

Wednesday, September 23, 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).

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

God, Our Creator, we believe that we live each moment of the day in Your presence and Your help is always available to us as we face our various daily tasks. In Your goodness, grant us the wisdom to make decisions and to select options which are reasoned, thoughtful and moral. Teach us that as we open our hearts and minds to You in prayer we are sure of a sympathetic understanding, the inspiration to meet our challenges and the courage to do what is right. Grant us the maturity and the confidence to discuss issues, even the most sensitive and complex, with constituents as we together try to build a more peaceful, civil and respectful society. As elected leaders may be concerned not only with current legislative matters but the issues which will affect future generations. Let our decisions be based on solid principles and human and religious values.

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

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.

Statement Concerning Representative Bowles of Attleboro.

A statement of Mr. Vallee of Franklin concerning Mr. Bowles of Attleboro 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 Bowles of Attleboro will not be present in the House Chamber for today's sitting due to being hospitalized. His missing of roll calls today was due entirely to the reason stated. If he were able to be present, he would have voted in favor of the Bill relative to filling a temporary vacancy in the United States Senate (House, No. 4246, amended).

Statement Concerning Representative Galvin of Canton.

A statement of Mr. Vallee of Franklin concerning Mr. Galvin of Canton 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 Galvin of Canton will not be present in the House Chamber for today's sitting due to a longstanding personal commitment. His missing of roll calls this week and next week will be due entirely to the reason stated.

Resolutions.

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

William Fleming. Resolutions (filed by Mr. Atsalis of Barnstable) congratulating William "Billy" Edward Fleming on the occasion of his retirement;

TSKK, Inc. Resolutions (filed by Mr. Kujawski of Webster) commending TSKK, Inc. of Webster on the occasion of its one hundredth anniversary;

Bedford,—anniversary. Resolutions (filed by Mr. Murphy of Burlington) congratulating the town of Bedford on the occasion of its two hundred and eightieth anniversary of its incorporation;

Joseph R. Piantedosi. Resolutions (filed by Mr. Murphy of Burlington) recognizing Joseph R. Piantedosi for being named the 2009 Bedford Citizen of the Year;

Barry Ashton. Resolutions (filed by Mr. Nyman of Hanover) congratulating Deputy Chief of Police Barry Ashton on the occasion of his retirement from the Rockland Police Department;

Richard Dillon. Resolutions (filed by Ms. Peisch of Wellesley) congratulating Richard Dillon on the occasion of his retirement as the Veterans' Services Director of Wellesley;

Philip A. Dinsky. Resolutions (filed by Mrs. Richardson of Framingham) honoring Philip A. Dinsky for his sixteen years of service to the town of Framingham as a member of the Framingham School Committee;

Bulk liquids and gases,—storage. Resolutions (filed by Mr. Sullivan of Fall River and other members of the House) calling upon the U.S. Trade Representative to renegotiate a proposed WTO deal that would subject "bulk storage services of liquids and gases" to WTO jurisdiction, thus limiting the regulation of LNG facilities; and

Charles E. Chamberlain, Jr. Resolutions (filed by Mr. Turner of Dennis) congratulating the family of Charles E. Chamberlain, Jr. on the occasion of naming a portion of Route 134, Dennis, as the Charles Chamberlain Parkway;

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 Ms. Reinstein of Revere, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

Lincoln,—liquor license. By Mr. Conroy of Wayland, petition (accompanied by bill, House, No. 4257) of Thomas P. Conroy (by vote of the town) that the town of Lincoln be authorized to place on the ballot a question relative to the sale of wine and malt beverages not to be drunk on the premises. To the committee on Consumer Protection and Professional Licensure.

Wayland,—town officials. By Mr. Conroy of Wayland, petition (accompanied by bill, House, No. 4256) of Thomas P. Conroy (by vote of the town) relative to the date town officials assume office in the town of Wayland. To the committee on Elections Laws.

Severally sent to the Senate for concurrence.

Papers from the Senate.

The House Bill relative to a certain license for the sale of all alcoholic beverages to be drunk on the premises in the city of New Bedford (House, No. 4183) (its title having been changed by the Senate committee on Bills in the Third Reading) came from said branch passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the following:

New Bedford,—Nucleo Sportinguista Club.

"SECTION 1. Chapter 451 of the acts of 2006 is hereby repealed.

SECTION 2. Notwithstanding section 17 of chapter 138 of the General Laws or any other general or special law or rule or regulation to the contrary, the licensing authority of the city of New Bedford is hereby authorized to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138 to Nucleo Sportinguista de New Bedford, Inc. The license shall be subject to all of said chapter 138, except said section 17 unless specifically provided otherwise. The licensing authority shall not approve the transfer of the license to any other person, organization or corporation. Upon revocation, cancellation or termination of the license or the termination, abandonment or dissolution of the license holder, the license shall be void and shall not be reissued to any other entity.

SECTION 3. This act shall take effect upon its passage."

Under suspension of Rule 35, on motion of Mr. Cabral of New Bedford, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

The Senate Bill establishing a town manager in the town of Hamilton (Senate, No. 2084) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Hamilton,—town manager.

Mr. Kafka of Stoughton, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Hill of Ipswich, the bill was read a second time forthwith; and it was ordered to a third reading.

A petition of Marc R. Pacheco and Susan Williams Gifford (by vote of the town) for legislation to authorize the town of Wareham to issue eight additional licenses for the sale of all alcoholic beverages to be drunk on the premises, came the Senate referred, under suspension of Joint Rule 7B, to the committee on Consumer Protection and Professional Licensure.

Wareham,—liquor licenses.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2133) was referred, in concurrence, to the committee on Consumer Protection and Professional Licensure.

Recesses.

Recess. At twenty-three minutes before twelve o'clock noon, on motion of Ms. Sandlin of Agawam (Mr. Donato of Medford being in the Chair), the House recessed until one o'clock P.M.; and at a quarter before two o'clock the House was called to order with Mr. Petrolati of Ludlow in the Chair.

The House thereupon took a further recess, on motion of Mr. Donato of Medford, until a quarter after two o'clock; and at eight minutes before three o'clock the House was called to order with Mr. Petrolati in the Chair.

Emergency Measure — Preamble Fails of Adoption.

United States Senate,—vacancy. The engrossed Bill relative to filling a temporary vacancy in the United States Senate (see House, No. 4246, amended), 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.

Quorum. Mr. Jones of North Reading thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum,—No. 226. Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 154 members were recorded as being in attendance.

[See Yea and Nay No. 226 in Supplement.]

Therefore a quorum was present.

Emergency preamble rejected,—yea and nay No. 227. On the question on adopting the emergency preamble a separate vote being required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution, the sense of the House was taken by yeas and nays, at the request of Mr. Jones; and on the roll call 95 members voted in the affirmative and 59 in the negative.

[See Yea and Nay No. 227 in Supplement.]

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

Therefore the House refused to adopt the emergency preamble (less than two-thirds of the members present and voting having voted in the affirmative).

Under the provisions of Joint Rule 22, notice of the action of the House was sent to the Senate, and the bill was returned to the Engrossing Division "for re-engrossment, without the said preamble and without any provision that the bill shall take effect earlier than ninety days after it has become law".

Subsequently the bill (which originated in the House) was put upon its final passage.

Bill enacted,—yea and nay No. 228. After remarks on the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays, at the request of Mr. Jones; 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. 228 in Supplement.]

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

Therefore the bill was passed to be enacted.

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.

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 135 members voted in the affirmative and 17 in the negative.

Order adopted,—yea and nay No. 229.

[See Yea and Nay No. 229 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 eight minutes before four 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. Jones of North Reading, that the vote be reconsidered by which the House, at the preceding sitting, passed to be enacted the engrossed Bill relative to filling a temporary vacancy in the United States Senate (see 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 19 members voted in the affirmative and 136 in the negative.

Motion to reconsider negated,—yea and nay No. 230.

[See Yea and Nay No. 230 in Supplement.]

Therefore the motion to reconsider was negated.

The bill then was signed by the acting Speaker; and sent to the Senate.

The House Bill authorizing the lease of conservation land in the town of Easton for agricultural purposes and to establish the Tufts Farm Maintenance Fund (House, No. 1885) (reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Third reading bill.

Third reading
bill amended.

The House Bill authorizing the town of Winchester to issue 5 licenses for the sale of all alcoholic beverages to be drunk on the premises for restaurants containing 70 or more seats (House, No. 1905) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Lewis of Winchester moved to amend it by substitution of a bill with the same title (House, No. 4259), which was read.

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

House bills

Establishing an autism commission (House, No. 155);

Relative to school improvement plans (House, No. 424);

Relative to the historic districts commission of the town of Concord (House, No. 632);

Relative to reprecincting (House, No. 678);

Authorizing the lease of a certain parcel of land to the town of Milton (House, No. 846);

Relative to liquor legal liability insurance (House, No. 947);

Relative to qualified financial contracts (House, No. 993);

Establishing a town administrator and a municipal finance department in the town of Douglas (House, No. 1894);

Authorizing the board of selectmen in the town of Tisbury to grant licenses for the sale of beer and wine in restaurants, inns and hotels (House, No. 1907);

Relative to election of members of the board of public works of the town of Hopkinton (House, No. 1909);

To establish a department of public works in the town of Hadley (House, No. 1913);

Relative to the provision of services to the city of Cambridge by the Cambridge Energy Alliance (House, No. 1916);

Relative to floor finishing products (House, No. 2304);

Protecting the city of Revere's vehicular rental surcharge from the opening of the consolidated rental car facility at Logan International Airport (House, No. 3709, changed);

Relative to the development of certain town land in the town of Chatham (House, No. 3823);

Relative to the charter of the town of Orleans (House, No. 4086);

Relative to the maximum storage charges on motor vehicles involuntarily towed (House, No. 4171);

Authorizing the board of assessors of the town of Newbury to grant a real estate tax abatement (House, No. 4200);

Authorizing the town of Harwich to convey certain recreational land (House, No. 4208);

Ratifying, validating and confirming in all respects the election calendar established by the city of Peabody for elections to be held in 2009 (House, No. 4219); and

To limit losses of subcontractors in private construction (House, No. 4228);

Severally were read a second time; and they were ordered to a third reading.

Second
reading
bills.

The House Bill relating to clean energy (House, No. 4168), was read a second time.

Clean
energy.

The amendment previously recommended by the committee on Ways and Means, that the bill be amended by substitution of a bill with the same title (House, No. 4253),— was considered.

Pending the question on adoption of the amendment, Mrs. Creedon of Brockton and other members of the House moved to amend the proposed substitute bill by adding the following section:

"SECTION 28. Notwithstanding any general or special law, rule or regulation to the contrary, in the city of Brockton, and notwithstanding any rights of the city of Brockton to appeal the Energy Facility Siting Board (EFSB) decision(s) prescribed in subsection (p) of section 69 of chapter 164, no fossil fuel electric power facility or facilities shall be sited in the city of Brockton, nor shall a permit be granted for the establishment, construction, expansion, maintenance, or operation of such facility or facilities in any area which is less than 1 mile in linear distance from a playground, licensed day-care center, school, church, area of critical environmental concern, as determined by the secretary of environmental affairs pursuant to 301 CMR 12.00, or an area occupied by residential housing. Said linear distance shall be measured from the outermost perimeter of such facility to the outermost point of the aforementioned zones; provided, however that any such facility in operation on January 1, 2007, shall not be subject to this act. For the purpose of this section, 'fossil fuel electric power facilities or facility' shall be defined as any electric generating power plant that is fueled in whole or in part, by coal, oil or natural gas."

After debate the further amendment was rejected.

The amendment recommended by the committee on Ways and Means then was adopted.

After remarks on the question on ordering the substituted bill to a third reading, the sense of the House was taken by yeas and nays, at the request of Mr. Dempsey of Haverhill; and on the roll call 153 members voted in the affirmative and 0 in the negative.

Bill ordered
to a third
reading,—
yea and nay
No. 231.

[See Yea and Nay No. 231 in Supplement.]

Therefore the bill (House, No. 4253) was ordered to a third reading.

Engrossed Bills.

Engrossed bills

Amending the charter of the town of Sandwich (see Senate, No. 782) (which originated in the Senate); and

Bills
enacted.

Relative to a certain license for the sale of all alcoholic beverages to be drunk on the premises in the city of New Bedford (see House, No. 4183, amended) (which originated in the 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.

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 further consideration of the remaining matters in the Orders of the Day, at a quarter before five 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 day at eleven o'clock A.M., in an Informal Session.