

# Journal of the House

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**Tuesday, April 7, 2009**

At ten o'clock in the forenoon the Speaker called the House to order.

## **Devotional Exercises**

Devotional exercises were conducted by Montpelier High School choral group, Collegium.

## **Pledge of Allegiance**

**Page Benson May of Putney** led the House in the Pledge of Allegiance.

## **Message from the Senate No. 31**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered House proposal of amendment to Senate bill of the following title:

**S. 115.** An act relating to civil marriage.

And has concurred therein.

The Senate has on its part adopted joint resolution of the following title:

**J.R.S. 28.** Joint resolution designating April as sexual violence awareness month.

In the adoption of which the concurrence of the House is requested.

The Senate has adopted a proposed amendment to the Vermont Constitution entitled:

**P.R.O.P. 5.** Right to vote in primary elections.

In the passage of which the concurrence of the House is requested.

The Senate has on its part adopted Senate concurrent resolution of the following title:

**S.C.R. 16.** Senate concurrent resolution recognizing the political accomplishments of former Governor Howard Dean..

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

**H.C.R. 90.** House concurrent resolution congratulating transportation district 7 on earning VOSHA's Green Mountain Voluntary Protection Program's Star certification.

**H.C.R. 91.** House concurrent resolution congratulating the Journey East Program of Leland & Gray Union Middle and High School on its tenth anniversary.

**H.C.R. 92.** House concurrent resolution honoring the Vermont Children's Aid Society on its 90th anniversary and its retiring executive director Steve Habif.

**H.C.R. 93.** House concurrent resolution commemorating the 150th anniversary of the third Vermont State House.

**H.C.R. 94.** House concurrent resolution congratulating the 2008 Hartford High School Hurricanes Division II championship boys' ice hockey team.

**H.C.R. 95.** House concurrent resolution congratulating Essex High School on receipt of a 2009 Siemens Award for Advanced Placement.

**H.C.R. 96.** House concurrent resolution congratulating Janet Medston Perrigo Brown-Wolff of South Burlington on being named the 2009 Vermont Mother of the Year.

**H.C.R. 97.** House concurrent resolution congratulating the 2009 Hazen Union High School Division III championship boys' basketball team.

**H.C.R. 98.** House concurrent resolution honoring Roderick Leach of Plainfield for his extraordinary public service at the agency of transportation.

#### **Message from the Senate No. 32**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Governor has informed the Senate that on April 6, 2009, he returned without signature and *vetoed* a bill originating in the Senate of the following title:

**S. 115.** An act relating to civil marriage.

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“April 6, 2009

The Honorable David A. Gibson  
Secretary of the Senate  
State House  
115 State Street, Drawer 33  
Montpelier, VT 05633

Dear Mr. Secretary:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.115, *An Act Relating to Civil Marriage*, without my signature because of my objections described herein. I do so recognizing that this is an issue that is intensely personal, with strongly held beliefs and convictions on both sides. But I am charged by our Constitution to act on this legislation and by its return, I have fulfilled that responsibility.

The question of same sex marriage is an issue that does not break cleanly as Republican or Democrat, rural or urban, religious or atheist. The decision to support or oppose is informed by an amalgam of experience, conviction and faith. These beliefs are deeply held, passionately expressed and, for many legislators, infinitely more complex than the ultimate ‘yea’ or ‘nay’ required to fulfill the duty of their office.

On such an intensely personal issue as this, all members must do as their individual conscience dictates, with the best interest of their districts in mind. It is for those reasons that I have not sought to lobby members of my own party, or asked opponents to sustain my veto.

This legislation does not address the inequalities espoused by proponents. Regardless of whether the term marriage is applied, federal benefits will still be denied to same sex couples in Vermont. And states that do not recognize same sex marriage or civil unions will also deny state rights and responsibilities to same sex couples married in Vermont. This bill will not change that fact.

Vermont’s civil union law has afforded the same state rights, responsibilities and benefits of marriage to same sex couples. Our civil union law serves Vermont well and I would support congressional action to extend those benefits at the federal level to states that recognize same sex unions. But I believe that marriage should remain between a man and a woman.

I hope that when the legislature makes its final decision, we can move our state forward, toward a bright future for our children and grandchildren. We still have a great deal of work ahead of us to balance our budget and get our

economy going again and Vermonters are counting on us to work together to get the job done.

Sincerely,

/s/ James H. Douglas  
James H. Douglas  
Governor

JHD/pdc”

### **Message from the Senate No. 33**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part considered the Governor's veto of a Senate bill of the following title:

**S. 115.** An act relating to civil marriage.

And has passed the same, the refusal of the Governor to approve notwithstanding.

### **Committee Bill Introduced**

#### **H. 442**

**Rep. Obuchowski of Rockingham**, for the committee on Ways and Means, introduced a bill, entitled

An act relating to miscellaneous tax provisions

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

### **Senate Bills Referred**

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

#### **S. 121**

Senate bill, entitled

An act relating to miscellaneous election laws

Was taken up, read the first time and referred to the committee on Rules.

**S. 127**

Senate bill, entitled

An act relating to small school districts that pay tuition for their resident students

Was taken up, read the first time and referred to the committee on Education.

**Proposal 5 Referred to Committee****P.R.O.P. 5**

The Speaker placed before the House Proposal 5, entitled

Right to vote in primary elections

Which was read the first time and referred to the committee on Government Operations.

**Rules Suspended; Bill Passed in Concurrence  
Failure of the Governor To Approve Notwithstanding**

**S. 115**

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Nease of Johnson**, the rules were suspended and Senate bill, entitled

An act relating to civil marriage

Was taken up for immediate consideration.

Pending the question, Shall the bill pass the failure of the Governor to sign notwithstanding? Pursuant to chapter 2, Sec. 11 of the Constitution, the Clerk proceeded to call the roll and the question, Shall the bill pass the failure of the Governor to sign notwithstanding? was decided in the affirmative. Yeas, 100. Nays, 49. A 2/3 vote required.

Those who voted in the affirmative are:

Ancel of Calais	Copeland-Hanzas of Bradford	Frank of Underhill
Andrews of Rutland City	Courcelle of Rutland City	French of Shrewsbury
Aswad of Burlington	Davis of Washington	French of Randolph
Bohi of Hartford	Deen of Westminster	Geier of South Burlington
Botzow of Pownal	Donahue of Northfield	Gilbert of Fairfax
Bray of New Haven	Donovan of Burlington	Grad of Moretown
Burke of Brattleboro	Edwards of Brattleboro	Greshin of Warren
Cheney of Norwich	Emmons of Springfield	Haas of Rochester
Clarkson of Woodstock	Evans of Essex	Head of South Burlington
Condon of Colchester	Fisher of Lincoln	Heath of Westford
Conquest of Newbury		Hooper of Montpelier

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Howard of Rutland City	McCullough of Williston	Smith of Mendon
Hube of Londonderry	Milkey of Brattleboro	Smith of Morrystown
Jerman of Essex	Miller of Shaftsbury	South of St. Johnsbury
Jewett of Ripton	Minter of Waterbury	Spengler of Colchester
Johnson of South Hero	Mitchell of Barnard	Stevens of Waterbury
Keenan of St. Albans City	Mook of Bennington	Stevens of Shoreham
Kitzmiller of Montpelier	Moran of Wardsboro	Sweaney of Windsor
Klein of East Montpelier	Mrowicki of Putney	Taylor of Barre City
Komline of Dorset	Nease of Johnson	Till of Jericho
Lanpher of Vergennes	Nuovo of Middlebury	Toll of Danville
Larson of Burlington	O'Brien of Richmond	Townsend of Randolph
Lenes of Shelburne	Obuchowski of Rockingham	Trombley of Grand Isle
Leriche of Hardwick	Orr of Charlotte	Waite-Simpson of Essex
Lippert of Hinesburg	Partridge of Windham	Webb of Shelburne
Lorber of Burlington	Pellett of Chester	Westman of Cambridge
Macaig of Williston	Peltz of Woodbury	Weston of Burlington
Maier of Middlebury	Poirier of Barre City	Wilson of Manchester
Malcolm of Pawlet	Pugh of South Burlington	Wizowaty of Burlington
Manwaring of Wilmington	Ram of Burlington	Wright of Burlington
Marek of Newfane	Rodgers of Glover	Young of St. Albans City
Martin of Springfield	Scheuermann of Stowe	Zenie of Colchester
Martin of Wolcott	Shand of Weathersfield	Zuckerman of Burlington
Masland of Thetford	Sharpe of Bristol	

Those who voted in the negative are:

Acinapura of Brandon	Dickinson of St. Albans Town	McAllister of Highgate
Adams of Hartland	Donaghy of Poultney	McDonald of Berlin
Ainsworth of Royalton	Fagan of Rutland City	McFaun of Barre Town
Atkins of Winooski	Flory of Pittsford	McNeil of Rutland Town
Baker of West Rutland	Helm of Castleton	Morley of Barton
Bissonnette of Winooski	Higley of Lowell	Morrissey of Bennington
Branagan of Georgia	Howrigan of Fairfield	Myers of Essex
Brennan of Colchester	Hubert of Milton	O'Donnell of Vernon
Browning of Arlington	Johnson of Canaan	Pearce of Richford
Canfield of Fair Haven	Kilmartin of Newport City	Peaslee of Guildhall
Clark of Vergennes	Koch of Barre Town	Perley of Enosburg
Clerkin of Hartford	Krawczyk of Bennington	Potter of Clarendon
Consejo of Sheldon	Larocque of Barnet	Reis of St. Johnsbury
Corcoran of Bennington	Lawrence of Lyndon	Savage of Swanton
Crawford of Burke	Lewis of Derby	Turner of Milton
Devereux of Mount Holly	Marcotte of Coventry	Wheeler of Derby
		Winters of Williamstown

Those members absent with leave of the House and not voting are:

Audette of South Burlington

**Rep. Donahue of Northfield** explained her vote as follows:

“Mr. Speaker:

We did not necessarily take this vote with a common or clear understanding of its intent or implications. More time and a more inclusive process could have made a difference and may have brought about a more unified outcome.

To me, this is not about changing the institution of marriage: the longstanding cultural beliefs about the influence of God as we individually understand it in our lives. It is about the state role in fully equal treatment of those who differ, and in acceptance of that difference.

Tolerance, however, is a two-way street, and discrimination takes many forms. It remains socially acceptable to mock religious faith. I felt the sting of that mockery on the floor last week; the anti-Catholicism that remains in a state where only a generation ago, hooded men burned a cross on a hilltop in Northfield.

If this law fosters intolerance towards those with different, but deeply held beliefs, then I will have voted on the wrong side of the pages of the history of our civilization.”

#### **Recess**

At eleven o'clock and five minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At eleven o'clock and forty minutes in the forenoon, the Speaker called the House to order.

#### **Action on Bill Postponed**

##### **H. 232**

House bill, entitled

An act relating to fiscal year 2009 budget adjustment

Was taken up and pending the question, Shall the House adopt the Committee of Conference report? on of **Rep. Heath of Westford**, action on the bill was postponed until the next legislative day.

#### **Action on Bill Postponed**

##### **H. 147**

House bill, entitled

An act relating to the operation of a motor vehicle by junior operators and primary safety belt enforcement

Was taken up and pending the reading of the report of the committee on Judiciary, on motion of **Rep. Grad of Moretown**, action on the bill was postponed until the next legislative day.

**Action on Bill Postponed**

**J.R.H. 16**

Joint resolution, entitled

Joint resolution designating April as Fair Housing Month in Vermont

Was taken up and pending the question, Shall the House adopt the resolution? on motion of **Rep. Head of South Burlington**, action on the resolution was postponed until Friday, April 10, 2009.

**Action on Bill Postponed**

**H. 280**

House bill, entitled

An act relating to authorizing the assistant judges of Windham County to borrow funds for capital construction.

Was taken up and pending the reading of the report of the committee on Government Operations, on motion of **Rep. Consejo of Sheldon**, action on the bill was postponed until Thursday, April 9, 2009.

**Joint Resolution Adopted**

**J.R.H. 18**

Joint resolution, entitled

Joint resolution relating to certain financial and managerial policies of the University of Vermont;

Was taken up and adopted on the part of the House.

**Message from the Senate No. 34**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

**S. 51.** An act relating to Vermont's motor vehicle franchise laws.

**S. 77.** An act relating to the disposal of electronic waste.



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**S. 129.** An act relating to containing health care costs by decreasing variability in health care spending and utilization.

In the passage of which the concurrence of the House is requested.

The Senate has considered a bill originating in the House of the following title:

**H. 91.** An act relating to technical corrections to the juvenile judicial proceedings act of 2008.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the House is requested.

### **Adjournment**

At eleven o'clock and fifty minutes in the forenoon, on motion of **Rep. Komline of Dorset**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.