

Journal of the Joint Assembly

IN JOINT ASSEMBLY, MARCH 18, 2010

8:30 A.M.

The Senate and House of Representatives met in the Hall of the House of Representatives pursuant to a Joint Resolution which was read by the Clerk and is as follows:

By Senator Shumlin,

J.R.S. 51. Joint resolution providing for a Joint Assembly to vote on the retention of two Superior Judges and one Environmental Judge.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, March 18, 2010, at ten o'clock and thirty minutes in the forenoon to vote on the retention of two Superior Judges and one Environmental Judge. In case the vote to retain said Judges shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

Presiding Officer

Senator Peter E. Shumlin, President *pro tempore* of the Senate, in the Chair.

Clerk

David A. Gibson, Secretary of the Senate, Clerk.

Statement of Presiding Officer

Pursuant to our Constitution and statutes we are assembled here today in Joint Assembly to cast our votes on the retention of two Superior Judges, and Environmental Judges.

This year we are again operating under the Judicial Retention Act passed 1976, as amended in subsequent sessions of the General Assembly, which establishes the procedure for retention of incumbent Superior Judges and Environmental Judges. The date for holding joint assemblies for the retention

of judges is set by statute to be the eleventh Thursday of the session, which date may be deferred pursuant to 4 V.S.A. § 608(g).

The procedure to be followed requires that the vote be by written ballot on the specific question:

"Shall the following Judges be retained in office?"

There will be one separate written ballot containing the names of both candidates for retention as superior judges and the name of the candidate for retention as environmental judge.

Retention of Judges

We shall now proceed to the matter of retention of the incumbent Superior Judges and the Environmental Judge. As stated previously, we are operating under the Judicial Retention Act passed in 1976, which establishes the procedure for the retention of Superior and Environmental Judges. Nominations may not be received from the floor; rather, each judge seeking retention must file a declaration of intention to seek retention with the Secretary of State. The name of each judge seeking retention is automatically voted on pursuant to the terms of the Judicial Retention Act.

In addition, the Judicial Retention Act provides that when a candidate does so declare for retention, the questions to be decided are:

"Shall the following Superior Judges be retained in office?"

"Shall the following Environmental Judge be retained in office?"

The statute provides that the vote on this question shall be by one written ballot containing the names of all of the candidates for retention as Superior Judges and as Environmental Judge.

Tellers Appointed

Accordingly, we will need tellers, and the Chair will now appoints as tellers:

Senator Philip B. Scott, of Washington District, as Chief Teller
Senator Claire D. Ayer, of Addison District
Senator William H. Carris, of Rutland District
Representative Eileen Dickinson, of St. Albans Town
Representative Sarah R. Edwards, of Brattleboro
Representative Frank J. Geier, of South Burlington
Representative Larry Townsend, of Randolph

We shall now proceed to the matter of retention of the incumbent superior judges and environmental judge. For these positions we have received declarations of intention to seek retention to the office of Superior Judge from the following:

David A. Howard
Helen Toor

and to the office of Environmental Judge from:

Thomas S. Durkin

The question to be decided in each of these cases shall be as follows:

"Shall Superior Judge David A. Howard be retained in office?"

Yes _____ No _____.

"Shall Superior Judge Helen Toor be retained in office?"

Yes _____ No _____.

"Shall Environmental Judge Thomas S. Durkin be retained in office?"

Yes _____ No _____.

The ballot which you will receive will contain these questions in printed form on one single ballot. The term of these Superior Judges and the Environmental Judge are for six years, from and including the first day of April, 2010, and until their successors are elected and qualified.

To facilitate the procedure for this morning, the Chair will rule, unless there is objection, that debate on these three Judges will be received separately. At the end of the debates for the three Judges, any general debate on the entire question shall be in order.

Committee Reports

Prior to any debate, we will receive the report of the Joint Committee on Judicial Retention. The Chair now recognizes the Chair of this Committee, the Member from Ripton, Willem W. Jewett, for the purpose of receiving his report.

Representative Willem W. Jewett, then delivered a general report for the Joint Committee on Judicial Retention with respect to the candidacy of all the Judges.

The Chair then recognized Senator Kevin J. Mullin, of Rutland District, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge David A. Howard.

The Chair then recognized Senator Alice W. Nitka, of Windsor District, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Helen Toor.

The Chair then recognized Representative Willem W. Jewett of Ripton, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Environmental Judge Thomas S. Durkin.

Results of Balloting

Balloting then proceeded for the office of Superior Judges and Environmental Judge, with the following results:

For Superior Judge David A. Howard

Total votes cast166
 Necessary for a majority84
 For retention162
 Against retention4

Whereupon the Chair declared that

DAVID A. HOWARD, of BENNINGTON

having received a majority of the total votes cast was duly elected to the office of Superior Judge for a term of six years, from and including the first day of April, 2010, and until his successor is elected and has qualified.

For Superior Judge Helen Toor

Total votes cast166
 Necessary for a majority84
 For retention160
 Against retention6

Whereupon the Chair declared that

HELEN TOOR, of BURLINGTON

having received a majority of the total votes cast was duly elected to the office of Superior Judge for a term of six years, from and including the first day of April, 2010, and until her successor is elected and has qualified.

For Environmental Judge Thomas S. Durkin

Total votes cast165
 Necessary for a majority83
 For retention155
 Against retention10

Whereupon the Chair declared that

THOMAS S. DURKIN, of BRATTLEBORO

having received a majority of the total votes cast was duly elected to the office of Environmental Judge for a term of six years, from and including the first day of April, 2010, and until his successor is elected and has qualified.

Dissolution

The purposes for which the Joint Assembly was convened having been accomplished, the Chair then declared the Joint Assembly dissolved.

DAVID A. GIBSON
Secretary of the Senate, Clerk