

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

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-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 House of
2 Representatives, in joint session, hereby declares it to be expedient
3 to alter the Constitution by the adoption of the following Article of
4 Amendment, to the end that it may become a part of the Constitution
5 [if similarly agreed to in a joint session of the next General Court
6 and approved by the people at the state election next following]:

7 **ARTICLE OF AMENDMENT.**

8 I. *Officers subject to recall.* Any person holding elective office
9 under the authority of the United States or of the commonwealth
10 may be removed from office by the voters entitled to vote for a
11 successor of such person, through the procedure and in the manner
12 herein provided for, which procedure shall be known as the recall,
13 and is in addition to any other method of removal from office
14 provided by law.

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

19 III. *Mode of originating.* A recall petition shall first be signed
20 by fifty qualified voters of the commonwealth and shall then be
21 submitted to the secretary of the commonwealth. The secretary of
22 the commonwealth shall provide blanks for the use of subsequent

23 signers, and shall print at the top of each blank the contents
24 together with the names and residences of the first fifty signers. The
25 remainder of the required signatures shall be filed with the secre-
26 tary of the commonwealth not later than ninety-one days after the
27 secretary of the commonwealth provides blanks for the use of
28 subsequent signers.

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

38 V. *Election date.* When a recall petition, signed by the required
39 number of qualified voters, has been filed as aforesaid, the secre-
40 tary of the commonwealth shall forthwith transmit the said peti-
41 tion, together with a certificate of its sufficiency, to the Governor,
42 who shall thereupon order and fix a date for holding the election,
43 not less than sixty days nor more than ninety days from the date of
44 such certificate of the secretary of the commonwealth.

45 VI. *Recall election.* The Governor shall make or cause to be
46 made publication of notice for the holding of such election, and
47 officers charged by law with duties concerning elections shall make
48 all arrangements for such election and the same shall be conducted,
49 returned and the result thereof declared, in all respects as are other
50 state elections. On the official ballot at such election shall be printed
51 the contents of the recall petition, and in not more than two
52 hundred words there shall also be printed, if desired by him, the
53 person's justification of his course in office. Proceedings for the
54 recall of any person shall be deemed to be pending from the date of
55 original submission of any recall petition against such person to the
56 secretary of the commonwealth; and if such person shall resign at
57 any time subsequent to the filing thereof, but prior to the recall
58 election, the vacancy caused by such resignation, or from any other
59 cause, shall be filled by special election as provided in section nine;
60 provided that for the purposes of such special election the date of
61 resignation shall be deemed the date of recall.

62 VII. *Form of ballot.* There shall be printed on the recall ballot,
63 as to every person whose recall is to be voted on thereat, the
64 following question: — “Shall (name of person against whom the
65 recall petition is filed) be recalled from the office of (title of
66 office)?”, following which question shall be the words “Yes” and
67 “No” on separate lines, with a blank space at the right of each, in
68 which the voter shall indicate his vote for or against such recall. On
69 such ballots, under each such question, shall be printed the con-
70 tents of the recall petition, and in not more than two hundred
71 words there shall also be printed, if desired by him, the person’s
72 justification of his course in office.

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

77 If a majority of the voters voting on the question shall vote in the
78 negative, recall shall not prevail, and the officer shall continue in
79 office.

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

89 IX. *Special Election.* In the case of any vacancy created by a
90 recall election, or by the resignation of any person against whom
91 recall proceedings are pending, such vacancy shall be filled by a
92 special election. The primary shall be held on the 1st Tuesday
93 within the sixty days following said recall election or resignation,
94 and the special election shall be held four weeks following the
95 primary. Provisions of law governing regular special state prima-
96 ries and elections shall otherwise apply, so far as may be apt, to
97 such special state primaries and elections as may be held under
98 the provisions of this section; provided, however, that the General
99 Court may from time to time prescribe specific and separate
100 procedure for the conduct of special elections held under the

101 provisions of this section. No person recalled from any office shall
102 be a candidate to fill the vacancy created by such recall.

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

109 XI. *General Laws.* In the submission to the voters of any peti-
110 tion proposed under this article all officers shall be guided by the
111 General Laws of the commonwealth, except as otherwise herein
112 provided.

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