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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE IN JOINT SESSION.

Tuesday, March 30, 2004.

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

At fourteen minutes past one 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.

The President, members, guests and employees then recited the pledge of allegiance to the flag.

The Proposal for a Legislative Amendment to the Constitution relative to increasing the term of the General Court from two to four years (Senate, No. 352),- was then read twice in accordance with the provisions of the special rules.
The Proposal was as follows:--

ARTICLE OF AMENDMENT

"Article LXIV of the Amendments to the Constitution amended by Article LXXX and Article LXXII Amendments, is hereby annulled, and the following is adopted in place thereof: -

SECTION 1. Article LXIV. The Governor, lieutenant governor, secretary, treasurer and receiver-general, attorney general, auditor, senators, and representatives shall be elected quadrennially, and counselors shall be elected biennially. The terms the governor and lieutenant-governor shall begin at noon Thursday next following the first Wednesday in January succeeding their election and shall end at noon on the Thursday following the first Wednesday in January in the fifth year following their election. If the governor-elect shall have died before the qualification of the lieutenant-governor-elect, the lieutenant-governor-elect upon qualification shall become governor. If both the governor-elect and the lieutenant-governor-elect shall have died, both said offices shall be deemed vacant and the provisions of Article LV of the Amendments to the Constitution shall apply. The terms of the secretary, treasurer and receiver-general, attorney-general, and auditor shall begin with the third Wednesday in January succeeding their election and shall extend to the third Wednesday in January in the fifth year following their election and until their successors are chosen and qualified. The terms of the councilors shall begin at noon on the Thursday next following the first Wednesday in January succeeding their election and shall end at noon on the Thursday next following the first Wednesday in January in the third year following their election. The terms of senators and representatives shall begin with the first Wednesday in January succeeding their election and shall extend to the first Wednesday in January in the fifth year following their election and until their successors are chosen and qualified.

SECTION 2. The general court shall assemble every year on the first Wednesday in January.

SECTION 3. The first election to which this article shall apply shall be held on the Tuesday next after the first Monday in November in the year two thousand and two, and thereafter elections for the choice of governor, lieutenant-governor, auditor, secretary, treasurer and receiver-general, attorney-general, auditor, senators, and representatives shall be held quadrennially on the Tuesday next after the first Monday in November and elections for the choice of councilors shall be held biennially on the Tuesday next after the first Monday in November."

Pending the question on ordering the proposal to a third reading, at seventeen minutes past one o'clock P.M., Mr. Jones of North Reading doubted the presence of a quorum and asked for a call of the yeas and nays to ascertain if a quorum was present. The President, 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 at seventeen minutes past one o'clock P.M., as follows to wit, (Answered Present 188) [Senate Yeas and Nays No. 503] [House Yeas and Nays No. 575]:

ANSWERED "PRESENT" (188).

Senators.

Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	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
Menard, Joan M.	Wilkerson, Dianne - 38

ABSENT OR NOT VOTING.

Antonioni, Robert A.	Melconian, Linda J.
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Representatives.

Asselin, Christopher P.	Koczera, Robert M.
Atkins, Cory	Koutoujian, Peter J.
Atsalis, Demetrius J.	Kujawski, Paul
Ayers, Bruce J.	Kulik, Stephen
Balser, Ruth B.	Lantigua, William
Binienda, John J.	Larkin, Peter J.
Blumer, Deborah D.	Leary, James B.
Bradley, Garrett J.	LeDuc, Stephen P.
Broadhurst, Arthur J.	Lepper, John A.
Buoniconti, Stephen J.	Linsky, David Paul
Cabral, Antonio F. D.	L'Italien, Barbara A.
Callahan, Jennifer M.	Loscocco, Paul J. P.

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

Greene, William G., Jr.	Stanley, Thomas M.
Haddad, Patricia A.	St. Fleur, Marie P.
Hall, Geoffrey D.	Story, Ellen
Hargraves, Robert S.	Straus, William M.
Harkins, Lida E.	Sullivan, David B.
Hill, Bradford	Swan, Benjamin
Hillman, Reed V.	Teahan, Kathleen M.
Honan, Kevin G.	Timilty, Walter F.
Howland, Mark A.	Tobin, A. Stephen
Humason, Donald F., Jr.	Toomey, Timothy J., Jr.
Hynes, Frank M.	Torrise, David M.
Jehlen, Patricia D.	Travis, Philip
Jones, Bradley H., Jr.	Turkington, Eric
Kafka, Louis L.	Vallee, James E.
Kane, Michael F.	Verga, Anthony J.
Kaprielian, Rachel	Wagner, Joseph F.
Kaufman, Jay R.	Wallace, Brian P.
Keenan, Daniel F.	Walrath, Patricia A.
Kelly, Shaun P.	Walsh, Martin J.
Kennedy, Thomas P.	Walsh, Steven Myles
Khan, Kay	Webster, Daniel K.
Knuuttila, Brian	Wolf, Alice K. — 153.
Kocot, Peter V.	

ABSENT OR NOT VOTING.

Bosley, Daniel E.	Rogeness, Mary S.
Coppola, Michael J.	Rogers, John H.
Owens-Hicks, Shirley	Simmons, Mary Jane

The yeas and nays having been completed at twenty-eight minutes past one o'clock P.M., a quorum was declared present.

The Proposal for a Legislative Amendment to the Constitution relative to increasing the term of the General Court from two to four years (Senate, No. 352),- was further considered, the question on ordering the proposal to a third reading.

After remarks, Mr. Moore moved that the matter be referred to a Special Committee of the Joint Session (under Special Rule F) comprising of the members of the joint committee on Elections Laws; and this motion prevailed.

The Proposal for a Legislative Amendment to the Constitution relative to emergency appointments of elected officials (Senate, No. 355),- was then read twice in accordance with the provisions of the special rules.

The Proposal was as follows:--

ARTICLE OF AMENDMENT

"The Constitution of the Commonwealth is hereby amended by striking out Article LXXXIII of the Amendments to the Constitution, and inserting in place thereof the following Article of Amendment:-

Article LXXXIII. The general court shall have full power and authority to provide for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices in periods of emergency resulting from disaster caused by enemy or terrorist attack, and to adopt such other measures as may be necessary and proper for insuring continuity of the government of the commonwealth and the governments of its political subdivisions; except that, notwithstanding Article XXX of Part the First, if more than 1/3 of the senate or more than 1/3 of the house membership is vacant as a result of enemy or terrorist attack, the governor shall fill the vacancies by appointment, and in making the appointments he shall fill each vacancy with a person who is a resident of the district where the vacancy occurred and is of the same political party as the person who

held the office at the time the vacancy occurred. A person so appointed shall serve until a successor is elected and qualified in accordance with the provisions for filling vacancies in the general court."

After remarks, Mr. Moore moved that the matter be referred to a Special Committee of the Joint Session (under Special Rule F) comprising of the members of the joint committee on Elections Laws; and this motion prevailed.

The Proposal for a Legislative Amendment to the Constitution relative to promoting the representative character of ballot questions (Senate, No. 362),- was then read twice in accordance with the provisions of the special rules.

The Proposal was as follows:--

ARTICLE OF AMENDMENT

"Article XLVIII of the amendments to the Constitution is hereby amended in that part of said article XLVIII under the heading 'The Initiative. II. Initiative Petitions' in section three by:

Striking the words: "shall be submitted to the attorney-general not later than the first Wednesday of the August before" and replacing them with the following:- "shall be submitted to the attorney-general not later than the first Wednesday of the June before", and is further amended by:

Striking the words: 'it may then be filed with the secretary of the Commonwealth' and replacing them with the following:- 'it may then be filed with a Ballot Question Title And Summary Statement Commission, the membership and operations of which will be provided for in the general laws. Said Commission will receive draft titles and summaries from the attorney general for use on the state ballot and petition forms and prepare final titles and summaries for use by the state secretary.', and is further amended by:

Striking the words: 'a fair, concise summary, as determined by the attorney-general' and replacing them with the following:- 'a fair, concise summary, as determined by the Ballot Question Title And Summary Statement Commission', and is further amended by:

Striking the words: 'not earlier than the first Wednesday of September' and replacing them with the following:- 'not earlier than the third Wednesday of July'.

Article XLVIII of the amendments to the Constitution is hereby further amended in that part of said article XLVIII under the heading 'The Initiative. IV. Legislative Action on Proposed Constitutional Amendments' in section two by:

Striking the words: 'in the aggregate by not less than such number of voters as will equal three percent of the entire vote cast for governor at the preceding biennial state election' and replacing them with the following:- 'in the aggregate by not less than such number of voters as will equal three percent of the number of registered voters during the preceding biennial state election and including such number of voters as will be equal to two per cent of the number of registered voters in each Congressional district during the preceding biennial state election'

Article XLVIII of the amendments to the Constitution is hereby further amended in that part of said article XLVIII under the heading 'The Initiative. V. Legislative Action on Proposed Laws' in section one by:

Striking the words: 'in the aggregate by not less than such number of voters as will equal three per cent of the entire vote cast for governor at the preceding biennial state election' and replacing them with the following:- 'in the aggregate by not less than such number of voters as will equal two and one half percent of the number of registered voters during the preceding biennial state election and

including such number of voters as will be equal to one and one half per cent of the number of registered voters in each Congressional district during the preceding biennial state election'

Article XLVIII of the amendments to the Constitution is hereby further amended in that part of said article XLVIII under the heading 'The Initiative. V. Legislative Action on Proposed Laws' in section two by:

Striking the words: 'a number of signatures of qualified voters equal in number to not less than one half of one per cent of the entire vote cast for governor at the preceding biennial state election' and replacing them with the following:- 'a number of signatures of qualified voters equal in number to not less than one half of one per cent of the number of registered voters during the preceding biennial state election'."

Pending the question on ordering the proposal to a third reading, Ms. Story of Amherst moved that the matter be placed at the end of the calendar; and there being no objection, the matter was placed at the end of the calendar.

The Proposal for a Legislative Amendment to the Constitution relative to relative to the election of judges (Senate, No. 1065),- was then read twice in accordance with the provisions of the special rules.

The Proposal was as follows:--

ARTICLE OF AMENDMENT

"Part 2, c. 3, Article I of the Constitution is hereby amended by striking Article I and inserting in place thereof the following new language:

Article I. The tenure that all commission officers shall by law have in their office, shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices for a period of six years.

After the expiration of the initial six year term, the judicial officer, if he or she so chooses, shall have his or her name placed upon the ballot, in the County where they have been seated for the majority of the six years, for a vote of affirmation. If the judicial officer chooses not to place his/her name upon the ballot his/her term shall immediately end and he or she cannot be considered for appointment to any judicial position. If the judicial officer's name is placed upon the ballot and receives a majority vote of all votes cast he or she shall be reappointed for an additional six-year period. If the judicial officer fails to receive a majority vote he or she shall not be eligible for reappointment to any judicial position. Should the judicial officer receive a vote of affirmation he

or she will be eligible for a reappointment in like manner every six years thereafter. Provided however, the Governor, with the consent of the Council, may remove the judicial officer upon

the address of both houses of the legislature and provided also, that the Governor, with the consent of the Council, may after due notice and hearing retire them because of advanced age or mental or physical disability; and provided further, that upon attaining seventy years of age said judges shall be retired. Such retirement shall be subject to any provisions made by law as to pensions or allowances payable to such officers upon their voluntary retirement.

The Clerk Magistrate in the County where a judicial officer's name is placed on the ballot, shall publish the judicial officer's sentencing and bail setting record on all Federal Bureau of Investigation Part I offenses for the previous six years in all County newspapers, on public access television channels within said County and post in all County courthouses. This shall be published a minimum of three weeks prior to the judicial officer's name being placed on the ballot.

Immediately upon ratification of this amendment to the Massachusetts Constitution, all judicial officers who are presently judges shall have their names placed on the ballot in the County where they are presently seated at the first state wide-election for a vote of affirmation."

After remarks, Mr. Creedon moved to amend the proposal by striking out the text and inserting in place thereof the following text:-

"SECTION 1. Section I of chapter II of Part the Second of the Constitution is hereby amended by striking out Article IX and inserting in place thereof the following Article:-

Article IX. The solicitor-general, coroners, and judicial officers except judges shall be nominated and appointed by the governor, by and with the advice and consent of the council. In order to promote accountability to the fullest extent and to ensure that judges reflect the values of the people, all judges shall be nominated and appointed by the governor, by and with the advice and consent of the senate. Every nomination under this article shall be made by the governor at least seven days prior to such appointment. The senate shall not consider any such nomination unless the joint committee on the judiciary of the general court, or another committee designated by the general court, reports favorably on the nomination, after a public hearing.

SECTION 2. The second sentence of Article I of chapter III of said Part the Second is hereby amended by inserting after the word 'council', the first time it appears, the following words:- , except in the case of judges.

SECTION 3. Said second sentence of said Article I of said chapter III of said Part the Second is hereby further amended by inserting after the word 'council', the second time it appears, the following words:- , but in the case of judges with the consent of the senate,."

After remarks, the amendment was adopted.

The same Senator then moved that the matter be referred to a Special Committee of the Joint Session (under Special Rule F) comprising of the members of the joint committee on The Judiciary.

The question on adoption of the motion to commit the matter to a Special Committee of the Joint Session was determined by a call of the yeas and the nays, at one minute past two o'clock P.M., as follows to wit (yeas 166 - nays 28) [Senate Yeas and Nays No. 504] [House Yeas and Nays No. 576]:

YEAS (166).

Senators.

Antonioni, Robert A.	Melconian, Linda J.
Baddour, Steven A.	Menard, Joan M.
Berry, Frederick E.	Montigny, Mark C.
Brown, Scott P.	Morrissey, Michael W.
Chandler, Harriette L.	Murray, Therese
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela P.
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

Wilkerson, Dianne —

35.

ABSENT OR NOT VOTING.

Brewer, Stephen M. Nuciforo, Andrea F.,
Jr.

Representatives.

Atkins, Cory	Koutoujian, Peter J.
Balser, Ruth B.	Kujawski, Paul
Blumer, Deborah D.	Kulik, Stephen
Bosley, Daniel E.	Lantigua, William
Bradley, Garrett J.	Larkin, Peter J.
Broadhurst, Arthur J.	Leary, James B.
Buoniconti, Stephen J.	LeDuc, Stephen P.
Cabral, Antonio F. D.	Lepper, John A.
Callahan, Jennifer M.	Linsky, David Paul
Candaras, Gale D.	L'Italien, Barbara A.
Carron, Mark J.	Loscocco, Paul J. P.
Ciampa, Vincent P.	Malia, Elizabeth A.
Connolly, Edward G.	Mariano, Ronald
Coppola, Michael J.	Marzilli, J. James, Jr.
Correia, Robert	Murphy, Charles A.
Costello, Michael A.	Murphy, James M.
Coughlin, Robert K.	Murphy, Kevin J.
Creedon, Geraldine	Naughton, Harold P., Jr.
DeLeo, Robert A.	Nyman, Robert J.
deMacedo, Viriato Manuel	O'Brien, Thomas J.
Demakis, Paul C.	O'Flaherty, Eugene L.
Dempsey, Brian S.	Owens-Hicks, Shirley
DiMasi, Salvatore F.	Parente, Marie J.
Donato, Paul J.	Paulsen, Anne M.
Donelan, Christopher J.	Peisch, Alice Hanlon
Donovan, Carol A.	Perry, Jeffrey Davis
Driscoll, Joseph R.	Petersen, Douglas W.
Eldridge, James B.	Peterson, George N., Jr.
Evangelidis, Lewis G.	Petrucelli, Anthony
Fagan, James H.	Poirier, Elizabeth
Fallon, Christopher G.	Polito, Karyn E.
Falzone, Mark V.	Pope, Susan W.
Fennell, Robert F.	Quinn, John F.
Festa, Michael E.	Rivera, Cheryl A.
Finegold, Barry R.	Rodrigues, Michael J.
Finneran, Thomas M.	Rogers, John H.
Fox, Gloria L.	Ruane, J. Michael

Fresolo, John P.	Rush, Michael F.
Frost, Paul K.	Rushing, Byron
Galvin, William C.	Sánchez, Jeffrey
Gifford, Susan Williams	Scaccia, Angelo M.
Gobi, Anne M.	Scibak, John W.
Golden, Brian Paul	Smizik, Frank I.
Gomes, Shirley	Spellane, Robert
Grant, Mary E.	Spilka, Karen
Haddad, Patricia A.	Stanley, Harriett L.
Hargraves, Robert S.	Stanley, Thomas M.
Harkins, Lida E.	St. Fleur, Marie P.
Hill, Bradford	Story, Ellen
Hillman, Reed V.	Straus, William M.
Honan, Kevin G.	Sullivan, David B.
Howland, Mark A.	Swan, Benjamin
Humason, Donald F., Jr.	Teahan, Kathleen M.
Hynes, Frank M.	Timilty, Walter F.
Jehlen, Patricia D.	Tobin, A. Stephen
Jones, Bradley H., Jr.	Toomey, Timothy J., Jr.
Kafka, Louis L.	Torrise, David M.
Kane, Michael F.	Turkington, Eric
Kaprielian, Rachel	Vallee, James E.
Kaufman, Jay R.	Verga, Anthony J.
Keenan, Daniel F.	Walrath, Patricia A.
Kelly, Shaun P.	Walsh, Martin J.
Kennedy, Thomas P.	Walsh, Steven Myles
Khan, Kay	Webster, Daniel K.
Knuuttila, Brian	Wolf, Alice K. — 131.
Kocot, Peter V.	

NAYS (28).

Senators.

Barrios, Jarrett T.	O'Leary, Robert A.— 3.
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Moore, Richard T.

Representatives.

Asselin, Christopher P.	Miceli, James R.
Atsalis, Demetrius J.	Nangle, David M.
Ayers, Bruce J.	Patrick, Matthew C.
Binienda, John J.	Pedone, Vincent A.
Canavan, Christine E.	Petrolati, Thomas M.
Casey, Paul C.	Pignatelli, William Smitty
Flynn, David L.	Reinstein, Kathi-Anne
Garry, Colleen M.	Speliotis, Theodore C.
Goguen, Emile J.	Spiliotis, Joyce A.

Golden, Thomas A., Jr. Travis, Philip
Greene, William G., Jr. Wagner, Joseph F.
Hall, Geoffrey D. Wallace, Brian P.—
25.

Koczera, Robert M.

ABSENT OR NOT VOTING.

George, Thomas N. Simmons, Mary Jane
— **2.**

Rogeness, Mary S.

The yeas and nays having been completed at nine minutes past two o'clock P.M., the motion prevailed.
Without further action on the matters duly and constitutionally assigned for consideration, at ten minutes past two o'clock P.M.,
on motion of Mr. Havern, the Joint Session was recessed until Wednesday, May 12, 2004 at one o'clock P.M.