration:

Of the petition (accompanied by bill, House, No. 3038) of Elizabeth A. Malia and others for legislation to establish reasonable and proper speed limits inside urban districts on public ways; and

Speed limits.

Of the petition (accompanied by bill, House, No. 3043) of Christopher M. Markey relative to the operation of motor vehicles by persons with expired drivers licenses;

Drivers,—expired licenses.

And recommending that the same severally be recommitted to the committee on Transportation.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

By Mr. Naughton of Clinton, for the committee on Public Safety and Homeland Security, on House, No. 3747, an Order relative to authorizing the committee on Public Safety and Homeland Security to make an investigation and study of a certain House document concerning public safety (House, No. 4443). Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Public Safety and Homeland Security,—study.

Subsequently, Mr. Galvin of Canton, for said committees, reported asking to be discharged from further consideration of the order; and recommending that the same be referred to the House committee on Rules.

Under Rule 42, the report was considered forthwith; and it was accepted.

Behavioral health promotion commission.

By Mr. Galvin of Canton, for the committees on Rules of the two branches, acting concurrently, asking to be discharged from further consideration of the Resolve establishing a special commission on behavioral health promotion and upstream prevention (House, No. 4128),— and recommending that the same be referred to the House committee on Rules. Under Rule 42, the report was considered forthwith; and it was accepted.

Mr. Galvin of Canton, for said committee, reported that the foregoing resolve ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Explosive bonds.

By Mr. Cabral of New Bedford, for the committee on Bonding, Capital Expenditures and State Assets, asking to be discharged from further consideration of the Bill relative to explosive bonds (House, No. 22),— and recommending that the same be referred to the committee on Financial Services. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence, inasmuch as it relates to the reference.

Effluent water review committee.

Report of the committees on Rules of the two branches, acting concurrently, that the Bill establishing an effluent water review committee (House, No. 3412) ought NOT to pass (under Joint Rule 10).

Under suspension of the rules, on motion of Ms. DuBios of Brockton, the report was considered forthwith. The House then refused to reject the bill.

Under suspension of Rule 32, on further motion of the same member, the bill was read a second time forthwith; and it was ordered to a third reading.

Dracut,— special police.

By Mr. Nangle of Lowell, for the committee on Steering, Policy and Scheduling, that the House Bill relative to special police officers in the town of Dracut (House, No. 4012) [Local Approval Received], be scheduled for consideration by the House.

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

Midwives.

By Mr. Sánchez of Boston, for the committee on Health Care Financing, that the following bills ought to pass:

Relative to certified professional midwives (House, No. 1998) [Cost: Greater than \$100,000.00];

Mitochondrial disease.

Relative to the care and treatment of patients with mitochondrial disease (House, No. 4205) [Cost: Greater than \$100,000.00]; and

Craniofacial disorders.

Relative to insurance coverage for craniofacial disorders (House, No. 4206) [Cost: Greater than \$100,000.00].

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

Pediatric plans.

By Mr. Sánchez of Boston, for the committee on Health Care Financing, that Bill relative to pediatric plans of care (House, No. 923), ought to pass. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

By Mr. Sánchez of Boston, for the committee on Health Care Financing, that Bill concerning nondiscrimination in access to organ transplantation (House, No. 4332), ought to pass with an amendment in lines 10 and 11 by striking out the following: “; or any entity responsible for matching anatomical gift donors to potential recipients”. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendment pending.

Organ transplantation.

By Mr. Sánchez of Boston, for the committee on Health Care Financing, on a petition, a Bill to remove the restrictions on the licenses of NP’s and CRNA’s as recommended by the Institute of Medicine and the Federal Trade Commission (House, No. 1996) [Cost: Greater than \$100,000.00]. Read; and referred, under Rule 33, to the committee on Ways and Means.

Nursing,— licenses.

By Mr. Nangle of Lowell, for the committee on Steering, Policy and Scheduling, that the following House bills be scheduled for consideration by the House:

To amend Section 3, Chapter 111M of the General Laws relative to Massachusetts residents living in a foreign country and health insurance penalties (House, No. 1037);

Health insurance.

Relative to the protection of persons with disabilities (House, No. 1549);

Disabled.

Relative to prescription eye drops (House, No. 4195);

Eye drops.

Relative to a certain road in the city of Boston (House, No. 4268);

Boston road.

Establishing a sick leave bank for Robin Waine, an employee of the Department of Transportation (House, No. 4325);

Robin Waine.

Relative to the Hampshire Regional Council of Governments (House, No. 4328);

Hampshire Council.

Exempting certain positions in the city of Marlborough from the Civil Service Law (House, No. 4337) [Local Approval Received];

Marlborough.

Relative to the disability retirement of Jared MacDonald, a police officer in the town of Bourne (House, No. 4359) [Local Approval Received]; and

Jared MacDonald.

Authorizing the town of Westborough to grant additional licenses for the sale of all alcoholic beverages to be drunk on the premises (House, No. 4418) [Local Approval Received];

Westborough,— liquor licenses.

Severally placed in the Orders of the Day for the next sitting for a second reading.

Engrossed Bills.

Engrossed bills

Authorizing the town of Lincoln to grant a license for the sale of alcoholic beverages to be drunk on the premises (see House, No. 3711, amended); and

Bills enacted.

Authorizing the town of Montague to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (see House, No. 3783, amended);

(Which severally originated in House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Recess.

Recess. At nine minutes after eleven o'clock A.M., on motion of Mrs. Poirier of North Attleborough (Mr. Donato of Medford being in the Chair), the House recessed until one o'clock P.M.; and at twenty-one minutes after one o'clock the House was called to order with Mr. Donato in the Chair.

Engrossed Bill — Land Taking.

Falmouth,— land. The engrossed Bill authorizing the town of Falmouth to convey certain land to the West Falmouth Library, Inc. (see House, No. 3976, 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.

Bill enacted (land taking),— yea and nay No. 287. 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 153 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 287 in Supplement.]

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

Motions to Discharge Certain Matters in the Orders of the Day.

Noncompetition agreements. The House Bill relative to the judicial enforcement of noncompetition agreements (House, No. 4434), report 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 forthwith, under suspension of Rule 47, on motion of Mr. Scibak of South Hadley.

After remarks on passing the bill to be engrossed, Mr. Speliotis of Danvers moved to amend it in section 2, in line 29, by striking out the words "in violation of" and inserting in place thereof the words "described in"; and the amendment was adopted.

Mrs. Haddad of Somerset being in the Chair,—

After remarks on the question on passing the bill, as amended, to be engrossed, Messrs. Livingstone of Boston and Gordon of Bedford moved to amend it in section 3, in lines 217 to 221, inclusive, by striking out the subsection contained in those lines and inserting in place thereof the following subsection:

"(f) All civil actions relating to employee noncompetition agreements subject to this section shall be brought in the county where the employee resides or, if mutually agreed upon by the employer and employee, in Suffolk County; provided that, in any such action brought in Suffolk County, the superior court or the business litigation session of the superior court shall have exclusive jurisdiction."

The amendment was adopted.

Bill passed to be engrossed,— yea and nay No. 288. After debate on the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays at the request of the Mr. Scibak of South Hadley; and on the roll call 150 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 288 in Supplement.]

[Representative Whipps Lee of Athol answered "Present" in response to her name.]

Therefore the bill was passed to be engrossed. The bill (House, No. 4434, amended) then was sent to the Senate for concurrence.

The House Bill relative to in-house cafes (House, No. 220), 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 forthwith, under suspension of Rule 47, on motion of Mr. Lawn of Watertown.

In-house cafes,— alcoholic beverages.

Pending the question on passing the bill to be engrossed, Mr. Speliotis of Danvers moved to amend it by substitution of a bill with the same title (House, No. 4452), which was read.

The amendment was adopted; and the substituted bill was passed to be engrossed. Sent to the Senate for concurrence.

Order.

On motion of Mr. DeLeo of Winthrop,—

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

Next sitting.

Accordingly, without proceeding to the matters in the Orders of the Day, at twenty-six minutes after four o'clock P.M., on motion of Mr. Hill of Ipswich (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following day at eleven o'clock A.M.