

State of Rhode Island and Providence Plantations

Journal of the Senate

JANUARY SESSION of the General Assembly begun and held at the State House in the City of Providence on Tuesday, the sixth day of January in the year of Our Lord two thousand and four.

Volume 131, No. 19

Thursday, March 4, 2004

Nineteenth Day

The Senate meets pursuant to adjournment and is called to order by the Honorable Joseph A. Montalbano, President of the Senate, at 4:19 o'clock P.M.

The roll is called and a quorum is declared present with 34 Senators present and 3 Senators absent as follows:

PRESENT – 34: The Honorable President Montalbano and Senators Algieri, Alves, Badeau, Bates, Blais, Breene, Caprio, Ciccone, Connors, Cote, Damiani, DaPonte, Felag, Fogarty, Gallo, Gibbs, Goodwin, Issa, Lanzi, Lenihan, McBurney, McCaffrey, Paiva-Weed, Parella, Polisena, Raptakis, Revens, Roberts, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

ABSENT – 3: Senators Celona, Perry, Pichardo.

INVOCATION

The Honorable President, by unanimous consent, presents Senator DaPonte, to deliver the invocation.

(See Appendix for Invocation)

PLEDGE OF ALLEGIANCE TO THE FLAG

The Honorable President, by unanimous consent, presents Senator DaPonte, to lead the Senate in the pledge of allegiance to the flag.

APPROVAL OF RECORD

The Senate Journal of Wednesday, March 3, 2004 proceedings is read in part.

Upon suggestion of Senator DaPonte, and by unanimous consent, further reading of the Journal is dispensed with and the Journal approved as recorded.

REPORTS OF COMMITTEES

COMMITTEE ON FINANCIAL SERVICES, TECHNOLOGY AND REGULATORY ISSUES

Senator Walaska, from the Committee on Financial Services, Technology and Regulatory Issues, reports back, with recommendation of passage of the following measures:

Senate Bill No. 2106 SUB A**BY** Senators Bates, Walaska**ENTITLED**, AN ACT RELATING TO LIABILITY INSURANCE -- RENTAL VEHICLE COVERAGE

Read and ordered to be placed on the Senate Calendar.

Also:

Senate Bill No. 2107 SUB A**BY** Senators Bates, Walaska**ENTITLED**, AN ACT RELATING TO INSURANCE - FIRE INSURANCE APPLICATIONS

Read and ordered to be placed on the Senate Calendar.

Also:

Senate Bill No. 2686 (Dept. of Business Regulation)**BY** Senator Blais**ENTITLED**, AN ACT RELATING TO INSURANCE.

Read and ordered to be placed on the Senate Calendar.

Also:

Senate Bill No. 2688 (Dept. Business Regulation)**BY** Senators Blais, Breene**ENTITLED**, AN ACT RELATING TO INSURANCE -- MANDATORY PRELICENSING EDUCATION REQUIREMENTS.

Read and ordered to be placed on the Senate Calendar.

Also:

Senate Bill No. 2754 (Dept. of Business Regulation)**BY** Senator Bates**ENTITLED**, AN ACT RELATING TO INSURANCE -- RHODE ISLAND LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT.

Read and ordered to be placed on the Senate Calendar.

COMMITTEE ON JUDICIARY

Senator McCaffrey, from the Committee on Judiciary, reports back, with recommendation of passage of the following measure:

Senate Bill No. 2738**BY** Senator McCaffrey**ENTITLED**, AN ACT RELATING TO PROPERTY - MECHANICS' LIENS.

Read and ordered to be placed on the Senate Calendar.

COMMITTEE ON COMMERCE, HOUSING AND MUNICIPAL GOVERNMENT

Senator Caprio, from the Committee on Commerce, Housing and Municipal Government, reports back, with recommendation of passage of the following measure:

Appointment of Robert M. Stillings (Representing architects) of Providence VICE Steve Durkee to the State Building Codes Standards Committee.

Read and ordered to be placed on the Senate Consent Calendar.

NEW BUSINESS**Senate Resolution No. 2954****BY** Senator Roberts**ENTITLED**, SENATE RESOLUTION EXPRESSING OUR DEEPEST SYMPATHY ON THE PASSING OF THE GENERAL ASSEMBLY'S FORMER TWENTY-FIVE YEAR EMPLOYEE MARY E. "MARY BETH" JOHNSON.

Senator Roberts requests unanimous consent for immediate consideration.

Unanimous consent for immediate consideration is granted.

Senator Roberts moves passage, seconded by the entire Senate.

The resolution is read and passed, upon a rising vote.

Also:

Senate Resolution No. 2955**BY** Senator Celona**ENTITLED**, SENATE RESOLUTION CONGRATULATING KEYLA MASOOD BEING NAMED ONE OF RHODE ISLAND'S "TOP YOUTH VOLUNTEERS".

Senator McCaffrey requests unanimous consent for immediate consideration.

Unanimous consent for immediate consideration is granted.

Senator McCaffrey moves passage, seconded by the entire Senate.

The resolution is read and passed, upon a voice vote.

Also:

Senate Resolution No. 2956**BY** Senators Gallo, Paiva-Weed**ENTITLED**, SENATE RESOLUTION DECLARING MARCH 8, 2004 "INTERNATIONAL WOMEN'S DAY" IN RHODE ISLAND.

Senator Gallo requests unanimous consent for immediate consideration.

Unanimous consent for immediate consideration is granted.

Senator Gallo moves passage, seconded by the entire Senate.

The resolution is read and passed, upon a voice vote.

CALENDAR

In order for the day is taken up as follows:

Senate Resolution No. 2111 SUB A**BY** Senators Fogarty P, Gallo, Walaska, Connors, Alves**ENTITLED**, SENATE RESOLUTION AMENDING THE RULES OF THE SENATE FOR THE YEARS 2003-2004

Senator Fogarty, moves passage, seconded by Senators Roberts, Goodwin, Lenihan, Connors, Cote, Raptakis, Damiani, Polisena, McCaffrey, Alves, Tassoni, Gallo and many others.

Senators Blais, Paiva-Weed, Fogarty and Connors, discuss the act.

The resolution marked Substitute "A" is read and passed, and the original bill indefinitely postponed, upon roll call vote with 31 Senators voting in the affirmative and 3 Senators voting in the negative as follows:

YEAS- 31: The Honorable President Montalbano and Senators Algieri, Alves, Badeau, Bates, Breene, Caprio, Ciccone, Connors, Cote, Damiani, DaPonte, Felag, Fogarty, Gallo, Goodwin, Issa, Lanzi, Lenihan, McBurney, McCaffrey, Paiva-Weed, Polisena, Raptakis, Revens, Roberts, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS- 3: Senators Blais, Gibbs, Parella.

STATE OF THE JUDICIARY

The Honorable President appoints Senator McCaffrey, Senator Caprio, Senator Polisena, Senator McBurney, Senator Revens and Senator Blais, a committee, to escort the Honorable Frank J. Williams, Chief Justice of the Rhode Island Supreme Court, to the rostrum.

The Senate attends.

President Montalbano introduces the Honorable Chief Justice to address the members and their guests.

The Honorable Chief Justice addresses the members and their guests.

(For remarks, see Appendix, this Journal.)

GUESTS

Upon suggestion of Senators Paiva-Weed, McCaffrey, Caprio, and McBurney and by unanimous consent, the Honorable President welcomes to the Chamber members of the Judiciary from the Supreme Court, Superior Court, Family Court, District Court, Workers' Compensation Court, and the Traffic Tribunal as well as, members of Chief Justice Williams' cabinet.

NEW BUSINESS

Senate Bill No. 2957

BY Senator Paiva-Weed

ENTITLED, AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT -- ABRAHAM LINCOLN BICENTENNIAL COMMISSION.

Senator Paiva-Weed requests unanimous consent for immediate consideration.

Unanimous consent for immediate consideration is granted.

Senator Paiva-Weed moves passage, seconded by Senator Connors.

The act is read and passed, by unanimous consent, upon a roll call vote with 27 Senators voting in the affirmative and 0 Senators voting in the negative as follows:

YEAS- 27: The Honorable President Montalbano and Senators Algieri, Bates, Blais, Breene, Caprio, Ciccone, Connors, Damiani, DaPonte, Felag, Fogarty, Gallo, Gibbs, Goodwin, Lanzi, Lenihan, McCaffrey, Paiva-Weed, Parella, Polisen, Raptakis, Revens, Roberts, Ruggerio, Sosnowski, Walaska.

NAYS- 0:

The Honorable President appoints Senator Raptakis, Senator Blais and Senator Damiani, a committee, to escort the Honorable Chief Justice from the Chamber.

The Senate attends.

TRANSMITTAL

By unanimous consent, all matters on the Clerk's desk are ordered to be transmitted to His Excellency, the Governor or to the Honorable House of Representatives forthwith.

GUESTS

Upon suggestion of Senator Gibbs and by unanimous consent, the Honorable President welcomes to the Chamber Dr. Robert Quigley of Portsmouth, Chairman of the West Side Task Force of the Aquidneck Island Planning Commission.

Upon suggestion of Senator DaPonte and by unanimous consent, the Honorable President welcomes to the Chamber Denis and Dianne Thibeault of Warwick.

ANNOUNCEMENTS

Senator Gallo announces that the Committee on Finance will meet today, at the rise of the Senate, in Room 211 of the State House.

Senator Fogarty announces that the Committee on Commerce, Housing and Municipal Government will meet today, at the rise of the Senate, in Room 212 of the State House.

Senator McCaffrey announces that the Committee on Judiciary will meet today, at the rise of the Senate, in the Senate Lounge of the State House.

Senator Gallo announces that the Committee on Finance will meet on Tuesday, March 9, 2004, at 3:00 o'clock P.M. in Room 211 of the State House.

ADJOURNMENT

Upon motion of Senator DaPonte, seconded by Senator Algieri, the Senate adjourns at 5:08 o'clock P.M.

RAYMOND T. HOYAS, JR.
Secretary of the Senate

Appendix

INVOCATION

SENATOR DANIEL DAPONTE

Lord, as we continue your work here in this chamber, let us be reminded of the words spoken long ago by Abraham Lincoln that still ring true today. "Determine the thing that can be done and shall be done, and then we shall find a way." Amen.

Appendix

CONSENT CALENDAR

IN ORDER FOR TUESDAY, MARCH 9, 2004:

- 1 Appointment of Robert M. Stillings (Representing architects) of Providence VICE Steve Durkee to the State Building Codes Standards Committee.

Committee on Judiciary recommends that the Senate give its Advice and Consent to this appointment.

Raymond T. Hoyas, Jr.
Secretary of the Senate

Thursday, March 4, 2004

Appendix**CALENDAR****IN ORDER FOR TUESDAY, MARCH 9, 2004:****1 2004-S 2256 SUB A as amended****BY McCaffrey****ENTITLED,** AN ACT RELATING TO DOMESTIC RELATIONS --
SOLEMNIZATION OF MARRIAGES

Committee on Judiciary recommends indefinite postponement of the original bill and passage of Substitute A as amended.

2 2004-S 2096**BY Polisena****ENTITLED,** AN ACT RELATING TO CORRECTIONS DEPARTMENT

Committee on Labor recommends passage.

3 2004-S 2288**BY Bates****ENTITLED,** AN ACT RELATING TO MECHANICAL TRADES

Committee on Labor recommends passage.

4 2004-S 2803**BY Badeau****ENTITLED,** AN ACT RELATING TO INSURANCE -- WORKERS'
COMPENSATION INSURANCE FUND

Committee on Labor recommends passage.

IN ORDER FOR WEDNESDAY, MARCH 10, 2004:**1 2004-S 2106 SUB A****BY Bates****ENTITLED,** AN ACT RELATING TO LIABILITY INSURANCE -- RENTAL
VEHICLE COVERAGE

Committee on Financial, Technology, Regulatory recommends indefinite postponement of the original bill and passage of Substitute A.

2 2004-S 2107 SUB A**BY Bates****ENTITLED,** AN ACT RELATING TO INSURANCE - FIRE INSURANCE APPLICATIONS

Committee on Financial, Technology, Regulatory recommends indefinite postponement of the original bill and passage of Substitute A.

3 2004-S 2686**BY Blais****ENTITLED,** AN ACT RELATING TO INSURANCE

Committee on Financial, Technology, Regulatory recommends passage.

4 2004-S 2688**BY Blais****ENTITLED,** AN ACT RELATING TO INSURANCE -- MANDATORY PRELICENSING EDUCATION REQUIREMENTS

Committee on Financial, Technology, Regulatory recommends passage.

5 2004-S 2754**BY Bates****ENTITLED,** AN ACT RELATING TO INSURANCE -- RHODE ISLAND LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT

Committee on Financial, Technology, Regulatory recommends passage.

6 2004-S 2738**BY McCaffrey****ENTITLED,** AN ACT RELATING TO PROPERTY - MECHANICS' LIENS

Committee on Judiciary recommends passage.

Raymond T. Hoyas, Jr.
Secretary of the Senate

Thursday, March 4, 2004

Chief Justice Frank J. Williams**State of the Judiciary****Senate****March 4, 2004**

To the Honorable Senate, thank you for inviting me. Senate President Montalbano, Majority Leader Senator Teresa Paiva-Weed, Minority Leader Senator Dennis Algiere, and my colleagues from the Rhode Island Judiciary, this is my third appearance before the General Assembly to deliver this address.

The Judiciary remains consistent in the pursuit of its core goal – the administration of justice with uncompromising honor and unquestioned judicial independence.

We are strong, productive, and accessible. And we are confident. That is the state of the Judiciary.

But if anyone expects just a proud recitation of our accomplishments, I say let us leave that to history. We are not finished yet. So my message to you tonight is we are still at work; we are still on the job. We are on the long patrol.

We are armed with a freshly sharpened dynamic that demands efficiency, accountability, and innovation. A dynamic that demands we:

Think smart,

Think creative, and

Think outside the box.

A dynamic that finds answers and asks questions.

- Is it time to finally provide certified interpreters in our court system?
- Is it time to expand our investment in courts that put kids back in school?
- Is it time to enlist military demolition experts to save taxpayer's money?
- Is it time to treat the Judiciary as a third, independent branch of government?

I say to you the time is now. We cannot afford to wait.

We owe nothing less to those Rhode Islanders whose lives are touched every day, directly or indirectly, by decisions made within our courthouse walls.

The Judiciary continues to cultivate a culture of efficient justice while disposing of hundreds of thousands of cases each year. In 2003, we disposed of over 230,000 cases – a jump of 9% from the previous year.

- 80% of criminal felonies were disposed of within 180 days;

- 88% of misdemeanors were disposed of within 60 days;
- Civil cases were disposed of at a rate four times faster than a year ago;
- Every single one of the 8,775 injured workers who came before our Workers' Compensation Court saw a judge within 21 days.

But the mission of the Judiciary is not to indiscriminately churn out a high volume of cases; rather, it is to fairly adjudicate disputes that can change people's lives. The success of the Judiciary is a story told not only with numbers; rather, it is reflected in the eyes of those who come seeking justice.

There are three words in our Rhode Island Constitution that define the heart of our mission – right to justice. The right to justice is not a matter of charity, or of favor, or of grace, or of discretion.

A right to justice – for a child who now sleeps soundly under the protective blanket of a court order which has removed her from an abusive parent.

A right to justice – for a single mother who warms her children by the kitchen stove because her landlord has neglected his duty to provide heat.

A right to justice – for a young father, injured on the job, wondering if he will still have income and health care benefits for his family.

A right to justice – for all Rhode Islanders.

Let me pause here to thank the dedicated jurists and judicial staff who are committed to providing that right to justice. Whatever criticisms and discontents there may be from time to time, the Rhode Island courts handle hundreds of thousands of cases every year - not by accident or magic, but rather with overwhelming skill and efficiency, a fact that I believe deserves public commendation.

I encourage you to come see the work we do each and every day. My door is always open.

I want to thank the Governor and General Assembly for their attention to filling judicial vacancies so we can move quickly to bring your courts up to full strength.

We are moving to construct accessible, safe, and efficient court facilities for the citizens of this state. This overhaul is not to be rushed, but those who come to our courthouses know it is long overdue. Our bricks and mortar must reflect our commitment to justice.

In Kent County, crews are putting the finishing touches on the first phase of a new courthouse - a four deck parking garage. Bids for the courthouse will be opened next week and we should start moving into the new facility by November 2005. We will finally end our occupation of the retrofitted office building fraught with security and infrastructure problems.

We are exploring the option of having Navy Sea-bees take on the demolition of the old courthouse as a training mission. Savings to the state - 1 million dollars. That is our efficiency dynamic working for you.

The Garrahy Judicial Complex, designed to accommodate 1,500 court patrons each day, routinely services twice that number. Courthouse users are subjected to long lines, parking congestion, and mounting frustration.

I support construction of a Garrahy parking garage but that is not the entire solution. We need \$300,000 to move forward with a full service courthouse in northern Rhode Island. Such a courthouse will not only alleviate the strain on Garrahy, but it will also provide more accessible justice to those living in Blackstone Valley. That is our efficiency dynamic working for you.

The approval from you and the Governor last year for a new Traffic Tribunal marked a judicial milestone as we move to replace the non ADA-compliant, aging facility in Providence. The design for the new courthouse in Cranston maximizes efficiency by incorporating room for routine court matters as well as video conferencing. It is state of the art. It is multi-purpose. It is the efficiency dynamic - super sized.

In the Navy, they say the two biggest lies are told when an assessment team comes aboard ship and the team leader says, "We are here to help," and the ship's captain says "Welcome aboard."

The Judiciary is not proprietary in its search for efficiency. We are working with the Department of Administration, the Sheriff's Division, and the Department of Corrections in implementing the fiscal fitness initiative calling for increased video conferencing. When implemented next month, this initiative will minimize crowding at courthouse cellblocks, cut unnecessary prisoner transportation, and alleviate security concerns. It will also save money - something which must be a consideration for all of us as we seek to serve while remaining fiscally accountable.

As to fiscal accountability, the Judiciary has a proven track record. I am proud to report for the second year in a row, *the second year in a row*, we have not requested a supplemental appropriation.

And we raise revenue. Over the last three years, the Judiciary deposited in the state coffers - close to 70 million dollars.

Historically, we have limited our spending to only 1.3% of the state's overall budget. We live within our means. We know that each and every dollar we receive comes from taxpayers and must be managed with care. As the constitutional keeper of the "purse strings," you need to know how your decisions impact the courts. You need to know how the courts impact the public and you need to know the impact of budget cuts on the citizens we both serve.

We recognize that we live in tough financial times and there will be pain for every branch of government.

With that in mind the Judiciary has crafted a frugal budget request for fiscal year 2005 – seeking only to fund services at their current level. Our priorities reflect our citizens' needs. Yet once again, we face a cut – three million dollars slashed from our budget.

We in the Judiciary are not alarmists, nor are we prone to cynicism, but I must tell you that the Judiciary cannot sustain the deep and painful cuts made by the Executive Branch without severely impacting services.

There is no money for court interpreters. The Executive Branch cut the 425,000 dollars which would have paid for six certified court interpreters to begin in September. Interpreters who will soon graduate from a new CCRI program; interpreters whose presence was mandated by you in 1999; interpreters who are desperately needed to serve the diverse, multilingual population of our state. How will we answer those in our minority community when they ask why we have not honored this commitment?

A massive 600,000 dollar cut from Family Court jeopardizes programs that give a voice to the state's smallest. How will we answer them, when they ask why they must stand alone?

A 500,000 dollar cut from Judicial Technology would cripple the statewide criminal information system known as Justice Link. Justice Link enables state and local police, the Department of Corrections, the Attorney General, and others to quickly share information and track criminals via the computer.

Although implemented and maintained by the Judiciary, 60% of those who use this valuable resource are from outside the courts. How will we answer police officers who face needless delays in conducting routine background checks?

We are determined to remain accountable to the citizens of this state but the very definition of accountability means taking responsibility for prioritizing goals and objectives. We are unable to do that under the current budgetary process.

This year, I again ask you to follow the lead of thirty-one other jurisdictions and pass legislation prohibiting the Executive Branch from cutting the Judiciary's budget before passing it to the legislature for action.

We are prepared to defend our spending proposals before this body- without amendments.

The implications of the existing fiscal process go deeper than a yearly budget battle; it goes to the very structure of our democracy and its three branches of government. The present process erodes judicial independence.

We must act to reassure a cynical public that separation of powers applies to all branches of government. We must re-commit ourselves to all aspects of separation of powers. The Judiciary must have its rightful place as an independent body.

Let us determine our fiscal priorities. We will take the responsibility, we will make the cuts, and we will take the heat.

We have been creative in instituting innovative programs which cost little but reap much.

We are reaching out to our youth. I find the words of Robert Kennedy powerful on this point:

"Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope."

Justice Rules, the education initiative we introduced into the school system last year has quickly gathered momentum. If you will recall, *Justice Rules* exposes students to the positive side of the legal system, encourages them to consider careers in the Judiciary, and cultivates a curiosity for how this branch of government works. We are currently reaching 35,000 students with our curriculum and dozens

of attorneys and judges are volunteering to work with classrooms and teachers as part of legal teaching teams. Cost to taxpayers – zero.

When kids go astray, the Judiciary has been there with its Truancy Courts to get them back into the classroom. These Courts are in 53 schools across the state and have become an integral part of reclaiming our youth. The success of these courts is unquestioned - 90% of students arraigned are back in school, back on track, and on their way to graduation. Yet we risk losing these valuable courts because there is no funding to support them.

How will we answer the children, the teachers, the parents, when they ask why these courts have been pulled?

This past fall, the Judiciary hosted its first Citizens' Summit in South Providence, complete with on-site, real time Spanish translation. Representatives of the Workers' Compensation Court joined Interim Chief Judge George Healy to hear citizens concerns, answer questions, and explain the legal and medical processes. Cost to taxpayers – zero.

We have initiated the Appellate Mediation Program in our Supreme Court. We hope that we will be able to resolve at least one half of the civil appeals through this program. Alternative Dispute Resolution works - it achieves a lasting peace among parties, it saves time, and it saves money. While litigation certainly retains a place in society, sometimes justice requires a diversion from the traditional adversarial proceedings. Cost to taxpayers – zero.

We are working to make jury service less intimidating. Not only are we paying for jurors parking and trying to raise their daily pay, but we are also using a grant from the Rhode Island Foundation to produce a video which will explain the process to jurors. The film will also be shown to members of the public including schools, community organizations, and public television viewers. Cost to taxpayers – zero.

What is next for the Judiciary? I have established a Future of the Courts Committee and instructed it to plot a strategy for our courts, as we face the challenges ahead.

Among the items the Committee is exploring:

Flexibility in court scheduling. Can we accommodate citizens who have jobs and family obligations by structuring our court hours differently? Just think what it will mean to your constituents if they can pay fines and make court appearances and have their matters heard at a more convenient time?

We are also exploring the establishment of a statewide Domestic Violence Court and a system wide Drug Court. Violence and drugs have far reaching tentacles that contribute to increased crime rates, rip families apart, and twist the lives of children, adults, employers, and employees.

Of course, I will share with you the Committee's recommendations when I receive its final report this May.

Marian Wright Edelman, founder and president of the Children's Defense Fund, said that service is the rent we pay for the privilege of living. I wholeheartedly share that belief.

We have begun well. But it is only a beginning. We are not here to congratulate ourselves on what we have accomplished. We are here to challenge ourselves to finish what remains to be done. We cannot stop at the foothills when Everest beckons.

May God bless you and the great state of Rhode Island.