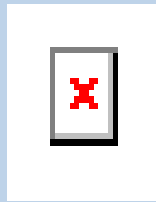


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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE IN JOINT SESSION.



Wednesday, February 11, 2004.

*Joint Session of the Two Houses to Consider
Specific Amendments to the Constitution.*

At two minutes past two o'clock P.M., the two Houses met in

JOINT SESSION

and were called to order by the Honorable Robert E. Travaglini, President of the Senate.

Prior to consideration of matters in the Joint Session Calendar, Mr. Berry and Ms. Murray moved that the Proposal for a Legislative Amendment to the Constitution relative to the affirmation of marriage (House, No. 3190) be discharged from its position in the calendar and considered forthwith, under the suspension of House rule 47; and the motion prevailed. The proposal was then read twice in accordance with the provisions of the special rules.

The Proposal was as follows:--

ARTICLE OF AMENDMENT.

It being the public policy of this Commonwealth to protect the unique relationship of marriage in order to promote, among other goals, the stability and welfare of society and the best interest of children, only the union of one man and one woman shall be valid or recognized as a marriage in

Massachusetts. Any other relationship shall not be recognized as a marriage or its legal equivalent.

Pending the question on ordering the proposal to a third reading, Mr. Barrios moved that the proposal be amended by substituting the following new text:-

"It is the public policy of this commonwealth to protect the unique relationship of marriage in order to promote, among other goals, the stability and welfare of society. All marriages between two people shall be eligible for all the rights and benefits of marriage".

Pending the question on adoption of the amendment, Mr. Finneran of Boston moved that amendment be further amended striking out the text and inserting in place thereof the following:- It being the public policy of the Commonwealth to protect the unique relationship of marriage, only the union of one man and one woman shall be valid or recognized as a marriage in Massachusetts.

This article is self-executing, but the General Court may enact laws not inconsistent with anything herein contained to carry out the purpose of the article, including but not limited to, the enactment of laws establishing civil unions as may be defined by the General Court from time to time.

Mr. Marzilli of Arlington raised a point of order, which being stated that the amendment offered by Mr. Finneran was beyond the scope of the pending Barrios amendment.

The President ruled that the amendment was **NOT** well taken.

During further consideration of the amendment, Ms. Murray doubted the presence of a quorum; but a quorum was deemed present.

After debate, the question on adoption of the further amendment was determined by a call of the yeas and nays at sixteen minutes before five o'clock P.M., as follows to wit (Yeas 98 - Nays 100) **[Senate Yeas and Nays No. 452] [House Yeas and Nays No. 522]**

Yeas (98).

Senators.

Brewer, Stephen M.	Moore, Richard T.
Creedon, Robert S., Jr.	Morrissey, Michael W.
Glodis, Guy W.	Pacheco, Marc R.
Hart, John A., Jr.	Panagiotakos, Steven C.
	— 9.
Hedlund, Robert L.	

Representatives.

Asselin, Christopher P.	Hynes, Frank M.
Atsalis, Demetrius J.	Jones, Bradley H., Jr.
Ayers, Bruce J.	Kane, Michael F.
Binienda, John J.	Keenan, Daniel F.
Bradley, Garrett J.	Knuuttila, Brian
Broadhurst, Arthur J.	Koczera, Robert M.
Brown, Scott P.	Kujawski, Paul
Callahan, Jennifer M.	Lantigua, William
Canavan, Christine E.	Larkin, Peter J.
Candaras, Gale D.	LeDuc, Stephen P.
Carron, Mark J.	Lepper, John A.
Casey, Paul C.	Loscocco, Paul J.

Ciampa, Vincent P.	Miceli, James R.
Connolly, Edward G.	Murphy, James M.
Coppola, Michael J.	Nangle, David M.
Correia, Robert	Naughton, Harold P., Jr.
Coughlin, Robert K.	Nyman, Robert J.
Creedon, Geraldine	O'Brien, Thomas J.
DeLeo, Robert A.	O'Flaherty, Eugene L.
deMacedo, Viriato Manuel	Owens-Hicks, Shirley
Dempsey, Brian S.	Parente, Marie J.
Donato, Paul J.	Perry, Jeffrey D.
Driscoll, Joseph R.	Peterson, George N., Jr.
Evangelidis, Lewis G.	Petrolati, Thomas M.
Fagan, James H.	Poirier, Elizabeth A.
Fennell, Robert F.	Polito, Karyn E.
Finneran, Thomas M.	Pope, Susan W.
Flynn, David L.	Quinn, John F.
Fresolo, John P.	Rogeness, Mary S.
Frost, Paul K.	Rogers, John H.
Garry, Colleen M.	Ruane, J. Michael
George, Thomas N.	Rush, Michael F.
Gifford, Susan W.	Scaccia, Angelo M.
Gobi, Anne M.	Simmons, Mary Jane
Goguen, Emile J.	Spiliotis, Joyce A.
Golden, Brian Paul	Timilty, Walter F.
Golden, Thomas A., Jr.	Tobin, A. Stephen
Gomes, Shirley	Travis, Philip
Greene, William G., Jr.	Vallee, James E.
Hall, Geoffrey D.	Verga, Anthony J.
Hargraves, Robert S.	Wagner, Joseph F.
Hill, Bradford	Wallace, Brian P.
Hillman, Reed V.	Walrath, Patricia A.
Howland, Mark A.	Webster, Daniel K. —
Humason, Donald F., Jr.	89.

Nays (100).

Senators.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Murray, Therese
Barrios, Jarrett T.	Nuciforo, Andrea F., Jr.
Berry, Frederick E.	O'Leary, Robert A.
Chandler, Harriette L.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Fargo, Susan C.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann

Joyce, Brian A.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R.
Lees, Brian P.	Tolman, Steven A.
Magnani, David P.	Travaglini, Robert E.
McGee, Thomas M.	Tucker, Susan C.
Melconian, Linda J.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne —

30.

Representatives.

Atkins, Cory	L'Italien, Barbara A.
Balsler, Ruth B.	Malia, Elizabeth A.
Blumer, Deborah D.	Marzilli, J. James, Jr.
Bosley, Daniel E.	Murphy, Charles A.
Buoniconti, Stephen J.	Murphy, Kevin J.
Cabral, Antonio F. D.	Patrick, Matthew
Costello, Michael A.	Paulsen, Anne M.
deMacedo, Viriato Manuel	Pedone, Vincent A.
Demakis, Paul C.	Peisch, Alice H.
DiMasi, Salvatore F.	Petersen, Douglas W.
Donelan, Christopher J.	Petruccelli, Anthony
Donovan, Carol A.	Pignatelli, Smitty
Eldridge, James B.	Reinstein, Kathi-Anne
Fallon, Christopher G.	Rivera, Cheryl A.
Falzone, Mark V.	Rodrigues, Michael J.
Festa, Michael E.	Rushing, Byron
Finegold, Barry R.	Sánchez, Jeffrey
Fox, Gloria L.	Scibak, John W.
Galvin, William C.	Smizik, Frank Israel
Grant, Mary E.	Speliotis, Theodore C.
Haddad, Patricia A.	Spellane, Robert P.
Hargraves, Robert S.	Spilka, Karen
Honan, Kevin G.	Stanley, Harriett L.
Jehlen, Patricia D.	Stanley, Thomas M.
Kafka, Louis L.	St. Fleur, Marie P.
Kaprielian, Rachel	Story, Ellen
Kaufman, Jay R.	Straus, William M.
Kelly, Shaun P.	Sullivan, David B.
Kennedy, Thomas P.	Swan, Benjamin
Khan, Kay	Teahan, Kathleen M.
Kocot, Peter V.	Toomey, Timothy J., Jr.
Koutoujian, Peter J.	Torrisi, David M.
Kulik, Stephen	Turkington, Eric
Leary, James Brendan	Walsh, Martin J.
Lepper, John A.	Walsh, Steven M.
Linsky, David P.	Wolf, Alice K. — 70.

ABSENT OR NOT VOTING (1).

Representative.

Mariano, Ronald — 1.

The yeas and nays having been completed at six minutes before five o'clock P.M., the further amendment was *rejected*.

Pending the question on adoption of the pending Barrios amendment, Messrs. Lees and Travaglini moved that the amendment be further amended by striking out the text and inserting in place thereof the following text:-

"Section 1. It being the public policy of this commonwealth to define the unique relationship of marriage, only the union of one man and one woman shall be valid as a marriage in the commonwealth.

Section 2. The people of the Commonwealth adopt this Article to protect the unique relationship of marriage. The people also wish to establish civil unions to provide to same-sex couples all the benefits, protections, rights and responsibilities under state law as are granted to spouses in a marriage, while recognizing that under present federal law same-sex couples in civil unions will be denied federal benefits available to married couples.

Section 3. Two persons of the same sex shall have the right to form a civil union if they meet the requirements set forth by law for marriage between a man and a woman. All laws applicable to marriage, including laws relating to dissolution of marriages, shall also apply to civil unions. Spouses in a civil union shall have all the same benefits, protections, rights and responsibilities under law as are granted to spouses in a marriage. To the extent that a law adopts, refers to or relies on a federal law that applies to the commonwealth, spouses in civil unions shall have access to the full legal, social, cultural and economic protections, benefits and obligations accorded to married couples in the commonwealth. As used in this section, "law" means any law of the commonwealth, or of any of its political subdivisions, or of any entity established to serve a public purpose, whether defined by statute, agency or court rule or regulation, ordinance, by-law, policy, common law or other source of civil law. The appropriate agencies of the executive department shall take all necessary measures to provide civil union license forms as required by the laws governing equivalent marriage forms and to provide for the maintenance of records of all civil unions and the dissolution thereof. The procedures under law for issuing a marriage license shall apply to issuing a civil union license.

Section 4. Persons of the same sex who married before the effective date of this Article shall be considered instead to have formed a civil union under section 3.

Section 5. This Article shall be construed liberally to secure to eligible couples the option of a legal status with all the attributes and effects, benefits and protections of marriage.

Section 6. This Article is self-executing, but the general court may enact laws consistent with this Article to carry out this Article's purposes."; and by striking out the title and inserting in place thereof the following title:- "Proposal for a Legislative Amendment to the Constitution limiting civil marriage to a man and a woman and establishing civil unions to provide benefits, protections, rights and responsibilities for same-sex couples."

During consideration of the further amendment, six minutes past six o'clock P.M., Ms. Murray doubted the presence of quorum and at eleven minutes past six o'clock P.M., a quorum was deemed present.

After further consideration, Mr. Rosenberg doubted the presence of quorum and at twenty-nine

minutes before eight o'clock P.M., a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 198 members were recorded as being in attendance. [Senate Yeas and Nays No. 453] [House Yeas and Nays No. 523]

Yeas (0).

Nays (0).

ANSWERED "PRESENT" (198).

Senators.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Travaglini, Robert E.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 39.
Menard, Joan M.	

Representatives.

Asselin, Christopher P.	Koutoujian, Peter J.
Atkins, Cory	Kujawski, Paul
Atsalis, Demetrius J.	Kulik, Stephen
Ayers, Bruce J.	L'Italien, Barbara A.
Balsler, Ruth B.	Lantigua, William
Binienda, John J.	Larkin, Peter J.
Blumer, Deborah D.	Leary, James Brendan
Bosley, Daniel E.	LeDuc, Stephen P.
Bradley, Garrett J.	Lepper, John A.
Broadhurst, Arthur J.	Linsky, David P.
Brown, Scott P.	Loscocco, Paul J.
Buoniconti, Stephen J.	Malia, Elizabeth A.
Cabral, Antonio F. D.	Mariano, Ronald
Callahan, Jennifer M.	Marzilli, J. James, Jr.

Canavan, Christine E.	Miceli, James R.
Candaras, Gale D.	Murphy, Charles A.
Carron, Mark J.	Murphy, James M.
Casey, Paul C.	Murphy, Kevin J.
Ciampa, Vincent P.	Nangle, David M.
Connolly, Edward G.	Naughton, Harold P., Jr.
Coppola, Michael J.	Nyman, Robert J.
Correia, Robert	O'Brien, Thomas J.
Costello, Michael A.	O'Flaherty, Eugene L.
Coughlin, Robert K.	Owens-Hicks, Shirley
Creedon, Geraldine	Parente, Marie J.
DeLeo, Robert A.	Patrick, Matthew
deMacedo, Viriato Manuel	Paulsen, Anne M.
Demakis, Paul C.	Pedone, Vincent A.
Dempsey, Brian S.	Peisch, Alice H.
DiMasi, Salvatore F.	Perry, Jeffrey D.
Donato, Paul J.	Petersen, Douglas W.
Donelan, Christopher J.	Peterson, George N., Jr.
Donovan, Carol A.	Petrolati, Thomas M.
Driscoll, Joseph R.	Petrucelli, Anthony
Eldridge, James B.	Pignatelli, Smitty
Evangelidis, Lewis G.	Poirier, Elizabeth A.
Fagan, James H.	Polito, Karyn E.
Fallon, Christopher G.	Pope, Susan W.
Falzone, Mark V.	Quinn, John F.
Fennell, Robert F.	Reinstein, Kathi-Anne
Festa, Michael E.	Rivera, Cheryl A.
Finegold, Barry R.	Rodrigues, Michael J.
Flynn, David L.	Rogeness, Mary S.
Fox, Gloria L.	Rogers, John H.
Fresolo, John P.	Ruane, J. Michael
Frost, Paul K.	Rush, Michael F.
Galvin, William C.	Rushing, Byron
Garry, Colleen M.	Sánchez, Jeffrey
George, Thomas N.	Scaccia, Angelo M.
Gifford, Susan W.	Scibak, John W.
Gobi, Anne M.	Simmons, Mary Jane
Goguen, Emile J.	Smizik, Frank Israel
Golden, Brian Paul	Speliotis, Theodore C.
Golden, Thomas A., Jr.	Spellane, Robert P.
Gomes, Shirley	Spiliotis, Joyce A.
Grant, Mary E.	Spilka, Karen
Greene, William G., Jr.	Stanley, Harriett L.

Haddad, Patricia A.	Stanley, Thomas M.
Hall, Geoffrey D.	St. Fleur, Marie P.
Hargraves, Robert S.	Story, Ellen
Harkins, Lida E.	Straus, William M.
Hill, Bradford	Sullivan, David B.
Hillman, Reed V.	Swan, Benjamin
Honan, Kevin G.	Teahan, Kathleen M.
Howland, Mark A.	Timilty, Walter F.
Humason, Donald F., Jr.	Tobin, A. Stephen
Hynes, Frank M.	Toomey, Timothy J., Jr.
Jehlen, Patricia D.	Torrisi, David M.
Jones, Bradley H., Jr.	Travis, Philip
Kgafka, Louis L.	Turkington, Eric
Kane, Michael F.	Vallee, James E.
Kaprielian, Rachel	Verga, Anthony J.
Kaufman, Jay R.	Wagner, Joseph F.
Keenan, Daniel F.	Wallace, Brian P.
Kelly, Shaun P.	Walrath, Patricia A.
Kennedy, Thomas P.	Walsh, Martin J.
Khan, Kay	Walsh, Steven M.
Knuuttila, Brian	Webster, Daniel K.
Kocot, Peter V.	Wolf, Alice K. — 159.
Koczera, Robert M.	

ABSENT OR NOT VOTING (1).

Mariano, Ronald — 1.

After further debate, the question on adoption of the further amendment offered by Messrs. Lees and Travaglini to the pending

Barrios amendment was determined by a call of the yeas and nays at seventeen minutes past eight o'clock P.M. as follows to wit (Yeas 94 - Nays 104) [**Senate Yeas and Nays No. 454**] [**House Yeas and Nays No. 524**]

Yeas (94).

Senators.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Murray, Therese
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Brewer, Stephen M.	O'Leary, Robert A.
Chandler, Harriette L.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.

Hart, John A., Jr. Shannon, Charles E.
Havern, Robert A. Tarr, Bruce E.
Joyce, Brian A. Tisei, Richard R.
Knapik, Michael R. Tolman, Steven A.
Lees, Brian P. Travaglini, Robert E.
McGee, Thomas M. Tucker, Susan C.
Melconian, Linda J. Wilkerson, Dianne —
32.

Representatives.

Atkins, Cory Kennedy, Thomas P.
Blumer, Deborah D. Khan, Kay
Bosley, Daniel E. Kocot, Peter V.
Buoniconti, Stephen J. Kulik, Stephen
Cabral, Antonio F. D. Leary, James Brendan
Callahan, Jennifer M. LeDuc, Stephen P.
Costello, Michael A. Linsky, David P.
Coughlin, Robert K. L'Italien, Barbara A.
Creedon, Geraldine Marzilli, J. James, Jr.
DeLeo, Robert A. Murphy, Charles A.
Demakis, Paul C. Murphy, Kevin J.
Donelan, Christopher J. Owens-Hicks, Shirley
Donovan, Carol A. Paulsen, Anne M.
Eldridge, James B. Peisch, Alice H.
Fagan, James H. Petersen, Douglas W.
Fallon, Christopher G. Petrucelli, Anthony
Falzone, Mark V. Reinstein, Kathi-Anne
Fennell, Robert F. Rivera, Cheryl A.
Festa, Michael E. Rodrigues, Michael J.
Finegold, Barry R. Scibak, John W.
Flynn, David L. Spellane, Robert P.
Fox, Gloria L. Spilka, Karen
Galvin, William C. Stanley, Harriett L.
Gobi, Anne M. Story, Ellen
Grant, Mary E. Straus, William M.
Honan, Kevin G. Sullivan, David B.
Howland, Mark A. Swan, Benjamin
Jehlen, Patricia D. Teahan, Kathleen M.
Kafka, Louis L. Torrisi, David M.
Kaprielian, Rachel Verga, Anthony J.
Kaufman, Jay R. Walsh, Steven M. —
62.

NAYS (104).

Senators.

Creedon, Robert S., Jr. Morrissey, Michael W.
Hedlund, Robert L. Sprague, Jo Ann
Magnani, David P. Walsh, Marian — 7.

Moore, Richard T.

Representatives.

Asselin, Christopher P.	Lantigua, William
Atsalis, Demetrius J.	Larkin, Peter J.
Ayers, Bruce J.	Lepper, John A.
Balsler, Ruth B.	Loscocco, Paul J.
Binienda, John J.	Malia, Elizabeth A.
Bradley, Garrett J.	Miceli, James R.
Broadhurst, Arthur J.	Murphy, James M.
Brown, Scott P.	Nangle, David M.
Canavan, Christine E.	Naughton, Harold P., Jr.
Candaras, Gale D.	Nyman, Robert J.
Carron, Mark J.	O'Brien, Thomas J.
Casey, Paul C.	O'Flaherty, Eugene L.
Ciampa, Vincent P.	Parente, Marie J.
Connolly, Edward G.	Patrick, Matthew
Coppola, Michael J.	Pedone, Vincent A.
Correia, Robert	Perry, Jeffrey D.
deMacedo, Viriato Manuel	Peterson, George N., Jr.
Dempsey, Brian S.	Petrolati, Thomas M.
DiMasi, Salvatore F.	Pignatelli, Smitty
Donato, Paul J.	Poirier, Elizabeth A.
Driscoll, Joseph R.	Polito, Karyn E.
Evangelidis, Lewis G.	Pope, Susan W.
Finneran, Thomas M.	Quinn, John F.
Fresolo, John P.	Rogeness, Mary S.
Frost, Paul K.	Rogers, John H.
Garry, Colleen M.	Ruane, J. Michael
George, Thomas N.	Rush, Michael F.
Gifford, Susan W.	Rushing, Byron
Goguen, Emile J.	Sánchez, Jeffrey
Golden, Brian Paul	Scaccia, Angelo M.
Golden, Thomas A., Jr.	Simmons, Mary Jane
Gomes, Shirley	Smizik, Frank Israel
Greene, William G., Jr.	Speliotis, Theodore C.
Haddad, Patricia A.	Spiliotis, Joyce A.
Hall, Geoffrey D.	Stanley, Thomas M.
Hargraves, Robert S.	St. Fleur, Marie P.
Harkins, Lida E.	Timilty, Walter F.
Hill, Bradford	Tobin, A. Stephen
Hillman, Reed V.	Toomey, Timothy J., Jr.
Humason, Donald F., Jr.	Travis, Philip
Hynes, Frank M.	Turkington, Eric

Jones, Bradley H., Jr.	Vallee, James E.
Kane, Michael F.	Wagner, Joseph F.
Keenan, Daniel F.	Wallace, Brian P.
Kelly, Shaun P.	Walrath, Patricia A.
Knuuttila, Brian	Walsh, Martin J.
Koczera, Robert M.	Webster, Daniel K.
Koutoujian, Peter J.	Wolf, Alice K. — 97.
Kujawski, Paul	

The yeas and nays having been completed at twenty-eight minutes past eight o'clock P.M., the further amendment was *rejected*.

Pending the question on adoption of the pending amendment offered by Mr. Barrios, pending the main question on ordering the proposal to a third reading, and without further action on the matters duly and constitutionally assigned for consideration, on motion of Mr. Lees, at a half past eight o'clock P.M. the joint session was recessed until tomorrow, February 12, 2004 at twelve o'clock noon.
