HOUSE . . . . . No. 1227

By Mr. Feloney of Cambridge, petition of Endicott Peabody for legislation to provide for ascertaining the will of the people relative to the calling and holding of a constitutional convention to deal with subjects limited to the revision, alteration and amendment of the structure of state government. Constitutional Law.

The Commonwealth of Massachusetts

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

AN ACT TO ASCERTAIN AND CARRY OUT THE WILL OF THE PEOPLE RELATIVE TO THE CALLING AND HOLDING OF A CONSTITUTIONAL CONVENTION TO DEAL WITH SUBJECTS LIMITED TO THE REVISION, ALTERATION AND AMENDMENT OF THE STRUCTURE OF STATE GOVERNMENT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. For the purpose of ascertaining the will of the people of the commonwealth with reference to the calling and holding of a constitutional convention, the secretary of the commonwealth shall cause to be placed on the official ballot to be used at the biennial state election in the year nineteen hundred and sixty-two the following question: —

"Shall there be a convention to revise, alter or amend the constitution of the commonwealth; provided, that the convention shall be limited to considering and proposing revisions, alterations and amendments on the following subjects and on no others: —

(1) the terms of office for constitutional officers other than judicial officers;

(2) the method of choosing executive constitutional officers;

(3) the council;

(4) the number of members in the House of Representatives and Senate of the General Court and the method of determining districts therefor;

(5) the organization of the executive and administrative work of the commonwealth; and

(6) the length of regular sessions of the General Court; and provided, further, that the number of delegates chosen and elected to the convention shall be 120, of which 20 shall be members of the general court (chosen in accordance with the provisions of House, No. 0000 of 1962 as enacted) and 100 shall be residents of the commonwealth who are not members of the general court (elected in accordance with the provisions of House, No. 0000 of 1962, as enacted); and provided, further, that the convention shall conclude its business no later than 120 calendar days from its first session, Saturdays, Sundays and holidays included?"

The votes upon said question shall be received, sorted, counted, declared and transmitted to the secretary of the commonwealth, laid before the governor and council, and by them opened and examined, in accordance with the laws relating to votes for state officers so far as they are applicable. The governor shall, by public proclamation, on or before the first Wednesday in January in the year following said state election make known the result by declaring the number of votes in the affirmative and the number in the negative; and if it shall appear that a majority of said votes is in the affirmative, it shall be deemed and taken to be the will of the people that such a convention be called and held to revise, alter or amend the constitution on such subjects and on no others, and in his proclamation the governor shall call upon the general court and the people to choose and elect delegates to the convention in the manner prescribed by this act.

SECTION 2. The number of delegates to be chosen and elected to the convention shall be one hundred and twenty, of whom ten shall be chosen by ballot of the representatives on or before the first Monday in May in the year nineteen hundred and sixty-three and shall be, at the time chosen, members of the house of representatives but no more than six of the same political party; ten shall be chosen by ballot of the senators on or before the said day and shall be, at the time chosen, members of the senate but no more than six of the same political party; twenty shall be elected at large in the manner prescribed by this act; and eighty shall be elected by the forty senatorial districts of

the commonwealth existing on the effective date of this act, to wit, two by each district, in the manner prescribed by this act.

SECTION 3. Nomination of candidates for election at large or by senatorial districts for the office of delegate to the constitutional convention shall be made by nomination papers without party or political designation, which shall be signed in the aggregate by not fewer than twenty-five hundred voters for each candidate at large and by not fewer than five hundred voters resident in a senatorial district for each candidate for delegate from that senatorial district. Said papers shall be filed on or before five o'clock in the afternoon on the first Tuesday in March in the year nineteen hundred and sixty-three. No member of the general court on the first Tuesday in March aforesaid shall be a candidate for election as a delegate at large or by a senatorial district. No person shall be a candidate for delegate both at large and from a senatorial district. If nomination papers for nomination for delegate both at large and from a senatorial district are filed in behalf of a candidate, and if, within seventy-two hours after five o'clock in the afternoon of the first Tuesday in March aforesaid, he withdraws one nomination, the remaining nomination shall be valid. No person shall be a candidate for delegate from a senatorial district in which he does not reside. No person shall be a candidate for delegate at large who does not reside in the commonwealth.

SECTION 4. If in the commonwealth at large, or in any senatorial district, the number of persons nominated by nomination papers equals or exceeds three times the number to be elected delegates as provided by section two, a non-partisan preliminary election shall be held in the commonwealth, or in such senatorial district, on the first Tuesday of April in the year nineteen hundred and sixty-three. At such preliminary election, twice the number of persons to be elected delegates shall be chosen from those nominated by nomination papers, and those so chosen shall be deemed nominated as candidates for delegates. The names of those nominated by nomination papers and those nominated as candidates in the preliminary election where such election was necessary shall appear on the ballot at a special election of delegates to the constitutional convention, to be held in all

cities and towns of the commonwealth on the first Tuesday in May in the year nineteen hundred and sixty-three.

SECTION 5. At the special election of delegates to the constitutional convention, and at the preliminary election held under the provisions of section four, every person then entitled to vote for state officers shall have the right to vote for ten delegates at large and for one delegate from his or her senatorial district. The number of delegates of each class for which the voter has the right to vote shall appear on the official ballot. The names of candidates for the office of delegate in each class shall be printed upon the official ballot in the order in which they may be drawn by the secretary of the commonwealth, whose duty it shall be to make such drawing before each election and to give each candidate an opportunity to be present at such drawing personally or by one representative. No party or political designation shall appear on said ballot.

SECTION 6. The persons chosen and elected delegates shall meet in convention in the state house in Boston, or at such other location within the commonwealth as the governor shall direct by special proclamation, on the second Monday in July in the year nineteen hundred and sixty-three. They shall be the judges of the returns and election of their own members and may adjourn from time to time and hold sessions in other places within the commonwealth. If at any time a vacancy occurs in the convention for any cause in the office of delegate chosen by ballot of the representatives or of the senators, the president of the convention shall forthwith notify the speaker of the house, if the vacancy is in the office of delegate chosen by ballot of the representatives, or the president of the senate, if the vacancy is in the office of delegate chosen by ballot of the senators, and the vacancy shall be filled by appointment of a member of the house or of the senate, according to the nature of the vacancy, by the speaker of the house or the president of the senate so notified. If at any time a vacancy occurs in the convention for any cause in the office of delegate elected at large or by a senatorial district, the convention shall forthwith choose as delegate to fill the vacancy whichever of the defeated candidates for the office of delegate at large, if the vacancy is from such office, or for the office of delegate from the senatorial district,

if the vacancy is from such office, at the election at which delegates were elected received the highest number of votes at such election for such office at large or from such senatorial district and is eligible and willing to serve, or if there is no such defeated candidate eligible and willing to serve, a resident of the commonwealth. Sixty-one of the persons chosen and elected shall consitute a quorum for the transaction of business. The delegates shall be called to order by the governor, and shall proceed to organize themselves in convention by choosing a president and such other officers and such committees as they may deem expedient and by establishing rules of procedure; and when organized they may take into consideration the propriety and expediency of revising, altering or amending the present constitution of the commonwealth; provided, that the convention shall be limited to considering and proposing revisions, alterations and amendments on the following subjects and on no others: —

(1) the terms of office for constitutional officers other than judicial officers;

(2) the method of choosing executive constitutional officers;

(3) the council;

(4) the number of members in the house of representatives and senate of the general court and the method of determining districts therefor;

(5) the organization of the executive and administrative work of the commonwealth; and

(6) the length of regular sessions of the general court;

and provided, further, that the convention shall conclude its business no later than one hundred and twenty calendar days from its first session, Saturdays, Sundays and holidays included. Every such revision, alteration and amendment made and adopted by the said convention shall be submitted to the people for their ratification and adoption in such manner as the convention shall direct; and if ratified and adopted by the people in the manner so directed, the constitution shall be deemed and taken to be revised, altered and amended accordingly; and if not so ratified and adopted the present constitution shall be and remain in such respect the constitution of the commonwealth.

Section 7. The convention shall be provided, at the expense of the commonwealth, with suitable quarters and facilities for exercising its functions. It shall establish the compensa-

tion of its officers and members, which shall not exceed fifteen dollars for each member of the convention for each day he is in attendance. It shall, subject to the approval of the governor, provide for such other expenses of its officers and members and for its session as it shall deem expedient, and shall cause to be prepared and issued a statement briefly setting forth such arguments as the convention may see fit relative to any revision, alteration or amendment of the constitution adopted by it. The governor is authorized to draw his warrant on the treasury for any of the foregoing expenses.

SECTION 8. The provisions of sections twenty-one and twenty-two of chapter thirty of the General Laws shall not apply to the salary of delegate to the constitutional convention authorized by the people pursuant to this act.

SECTION 9. If the public proclamation pursuant to section one of this act shall declare that a majority of the votes is in the affirmative, the governor shall, on the second Wednesday in January in the year nineteen hundred and sixty-three, appoint a special commission, which shall be known as the Massachusetts constitutional convention preparatory commission and shall be composed of five learned and discreet persons. No more than three of the members of said commission shall be members of the same political party. The governor shall designate one of the members to act as chairman. If any vacancy shall occur in the membership of said commission the governor shall forthwith appoint a successor. The commission shall compile and render accessible, in convenient form and arrangement, such information, data and material as may aid the convention in the discharge of its duties. Each member of the commission shall receive as compensation the sum of five thousand dollars. In the discharge of its duties, the commission may incur such expenses for research, legal, clerical, printing, travel and other purposes as the governor may approve, not to exceed in all the sum of one hundred thousand dollars. The provisions of the law relating to civil service shall not apply to persons employed by said commission. The commission shall be provided with suitable accommodations in the state house or in other premises

24 owned or leased by the commonwealth and shall have the same
25 right of access to the state library as the members of the general
26 court.

1 SECTION 10. The secretary of the commonwealth is hereby
2 directed to transmit forthwith printed copies of this act to the
3 selectmen of each town and the mayor of each city within the
4 commonwealth; and whenever the governor shall issue his
5 proclamation, calling upon the people to elect delegates, the
6 secretary shall also, immediately thereafter, transmit printed
7 copies of said proclamation, attested by him, to the selectmen
8 and mayors.

1 SECTION 11. All laws relating to nominations and nomina-
2 tion papers, and to primaries, elections and corrupt practices
3 therein shall, so far as is consistent herewith, apply to the nomina-
4 tion of candidates for delegates to the convention, and to the
5 preliminary and special election provided for by this act.

1 SECTION 12. This act shall take effect upon its passage.