

By Mr. Businger of Brookline, petition of John A. Businger for a legislative amendment to the Constitution to provide for the process of the recall of certain elective persons. Election Laws.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Nine.

PROPOSAL FOR A LEGISLATIVE AMENDMENT TO THE CONSTITUTION TO PROVIDE FOR THE PROCESS OF THE RECALL OF CERTAIN ELECTIVE PERSONS.

1 A majority of all the members elected to the Senate and
2 House of Representatives, in joint session, hereby declares it to
3 be expedient to alter the Constitution by the adoption of the
4 following Article of Amendment, to the end that it may become
5 a part of the Constitution [if similarly agreed to in a joint
6 session of the next General Court and approved by the people at
7 the state election next following]:

8 **ARTICLE OF AMENDMENT.**

1 I. *Officers subject to recall.* Any person holding elective
2 office under the authority of the United States or of the
3 commonwealth may be removed from office by the voters
4 entitled to vote for a successor of such person, through the
5 procedure and in the manner herein provided for, which
6 procedure shall be known as the recall, and is in addition to any
7 other method of removal from office provided by law.

8 II. *Contents.* A recall petition shall set forth, in not more
9 than two hundred words, the name of the person to be recalled,
10 the office which he occupies, and the reason or reasons for
11 demanding the recall of said person.

12 III. *Mode of originating.* A recall petition shall first be
13 signed by fifty qualified voters of the commonwealth and shall

14 then be submitted to the secretary of the commonwealth. The
15 secretary of the commonwealth shall provide blanks for the use
16 of subsequent signers, and shall print at the top of each blank
17 the contents together with the names and residences of the first
18 fifty signers. The remainder of the required signatures shall be
19 filed with the secretary of the commonwealth not later than
20 ninety-one days after the secretary of the commonwealth
21 provides blanks for the use of subsequent signers.

22 IV. *Required signatures.* A recall petition shall be signed in
23 the aggregate by not less than such number of voters entitled to
24 vote for a successor of the person whose removal is sought as
25 will equal ten percent of the entire vote cast at the last preceding
26 election for all candidates for the office which the person sought
27 to be removed occupies. Such signatures shall be filed with the
28 secretary of the commonwealth not later than ninety-one days
29 after the secretary of the commonwealth provides blanks for the
30 use of subsequent signers.

31 V. *Election date.* When a recall petition, signed by the
32 required number of qualified voters, has been filed as aforesaid,
33 the secretary of the commonwealth shall forthwith transmit the
34 said petition, together with a certificate of its sufficiency, to the
35 Governor, who shall thereupon order and fix a date for holding
36 the election, not less than sixty days nor more than ninety days
37 from the date of such certificate of the secretary of the
38 commonwealth.

39 VI. *Recall election.* The Governor shall make or cause to be
40 made publication of notice for the holding of such election, and
41 officers charged by law with duties concerning elections shall
42 make all arrangements for such election and the same shall be
43 conducted, returned and the result thereof declared, in all
44 respects as are other state elections. On the official ballot at such
45 election shall be printed the contents of the recall petition, and
46 in not more than two hundred words there shall also be printed,
47 if desired by him, the person's justification of his course in
48 office. Proceedings for the recall of any person shall be deemed

49 to be pending from the date of original submission of any recall
50 petition against such person to the secretary of the com-
51 monwealth; and if such person shall resign at any time
52 subsequent to the filing thereof, but prior to the recall election,
53 the vacancy caused by such resignation, or from any other
54 cause, shall be filled by special election as provided in section
55 nine; provided that for the purposes of such special election the
56 date of resignation shall be deemed the date of recall.

57 VII. *Form of ballot.* There shall be printed on the recall
58 ballot, as to every person whose recall is to be voted on thereat,
59 the following question: — "Shall (name of person against whom
60 the recall petition is filed) be recalled from the office of (title of
61 office)?", following which question shall be the words "Yes" and
62 "No" on separate lines, with a blank space at the right of each,
63 in which the voter shall indicate his vote for or against such
64 recall. On such ballots, under each such question, shall be
65 printed the contents of the recall petition, and in not more than
66 two hundred words there shall also be printed, if desired by him,
67 the person's justification of his cause in office.

68 If a majority of the voters voting on the question shall vote in
69 the affirmative, the person shall be recalled, and the office shall
70 be declared vacant. Such vacancy shall be filled by special
71 election as prescribed in section nine.

72 If a majority of the voters voting on the question shall vote in
73 the negative, recall shall not prevail, and the officer shall
74 continue in office.

75 VIII. *Limitations on recall; minimum incumbency.* No recall
76 petition shall be circulated or filed against any person until he
77 has actually held his office for at least six months, nor shall any
78 recall petition be filed or circulated against any person during
79 the calendar year of the next regular election for his office. In
80 the case of a person whose recall from an office has been sought
81 and rejected at a recall election, no further petition shall be filed
82 or circulated for the recall of such person from such office
83 during the one hundred eighty days following said recall
84 election.

85 IX. *Special Election.* In the case of any vacancy created by a
86 recall election, or by the resignation of any person against whom
87 recall proceedings are pending, such vacancy shall be filled by a
88 special election. The primary shall be held on the last Tuesday
89 within the sixty days following said recall election or resigna-
90 tion, and the special election shall be held four weeks following
91 the primary. Provisions of law governing regular special state
92 primaries and elections shall otherwise apply, so far as may be
93 apt, to such special state primaries and elections as may be held
94 under the provisions of this section; provided, however, that the
95 General Court may from time to time prescribe specific and
96 separate procedure for the conduct of special elections held
97 under the provisions of this section. No person recalled from
98 any office shall be a candidate to fill the vacancy created by such
99 recall.

100 X. *Substitute officials.* If the Governor is sought to be
101 removed under the provisions of this article, the duties herein
102 imposed upon him shall be performed by the Lieutenant
103 Governor; and if the secretary of the commonwealth is sought to
104 be removed, the duties herein imposed upon him shall be
105 performed by the attorney general.

106 XI. *General Laws.* In the submission to the voters of any
107 petition proposed under this article all officers shall be guided
108 by the General Laws of the commonwealth, except as otherwise
109 herein provided.

110 This article is self executing, but legislation may be enacted to
111 facilitate its operation, but in no way limiting or restricting the
112 provisions of this article or the powers herein reserved.