

By Mr. Robinson of Melrose, petition of William G. Robinson and other members of the General Court for a legislative amendment to the Constitution relative to judicial appointments. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nineteen Hundred and Eighty-Three.

PROPOSAL FOR A LEGISLATIVE AMENDMENT TO THE CONSTITUTION RELATIVE TO JUDICIAL APPOINTMENTS.

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 Constitu-
5 tion [if similarly agreed to in a joint session of the next General
6 Court and approved by the people at the state election next follow-
7 ing]:

8 **ARTICLE OF AMENDMENT**

9 **ART.** Article IX of Chapter II of Part the Second of the
10 Constitution is hereby amended by striking out Article IX and
11 inserting in place thereof the following Article:—

12 **SECTION 1.** All judges shall be nominated by a Judicial Nomi-
13 nating Commission. All judicial officers shall be appointed by the
14 Governor from nominations of the Judicial Nominating Commis-
15 sion.

1 **SECTION 2.** The Judicial Nominating Commission shall be
2 composed of fifteen members: the Chief Justice of the Supreme
3 Judicial Court or his designee, seven members of the bar appointed
4 by the Massachusetts Bar Association, and seven persons not
5 members of the Massachusetts Bar Association appointed by the

6 Governor. With the exception of the Chief Justice or his designee
7 who shall serve for life, all members of the Judicial Nominating
8 Commission shall serve a term of four years, provided, however,
9 that in the case of the initial members, five members (three bar
10 members and two non-bar members) shall be appointed for four
11 years, five members (three non-bar members and two bar
12 members) shall be appointed for three years, and four members
13 (two bar members and two non-bar members) shall be appointed
14 for two years. A member may be removed by the Governor upon
15 recommendation of the Commission by vote of at least eight of its
16 members that cause exists. Succeeding appointments shall be
17 made, and any vacancy on the Commission shall be filled for the
18 duration of the term, in the same manner as the prior appointment.
19 No member of the Commission shall hold any appointed or elected
20 public office during the member's term. No more than eight
21 members shall be registered members of the same political party at
22 the time of their appointment. Members of the Commission shall
23 receive no compensation but shall be reimbursed for customary
24 and usual expenses directly incurred in the performance of their
25 duties. A member may be reappointed.

1 SECTION 3. The Commission from time to time shall select one
2 of its members to serve as chairperson and adopt and make public
3 procedures and standards for the conduct of its affairs. With
4 respect to vacancies to be filled hereunder in the Boston Municipal
5 Court and district court, probate court, juvenile court, housing
6 court, or other local court hereafter established, the Commission
7 shall hold at least one public hearing within the jurisdiction of such
8 court to consider what particular qualifications, if any, may be
9 needed for the position. With respect to all other vacancies, the
10 Commission in its discretion shall determine whether or not a
11 public hearing or hearings shall be held. All records and delibera-
12 tion with respect to persons under consideration as nominees or
13 prospective nominees shall be held in confidence by the Commis-
14 sion, but shall be available to the Governor and the Governor's
15 representatives.

1 SECTION 4. All vacancies in the office of judge shall be filled
2 in the following manner. When a vacancy occurs or is expected to

3 occur, the Governor shall so notify the Commission. The Commis-
4 sion shall submit to the Governor within sixty days a list for such
5 vacancy of not less than three qualified persons willing to accept the
6 office. The Governor may refuse to nominate a person from such
7 list and shall require that the Commission submit, within thirty
8 days, a supplementary list of not less than three other qualified
9 persons willing to accept the office. The Governor shall appoint
10 only a person from either the original list or the supplementary list
11 to fill such vacancy, and shall publicly announce the name of the
12 person he intends to appoint at least fourteen days prior to the date
13 of such appointment. If the Governor fails to select one nominee
14 from the original list or the supplementary list within thirty days
15 after submission of the last list, the Commission, with a vote of at
16 least eight members, shall appoint a nominee to the vacancy from
17 the original list or from the supplementary list.

1 SECTION 5. In considering persons to submit as nominees to
2 the Governor, the Commission shall seek men and women of the
3 highest quality who, by temperament, ability and integrity will
4 freely, impartially and independently interpret the laws and admin-
5 ister justice. Persons shall be considered for nomination according
6 to law and without regard to race, religion, sex, national origin or
7 political affiliation. No member of the Commission shall be con-
8 sidered or nominated while a member and for a period of two years
9 after he or she leaves the Commission.

