

By Mr. Serlin of Boston, petition of I. Edward Serlin for a legislative amendment to the Constitution providing for a recall of public officers. The Judiciary.

The Commonwealth of Massachusetts

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

PROPOSAL FOR A LEGISLATIVE AMENDMENT TO THE CONSTITUTION
PROVIDING FOR RECALL OF PUBLIC OFFICERS.

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

8 ARTICLE OF AMENDMENT.

9 ARTICLE . *Section 1.* Every elective public officer of the
10 Commonwealth may be removed from office at any time by
11 the persons entitled to vote for a successor of such incumbent,
12 through the procedure and in the manner herein provided for,
13 which procedure shall be known as the recall, and is in
14 addition to any other method of removal provided by law.

15 *Section 2.* The procedure hereunder to effect the removal of
16 an incumbent of an elective public office shall be as follows:—
17 A petition signed by persons entitled to vote for a successor
18 of the incumbent sought to be removed, equal in number to
19 at least twelve per cent of the entire vote cast at the last
20 preceding election for all candidates for the office which the
21 incumbent sought to be removed occupies (provided that if
22 the officer sought to be removed is a state officer who is
23 elected in any political subdivision of the commonwealth,
24 said petition shall be signed by persons entitled to vote for a
25 successor to the incumbent sought to be removed, equal in

26 number to at least twenty per cent of the entire vote cast at
27 the last preceding election for all candidates for the office
28 which the incumbent sought to be removed occupies) de-
29 manding an election of a successor to the officer named in
30 said petition, shall be addressed to the secretary of state and
31 filed with the clerk, or registrar of voters, of the county or
32 city and county in which the petition was circulated; pro-
33 vided that if the officer sought to be removed was elected in
34 the commonwealth at large such petition shall be circulated
35 in not less than five counties of the commonwealth, and shall
36 be signed in each of such counties by electors equal in number
37 to not less than one per cent of the entire vote cast, in each of
38 said counties, at said election, as above estimated. Such
39 petition shall contain a general statement of the grounds on
40 which the removal is sought, which statement is intended
41 solely for the information of the voters, and the sufficiency of
42 which shall not be open to review. When such petition is
43 certified as is herein provided to the secretary of state, he
44 shall forthwith submit the said petition, together with a
45 certificate of its sufficiency, to the governor, who shall there-
46 upon order and fix a date for holding the election, not less
47 than sixty days nor more than eighty days from the date of
48 such certificate of the secretary of state.

49 *Section 3.* The governor shall make or cause to be made
50 publication of notice for the holding of such election, and
51 officers charged by law with duties concerning elections shall
52 make all arrangements for such election and the same shall be
53 conducted, returned, and the result thereof declared, in all
54 respects as are other state elections. On the official ballot at
55 such election shall be printed, in not more than two hundred
56 words, the reasons set forth in the petition for demanding his
57 recall. And in not more than three hundred words there shall
58 also be printed, if desired by him, the officer's justification of
59 his course in office. Proceedings for the recall of any officer
60 shall be deemed to be pending from the date of the filing with
61 any county, or city and county clerk, or registrar of voters, of
62 any recalled petition against such officer; and if such officer
63 shall resign at any time subsequent to the filing thereof, the
64 recall election shall be held notwithstanding such resignation,
65 and the vacancy caused by such resignation, or from any
66 other cause, shall be filled as provided by law, but the person

67 appointed to fill such vacancy shall hold his office only until
68 the person elected at the said recall election shall qualify.

69 *Section 4.* Any person may be nominated for the office
70 which is to be filled at any recall election by a petition signed
71 by persons, qualified to vote at such recall election, equal in
72 number to at least one per cent of the total number of votes
73 cast at the last preceding election for all candidates for the
74 office which the incumbent sought to be removed occupies.
75 Each such nominating petition shall be filed with the secre-
76 tary of state not less than twenty-five days before such recall
77 election.

78 *Section 5.* There shall be printed on the recall ballot, as to
79 every officer whose recall is to be voted on thereat, the
80 following question: "Shall (name of person against whom the
81 recall petition is filed) be recalled from the office of (title of
82 the office?", following which question shall be the words
83 "Yes" and "No" on separate lines, with a blank space at the
84 right of each, in which the voter shall indicate, by stamping a
85 cross (X), his vote for or against such recall. On such ballots,
86 under each such question, there shall also be printed the
87 names of those persons who have been nominated as candi-
88 dates to succeed the person recalled, in case he shall be re-
89 moved from office by said recall election; but no vote shall be
90 counted for any candidate for said office unless the voter also
91 voted on said question of the recall of the person sought to be
92 recalled from said office. The name of the person against whom
93 the petition is filed shall not appear on the ballot as a candi-
94 date for the office. If the majority of those voting on said ques-
95 tion of the recall of any incumbent from office shall vote "No,"
96 said incumbent shall continue in said office. If a majority shall
97 vote "Yes," said incumbent shall thereupon be deemed re-
98 moved from such office, upon the qualification of his successor.
99 The canvassers shall canvas all votes for candidates for said
100 office and declare the result in like manner as in a regular elec-
101 tion. If the vote at any such recall election shall recall the offi-
102 cer, then the candidate who has received the highest number
103 of votes for the office shall be thereby declared elected, for
104 the remainder of the term. In case the person who received the
105 highest number of votes shall fail to qualify within ten days
106 after receiving the certificate of election, the office shall be
107 deemed vacant and shall be filled according to law.

108 Any recall petition may be presented in sections, but each
109 section shall contain a full and accurate copy of the title and
110 text of the petition. Each signer shall add to his signature his
111 place of residence, giving the street and number, if such exist.
112 His election precinct shall also appear on the paper after his
113 name. The number of signatures appended to each section
114 shall be at the pleasure of the person soliciting signatures to
115 the same. Any qualified voter of the commonwealth shall be
116 competent to solicit such signatures within the county, or city
117 and county, of which he is an elector. Each section of the
118 petition shall bear the name of the county, or city and county
119 in which it is circulated, and only qualified voters of such
120 county or city and county shall be competent to sign such
121 section. Each section shall have attached thereto the affidavit
122 of the person soliciting signatures to the same stating his
123 qualifications and that all the signatures to the attached
124 section were made in his presence and that to the best of his
125 knowledge and belief each signature to the section is the
126 genuine signature of the person whose name it purports to
127 be; and no other affidavit thereto shall be required. The
128 affidavit of any person soliciting signatures hereunder shall be
129 verified free of charge by any officer authorized to administer
130 an oath. Such petition so verified shall be prima facie
131 evidence that the signatures thereto appended are genuine
132 and that the persons signing the same are qualified electors.
133 Unless and until it is otherwise proven upon official investi-
134 gation, it shall be presumed that the petition presented
135 contains the signatures of the requisite number of voters.
136 Each section of the petition shall be filed with the clerk, or
137 registrar of voters, of the county or city and county in which
138 it was circulated; but all such sections circulated in any
139 county or city and county shall be filed at the same time.
140 Within twenty days after the date of filing such petition, the
141 clerk, or registrar of voters, shall finally determine from the
142 records of registration what number of qualified voters have
143 signed the same; and, if necessary, the board of supervisors
144 shall allow such clerk or registrar additional assistants for the
145 purpose of examining such petition and provide for their
146 compensation. The said clerk or registrar, upon the comple-
147 tion of such examination, shall forthwith attach to such

148 petition his certificate, properly dated, showing the result of
149 such examination, and submit said petition, except as to the
150 signatures appended thereto, to the secretary of state and file
151 a copy of said certificate in his office. Within forty days from
152 the transmission of said petition and certificate by the clerk
153 or registrar of voters to the secretary of state, a supplemental
154 petition, identical with the original as to the body of the
155 petition but containing supplemental names, may be filed
156 with the clerk or registrar of voters, as aforesaid. The clerk or
157 registrar of voters shall within ten days after the filing of such
158 supplemental petition make like examination thereof as of the
159 original petition, and upon the conclusion of such examina-
160 tion shall forthwith attach to such petition his certificate,
161 properly dated, showing the result of such examination and
162 shall forthwith transmit such supplemental petition, except
163 as to the signatures thereon, together with his said certificate
164 to the secretary of state.

165 *Section 6.* When the secretary of state shall have received
166 from one or more county clerks, or registrars of voters, a
167 petition certified as herein provided to have been signed by
168 the requisite number of qualified electors, he shall forthwith
169 transmit to the county clerk or registrar of voters of every
170 county or city and county in the commonwealth a certificate
171 showing such fact; and such clerk or registrar of voters shall
172 thereupon file said certificate for record in his office.

173 A petition shall be deemed to be filed with the secretary of
174 state upon the date of the receipt by him of a certificate or
175 certificates showing the said petition to be signed by the
176 requisite number of electors of the commonwealth.

177 No recall petition shall be circulated or filed against any
178 officer unless the term of office of said officer shall be at least
179 four years and until he has actually held his office for at least
180 two years.

181 If at any recall election the incumbent whose removal is
182 sought is not recalled, he shall be repaid from the state
183 treasury any amount legally expended by him as expenses of
184 such election, and the legislature shall provide appropriation
185 for such purpose, and no proceedings for another recall
186 election of said incumbent shall be initiated during the
187 remainder of his term of office.

188 *Section 7.* If the governor is sought to be removed under
189 the provisions of this article, the duties herein imposed upon
190 the clerk or registrar of voters, shall be performed by such
191 registrar of voters in all cases where the office of the registrar
192 of voters exists.

193 *Section 8.* The recall shall also be exercised by the voters of
194 each county, city and county, city and town of the common-
195 wealth, with reference to the elective officers thereof, under
196 such procedure as shall be provided by law.

197 Until otherwise provided by law, the legislative body of
198 any such county, city and county, city or town may provide
199 for the manner of exercising such recall powers in such
200 counties, cities and counties, cities and towns but shall not
201 require any such recall petition to be signed by voters more in
202 number than twenty-five per cent of the entire vote cast at
203 the last preceding election for all candidates for the office
204 which the incumbent sought to be removed occupies. Nothing
205 herein contained shall be construed as affecting or limiting
206 the present or future powers of cities or counties or cities and
207 counties having charters adopted under the authority given
208 by the constitution.

209 In submission to the electors of any petition proposed
210 under this article all officers shall be guided by the general
211 laws of the commonwealth, except as otherwise herein pro-
212 vided.

HOUSE

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THE HISTORY OF THE HOUSE OF COMMONS

FROM THE EARLIEST PERIODS TO THE PRESENT

BY JOHN STURT

IN TWO VOLUMES

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