

# Journal of the Joint Assembly

IN JOINT ASSEMBLY, MARCH 17, 2016

10:30 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:

**J.R.S. 43.** Joint resolution providing for a Joint Assembly to vote on the retention of four Superior Judges.

***Resolved by the Senate and House of Representatives:***

That the two Houses meet in Joint Assembly on Thursday, March 17, 2016, at ten o'clock and thirty minutes in the forenoon to vote on the retention of four Superior Judges. 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**

Honorable Philip B. Scott, President of the Senate, in the Chair.

**Clerk**

John H. Bloomer, Jr., 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 four Superior Judges.

This year we are again operating under the Judicial Retention Act passed in 1976, as amended in subsequent sessions of the General Assembly, which establishes the procedure for retention of incumbent Superior Judges and Magistrates. The date for holding joint assemblies for the retention of judges is set by statute to be the eleventh Thursday of the session.

The procedure to be followed requires the vote be by written ballot. There will be one written ballot containing the names of all the judges of the Superior Court.

**Retention of Superior Judges**

We shall now proceed to the matter of retention of the four incumbent Superior Judges. Under the Judicial Retention Act which establishes the procedure for the retention of Superior 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 or if a Superior Judge is appointed after September 1 of the year preceding the expiration of the term of office shall automatically be a candidate for retention without filing notice. By this means the name of each judge seeking retention is automatically placed in nomination and considered for retention 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 question to be decided is:

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

**Tellers Appointed**

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

Senator Jeanette K. White, of Windham District, as Chief Teller  
Senator Brian A. Campion, of Bennington District  
Senator Brian P. Collamore, of Chittenden District  
Representative Sarah E. Buxton, of Tunbridge  
Representative Susan Hatch Davis, of Washington  
Representative Marjorie Ryerson, of Randolph  
Representative Job Tate, of Mendon

We shall now proceed to the matter of retention of the incumbent Superior Judges. For these positions we have received four declarations of intention to seek retention to the office of Superior Judge from the following:

Thomas S. Durkin  
David Howard  
Robert A. Mello  
Helen M. Toor

The question to be decided in each of these cases is:

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

Yes \_\_\_\_\_ No \_\_\_\_\_.

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

Yes\_\_\_\_\_No\_\_\_\_\_.

"Shall Superior Judge Robert A. Mello be retained in office?"

Yes\_\_\_\_\_No\_\_\_\_\_.

"Shall Superior Judge Helen M. Toor 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 are for six years, from and including the first day of April, 2016, 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 four Judges will be received separately. At the end of the debates for the four Judges, any general debate on the entire question shall be in order.

### **Committee Reports**

First, we will receive the report of the Joint Committee on Judicial Retention. The Chair recognized the Senator from Caledonia District, Senator Joseph C. Benning, who 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 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 Thomas S. Durkin.

The Chair then recognized the Member from Newbury, Chip Conquest, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge David Howard.

The Chair then recognized Senator Michal D. Sirotkin, of Chittenden District, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Robert A. Mello.

The Chair then recognized the Member from Burlington, Barbara Rachelson, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Helen M. Toor.

### **Results of Balloting**

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

*For Superior Judge Thomas S. Durkin*

Total votes cast .....152  
 Necessary for a majority .....77  
 For retention .....149  
 Against retention .....3

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 Superior Judge for a term of six years, from and including the first day of April, 2016, and until his successor is elected and has qualified.

*For Superior Judge David Howard*

Total votes cast .....151  
 Necessary for a majority .....76  
 For retention .....150  
 Against retention .....1

Whereupon the Chair declared that

**DAVID 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, 2016, and until his successor is elected and has qualified.

*For Superior Judge Robert A. Mello*

Total votes cast .....150  
 Necessary for a majority .....76  
 For retention .....150  
 Against retention .....0

Whereupon the Chair declared that

**ROBERT A. MELLO., of HINESBURG**

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, 2016, and until his successor is elected and has qualified.

*For Superior Judge Helen M. Toor*

Total votes cast .....152  
 Necessary for a majority .....77  
 For retention .....146  
 Against retention .....6

Whereupon the Chair declared that

**HELEN M. TOOR, of CHARLOTTE**

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, 2016, and until her 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.

JOHN H. BLOOMER, JR.  
Secretary of the Senate  
Clerk of the Joint Assembly