

Thursday, September 17, 2009.

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).

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. Pledge of allegiance.

*Statement Concerning Representative Kaufman of Lexington.*

A statement of Mr. Vallee of Franklin concerning Mr. Kaufman of Lexington 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, Mr. Kaufman of Lexington is unable to be present in the House Chamber for today's sitting due to a long standing district commitment. His missing of roll calls today is due entirely to the reason stated. Statement concerning Representative Kaufman of Lexington.

*Resolutions.*

Resolutions (filed by Messrs. Canessa of New Bedford, Quinn of Dartmouth and Sullivan of Fall River) congratulating Todd Negalha upon his elevation to the rank of Eagle Scout, were referred, under Rule 85, to the committee on Rules. Todd Negalha.

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

*Recesses.*

At five minutes after eleven o'clock A.M., on motion of Mr. Peterson of Grafton (Mr. Donato of Medford being in the Chair), the House recessed until the hour of twelve o'clock noon; and at that time the House was called to order with Mr. Donato in the Chair. Recesses.

The House thereupon took a further recess, on motion of Mr. Murphy of Lowell, until half past twelve o'clock; and at four minutes before one o'clock the House was called to order with Mr. Donato in the Chair.

*Reports of Committees.*

By Mr. Straus of Mattapoisett, for the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendments of the House Bill preventing oil spills in Buzzards Bay (House, No. 4119), recommending the passage of a bill with the same title (House, No. 4247). Buzzards Bay,—oil spills.

Report of committee of conference accepted,—yea and nay No. 211.

Under suspension of the rules, on motion of the same member, the report (having been approved by the committees on Bills in the Third Reading of each branch) was considered forthwith.

After debate on the question on acceptance of the report of the committee of conference, the sense of the House was taken by yeas and nays, at the request of Mr. Straus; and on the roll call 157 members voted in the affirmative and 0 in the negative.

**[See Yea and Nay No. 211 in Supplement.]**

Therefore the report of the committee of conference was accepted. The report then was sent to the Senate for concurrence.

Juvenile mental health.

By Ms. Malia of Boston, for the committee on Mental Health and Substance Abuse, on a petition, a Bill relative to juvenile mental health (House, No. 1937).

Addiction treatment.

By the same member, for the same committee, on a petition, a Bill increasing public safety by increasing access to addiction treatment (House, No. 1948).

Drug treatment programs.

By the same member, for the same committee, on a petition, a Bill to amend the Commonwealth's drug treatment program to allow for the diversion of low level offenders under court supervision (House, No. 1962).

Severally referred, under Joint Rule 1E, to the committee on Health Care Financing.

Harvard,—liquor license.

By Mr. Speliotis of Danvers, for the committee on the Consumer Protection and Professional Licensure, on a petition, a Bill Authorizing the town of Harvard to grant licenses for the sale of wine and malt beverages not to be drunk on the premises (House, No. 1127).

Westborough,—liquor license.

By the same member, for the same committee, on a petition, a Bill authorizing the town of Westborough to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (House, No. 1891).

Id.

By the same member, for the same committee, on a petition, a Bill authorizing the town of Westborough to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (House, No. 1892).

Kayak safety.

By Mr. Costello of Newburyport, for the committee on Public Safety and Homeland Security, on a petition, a Bill relative to kayak safety (House, No. 2281).

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

*Motion to Suspend Rule 24(2).*

Mr. Peterson of Grafton moved that Rule 24(2) be suspended so that he might offer, from the floor, the following order:

Electronic voting system.

*Ordered.* That whereas the House has installed a new voting system which is not in full operating order and there has been no tutorial provided to the members on the function or proper use of the new voting system in conjunction with the partially operable old voting system, as required by House Rule 52 the roll of the House shall be called in alphabetical order by the Clerk.

After debate the motion to suspend Rule 24(2) was negated; and the order was referred, under said rule, to the committee on Rules.

*Motion to Discharge a Certain Matter in the Orders of the Day.*

Mr. Moran of Boston moved that the House Bill relative to filling a temporary vacancy in the United States Senate (House, No. 4246), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47.

United States Senate,—fill vacancy.

On the motion to suspend Rule 47, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 140 members voted in the affirmative and 17 in the negative.

Rule 47 suspended,—yea and nay No. 212.

**[See Yea and Nay No. 212 in Supplement.]**

Therefore Rule 47 was suspended.

The bill then was read a second time.

After debate on the question on ordering the bill to a third reading (Mr. Petrolati of Ludlow being in the Chair), Ms. Polito of Shrewsbury moved to amend it by adding the following section:

“SECTION 2. Section 21C of chapter 59 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended, in line 115, by inserting after the words ‘at any time’ the following words:— or special statewide elections.”.

Mr. Pedone of Worcester thereupon raised a point of order that the amendment offered by the lady from Shrewsbury was improperly before the House for the reason that it went beyond the scope of the pending bill.

Point of order.

The Chair (Mr. Petrolati) ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Mr. Frost of Auburn thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Jones of North Reading.

Appeal from decision of Chair.

The question was then put “Shall the decision of the Chair stand as the judgment of the House?”.

After remarks on the appeal from the decision of the Chair, the sense of the sense of the House was taken by yeas and nays, at the request of Ms. Polito of Shrewsbury; and on the roll call 141 members voted in the affirmative and 17 in the negative.

Decision of Chair sustained,—yea and nay No. 213.

**[See Yea and Nay No. 213 in Supplement.]**

Therefore the decision of the Chair was sustained.

Ms. Polito then moved to amend the bill by adding the following section:

“SECTION 2. Notwithstanding section 21C of chapter 59 of the General Laws or any other general or special law to the contrary, the state secretary shall cause questions concerning debt exclusions to appear on the official ballots to be used in the towns of Needham, Shrewsbury, Wayland, Sharon, Aquinnah, and Westborough at the special state election to be held on January 19, 2010.”.

Mr. Pedone of Worcester thereupon raised a point of order that the amendment offered by the lady from Shrewsbury was improperly before the House for the reason that it went beyond the scope of the pending bill.

Point of order.

The Chair (Mr. Petrolati) ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Mr. Frost of Auburn thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Jones of North Reading.

Appeal from decision of Chair.

The question was then put “Shall the decision of the Chair stand as the judgment of the House?”.

Decision of Chair sustained,—yea and nay No. 214.

After debate on the appeal from the decision of the Chair, the sense of the House was taken by yeas and nays, at the request of Ms. Polito of Shrewsbury; and on the roll call 140 members voted in the affirmative and 18 in the negative.

**[See Yea and Nay No. 214 in Supplement.]**

Therefore the decision of the Chair was sustained.

Ms. Peisch of Wellesley then moved to amend the bill in lines 6 and 7 by striking out the words “; and provided further, any person so appointed shall be of the same political party as the person vacating the office and thereby creating the vacancy”.

After debate on the question on adoption of the amendment, the sense of the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call (Mr. Donato of Medford being in the Chair) 90 members voted in the affirmative and 68 in the negative.

**[See Yea and Nay No. 215 in Supplement.]**

Therefore the amendment was adopted.

Mr. Evangelidis of Holden then moved to amend the bill by adding the following section:

“SECTION 2. Notwithstanding any other general or special law to the contrary, all elected Federal, State and County officials whose name appears on a special primary or special election ballot during a special election to fill a vacancy in Congress, must resign from their current elected position within five business days of being notified by the Secretary of State that they are a certified candidate.”

After remarks the amendment was rejected.

After debate on the question on ordering the bill, as amended, to a third reading, the sense of the sense of the House was taken by yeas and nays, at the request of Mr. Flynn of Bridgewater; and on the roll call 98 members voted in the affirmative and 58 in the negative.

**[See Yea and Nay No. 216 in Supplement.]**

[Ms. Stanley of West Newbury answered “Present” in response to her name.]

Therefore the bill (House, No. 4246, amended) was ordered to a third reading. Mr. Jones of North Reading then moved that this vote be reconsidered; and, under Rule 54, the motion to reconsider was placed in the Orders of the Day for the next sitting.

*Order.*

Mr. Mariano of Quincy then offered the following order:—

*Ordered,* That, when the House adjourns today, it adjourn to meet forthwith for a second legislative day.

On the question on adoption of the order, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 136 members voted in the affirmative and 18 in the negative.

**[See Yea and Nay No. 217 in Supplement.]**

[Ms. Stanley of West Newbury answered “Present” in response to her name.]

Therefore the order was adopted.

Amendment adopted,—yea and nay No. 215.

Bill ordered to a third reading,—yea and nay No. 216.

Second legislative day.

Order adopted,—yea and nay No. 217.

Accordingly, without proceeding to consideration of the matters in the Orders of the Day, at seventeen minutes before six o'clock P.M., on further motion of Mr. Mariano (Mr. Donato of Medford being in the Chair) the House adjourned to meet forthwith for a second legislative day.

**SECOND LEGISLATIVE DAY.**

Met according to adjournment.

*Orders of the Day.*

The motion of Mr. Peterson of Grafton, that the vote be reconsidered by which the House, at the preceding sitting, ordered to a third reading the House Bill relative to filling a temporary vacancy in the United States Senate (House, No. 4246, amended) was considered.

After debate on the motion to reconsider, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 18 members voted in the affirmative and 139 in the negative.

**[See Yea and Nay No. 218 in Supplement.]**

Therefore the motion to reconsider was negatived.

Subsequently the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

Pending the question on passing the bill, as amended, to be engrossed, Mr. Jones of North Reading and other members of the House moved to amend it by adding the following two paragraphs:

“(g) Notwithstanding any general or special law or regulation to the contrary, books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by the governor or any officer or employee of the executive office, in relation to a temporary appointment authorized by this section, shall be public record.

All communications made or received by the governor or any officer or employee of the executive office, in relation to a temporary appointment authorized by this section, if not recorded electronically or otherwise, shall be documented in writing.”

After debate on the question on adoption of the amendment, the sense of the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 20 members voted in the affirmative and 134 in the negative.

**[See Yea and Nay No. 219 in Supplement.]**

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

“SECTION 2. This act shall take effect on January 20, 2010.”; and by striking out the emergency preamble.

United States Senate,—fill vacancy.

Motion to reconsider negatived,—yea and nay No. 218.

Amendment rejected,—yea and nay No. 219.

Amendments rejected,—yea and nay No. 220.

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 32 members voted in the affirmative and 123 in the negative.

**[See Yea and Nay No. 220 in Supplement.]**

Therefore the amendments were rejected.

Quorum.

After debate on the question on passing the bill to be engrossed, Mr. Flynn of Bridgewater asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato of Medford), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 148 members were recorded as being in attendance.

**[See Yea and Nay No. 221 in Supplement.]**

Therefore a quorum was present.

Quorum,—yea and nay No. 221.

Suspension of Rule 1A.

The Chair (Mr. Donato) then placed before the House the question on suspension of Rule 1A in order that the House might continue to meet to meet beyond the hour of nine o'clock P.M.

On the question on suspension of Rule 1A, the sense of the House was taken by yeas and nays, as required under the provisions of said rule; and on the roll (the Speaker being in the Chair) 133 members voted in the affirmative and 20 in the negative.

**[See Yea and Nay No. 222 in Supplement.]**

Therefore Rule 1A was suspended.

Rule 1A suspended,—yea and nay No. 222.

Bill passed to be engrossed,—yea and nay No. 223.

After remarks on the question on passing the bill to be engrossed, the sense of the House was taken by yeas and nays, at the request of Ms. Allen of Boston; and on the roll call (Mr. Donato of Medford being in the Chair) 95 members voted in the affirmative and 59 in the negative.

**[See Yea and Nay No. 223 in Supplement.]**

[Ms. Stanley of West Newbury answered "Present" in response to her name.]

Therefore the bill (House, No. 4246, amended) was passed to be engrossed. Mr. Peterson of Grafton then moved that this vote be reconsidered; and, under Rule 54, the motion to reconsider was placed in the Orders of the Day for the next sitting.

*Order.*

Mr. Mariano of Quincy then offered the following order:—

*Ordered,* That, when the House adjourns today, it adjourn to meet forthwith for a third legislative day.

Third legislative day.

Order adopted,—yea and nay No. 224.

On the question on adoption of the order, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 135 members voted in the affirmative and 19 in the negative.

**[See Yea and Nay No. 224 in Supplement.]**

[Ms. Stanley of West Newbury answered "Present" in response to her name.] Therefore the order was adopted.

Accordingly, without proceeding to consideration of the matters in the Orders of the Day, at a quarter after nine o'clock P.M., on further motion of Mr. Mariano (Mr. Donato of Medford being in the Chair) the House adjourned to meet forthwith for a third legislative day.

**THIRD LEGISLATIVE DAY.**

Met according to adjournment.

*Orders of the Day.*

The motion of Mr. Peterson of Grafton, that the vote be reconsidered by which the House, at the preceding sitting, passed to be engrossed the House Bill relative to filling a temporary vacancy in the United States Senate (House, No. 4246, amended) was considered.

United States Senate,—fill vacancy.

On the motion to reconsider, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 17 members voted in the affirmative and 138 members voted in the negative.

Motion to reconsider negated,—yea and nay No. 225.

**[See Yea and Nay No. 225 in Supplement.]**

Therefore the motion to reconsider was negated. The bill (House, No. 4246, amended) then was sent to the Senate for concurrence.

*Emergency Measure.*

The engrossed Bill preventing oil spills in Buzzards Bay (see House, No. 4247), 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.

Buzzards Bay,—oil spills.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 79 to 0. Sent to the Senate for concurrence.

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

Bill enacted.

*Resolutions.*

Resolutions (filed by Speaker DeLeo of Winthrop and Mr. Moran of Boston) expressing the sense of the House of Representatives that a temporarily appointed United States Senator should not be a candidate in the ensuing special election (House, No. 4248), were referred, under Rule 85, to the committee on Rules.

United States Senate,—temporary appointee.

Mr. Binienda of Worcester, for said committee, reported that the resolutions ought to be adopted. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling. Mr. Kafka of Stoughton, for said committee, then reported recommending that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Moran, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith.  
After remarks the resolutions were adopted.

*Statement Concerning Representative Wallace of Boston.*

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

Statement  
concerning  
Representative  
Wallace of  
Boston.

MR. SPEAKER: I would like to call to the attention of the House that one of our colleagues, Representative Wallace of Boston, was absent from the House Chamber for the final roll call of the first legislative day and all of the roll calls taken during the second and third legislative days of the session, due to illness. If he had been present he would have voted in the affirmative on roll call numbers 217, 221, 222, 223 and 224, and in the negative on roll call numbers 218, 219, 220 and 225.

*Order.*

On motion of Mr. DeLeo of Winthrop,—

Next  
sitting.

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

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Accordingly, without further consideration of the remaining matters in the Orders of the Day, at twenty-six minutes before ten o'clock P.M., on motion of Mr. Peterson of Grafton (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following Monday at eleven o'clock A.M., in an Informal Session.