

HOUSE No. 2032

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, January 9, 1941.

The joint committee on Ways and Means, to whom was referred so much of the Governor's Address (Senate, No. 1) as relates to changing the fiscal year of the Commonwealth so as to begin on July 1 in the year 1943, and the petition (accompanied by bill, House, No. 645) of Arthur I. Burgess for legislation to change the fiscal year of the Commonwealth and to establish the fiscal biennium thereof, report that the accompanying order ought to be adopted.

For the committee,

PAUL W. FOSTER.

The Commonwealth of Massachusetts

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Whereas, Section two of Article LXIII of the amendments to the Constitution of the Commonwealth, which was approved at the state election in nineteen hundred and eighteen, provides in part that "Within three weeks after the convening of the general court the governor shall recommend to the general court a budget which shall contain a statement of all proposed expenditures of the commonwealth for the fiscal year" . . .; and

Whereas, Section three of said Article LXIII provides in part that "All appropriations based upon the budget to be paid from taxes or revenues shall be incorporated in a single bill which shall be called the general appropriation bill"; and

Whereas, Article LXXII of said amendments, which was approved at the state election in nineteen hundred and thirty-eight, provides as follows:

"*Section 1.* The general court shall assemble in regular session on the first Wednesday of January in the year following the approval of this article and biennially on said Wednesday thereafter. Nothing herein contained shall prevent the general court from assembling at such other times as they shall judge necessary or when called together by the governor.

Section 2. The budget required by Section 2 of Article LXIII of the amendments to the constitution shall be for the year in which the same is adopted and for the ensuing year.

Section 3. All provisions of this constitution and of the amendments thereto requiring the general court to meet annually are hereby annulled."; and

Whereas, At the time of the approval of said Article

LXIII, and also at the time of the approval of said Article LXXII, the fiscal year of the commonwealth was, and now is, established by Clause Ninth of section seven of chapter four of the General Laws, as beginning on December first and ending with the following November thirtieth; and

Whereas, Said Article LXXII resulted directly from a proposal for a constitutional amendment introduced in the general court of 1935-1936 by initiative petition (House Document No. 305 of 1935), after an identical proposal for a constitutional amendment introduced in the general court of 1933-1934 by initiative petition (House Document No. 225 of 1934) had been defeated; and

Whereas, The description of said proposed constitutional amendment introduced in the general court of 1933-1934, determined by the attorney general under Article XLVIII of the amendments to the Constitution of the Commonwealth, was printed, as required by said Article, at the top of the blanks provided by the state secretary for signatures of subsequent signers of the initiative petition for said amendment, and the description of said proposed constitutional amendment introduced in the general court of 1935-1936, likewise determined by the attorney general and likewise appearing at the top of blanks for signatures of subsequent signers of the initiative petition for said last mentioned amendment, also appeared, as required by said Article, on the ballots used for submitting said constitutional amendment to the voters at the state election in 1938, at which election it was approved by said voters and became Article LXXII of the Amendments to the Constitution of the Commonwealth, and said descriptions were identical and read as follows:—

“This amendment annuls all existing provisions of the Constitution and its prior amendments which require annual sessions of the General Court, commonly known as the Legislature, and provides for biennial sessions in their place. It also provides that the budget of all pro-

posed expenditures of the Commonwealth shall be so prepared as to cover two fiscal years instead of only one as at present required"; and

Whereas, No suggestion that said proposed constitutional amendments in any way restricted the power of the general court to change the fiscal year of the commonwealth or regulated the time of enactment of the general appropriation bill appeared in their aforesaid descriptions, in their titles or in the reports of legislative committees considering them, and no such suggestion appeared in the pamphlet containing information relative to such proposed amendment introduced in the general court of 1935-1936, copies of which pamphlet, under said Article XLVIII, were sent to all registered voters in the commonwealth prior to the state election of 1938; and

Whereas, If said Article LXXII is to be construed as restricting the power of the general court to change the fiscal year of the commonwealth or as regulating the time of enactment of the general appropriation bill, it would seem that

(1) The additional signers of the initiative petition for said article of amendment were not correctly informed as to its meaning by the description in the petition,

(2) The committee of the general court which considered and reported on said article did not have in mind any such restriction or regulation,

(3) The description of said article as it appeared in the petition and on the ballot did not conform to the constitutional requirements for such descriptions,

(4) Said article was submitted to the registered voters for approval in an improper and unconstitutional manner, and

(5) Said voters, when voting on said article, had not been correctly informed as to its meaning either by the pamphlet hereinbefore mentioned or by the description appearing on the ballot; and

Whereas, It would appear to have been necessary to provide in a constitutional amendment establishing regular biennial sessions of the general court in place of regu-

lar annual sessions that the budget and general appropriation bill should be for two consecutive fiscal years instead of for one fiscal year, as stated in the description hereinbefore quoted, but not necessary to provide therein any restriction on the power of the general court to change the fiscal year of the commonwealth or any regulation of the time of enactment of the general appropriation bill, inasmuch as such a restriction or regulation would seem to bear no relation to the change in frequency of sessions of the general court; and

Whereas, His Excellency the Governor has recommended in his inaugural address (current Senate document No. 1, on pages 31 and 32) that the fiscal year of the commonwealth be changed so as to begin on July first of the year of the assembling of the general court in regular biennial session and end on the following June thirtieth, which is the fiscal year of the United States and a number of the states thereof; and

Whereas, There is now pending before the general court a bill, (current House Document No. 645) designed to change the fiscal year of the commonwealth as recommended by His Excellency the Governor, to provide that the biennial budget and biennial general appropriation bill shall be for the two fiscal years beginning with July first following the assembling of the general court in regular biennial session, and also to provide for an interim budget and an interim appropriation bill for such period or periods as may seem necessary or desirable to effect such change; and

Whereas, Doubt exists as to the constitutional power of the general court to enact legislation to carry into effect the aforesaid recommendations of His Excellency the Governor in the form of the aforesaid bill or otherwise, accordingly, be it

Ordered, That the House of Representatives require the opinions of the Honorable the Justices of the Supreme Judicial Court on the following important questions of law:

(1) Does section two of said Article LXXII prevent

the change by statute of the fiscal year of the commonwealth so that it will begin July first immediately following the assembling of the general court in regular biennial session instead of December first immediately preceding such assembling?

(2) In what respect, if any, does section two of said Article LXXII restrict the power of the general court to change the fiscal year of the commonwealth or regulate the time of enactment of the general appropriation bill?

(3) Is it constitutionally competent, in view of section two of said Article LXXII, for the general court to enact into law said Bill, House Document No. 645?

There are submitted herewith:

Senate Document No. 1 and House Document No. 645 of the current year,

Senate Document No. 334 and House Document No. 225 of 1934,

Senate Document No. 547 and House Document No. 305 of 1935,

Senate Document No. 35 of 1936 and

One of the copies of the pamphlet containing official information to voters relative to measures to be submitted to them at the state election of 1938 which copies, under Article XLVIII of the amendments to the constitution, were sent to all registered voters in the commonwealth.

Attention is called to:

1937 Acts and Resolves of Massachusetts, pages 654 and 655, and

1938 Acts and Resolves of Massachusetts, pages 765 to 771, inclusive.

LAWRENCE R. GROVE,

Clerk.

