

Journal of the Joint Assembly

IN JOINT ASSEMBLY, MARCH 28, 2023

1:00 P.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. 16. Joint resolution providing for a Joint Assembly to vote on the retention of a Chief Justice and four Associate Justices of the Supreme Court and eight Superior Court Judges.

Whereas, declarations have been submitted by the following Justices and Judges that they be retained for another six-year term: the Honorable Chief Justice Paul Reiber, Justice Harold Eaton, Jr., Justice Karen Carroll, Justice William Cohen, Justice Nancy Waples, Judge Alison Arms, Judge Thomas Carlson, Judge Cortland Corsones, Judge Justin Jiron, Judge Michael Kainen, Judge Mary Morrissey, Judge A. Gregory Rainville and Judge Kirstin Schoonover, and

Whereas, the procedures of the Joint Committee on Judicial Retention require numerous public hearings and the review of information provided by each Justice and Judge and the comments of members of the Vermont bar and the public, and

Whereas, the Committee anticipates that it will be unable to fulfill its responsibilities under 4 V.S.A. § 608(b) to evaluate the judicial performance of the Justices and Judges seeking to be retained in office by March 9, 2023, the date specified in 4 V.S.A. § 608(e), and for a vote in Joint Assembly to be held on March 16, 2023, the date specified in 2 V.S.A § 10(b), and

Whereas, 4 V.S.A. § 608(g) permits the General Assembly to defer action on the retention of Justices and Judges to a subsequent Joint Assembly when the Committee is not able to make a timely recommendation, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Tuesday, March 28, 2023, at one o'clock in the afternoon to vote on the retention of a Chief Justice and

four Associate Justices of the Supreme Court and eight Superior Court Judges. In case the vote to retain said Justices and 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 David E. Zuckerman, 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 the statutes we are assembled here today in Joint Assembly to cast our votes on the retention of a Chief Justice and Four Associate Justices of the Supreme Court, and eight Superior Judges.

This year we are again operating under the Judicial Selection Act passed in 1966, and as amended in subsequent years. The procedure for retention of incumbent Justices of the Supreme Court and incumbent Superior Judges will be in accordance with this Act. The Act as amended sets the date for holding the joint assemblies for the retention of judges to be the eleventh Thursday of the session, in order to give the Joint Committee on Judicial Retention adequate time to consider the judges who are up for review. This year pursuant to statute which permits this, 4 V.S.A. § 608, we have delayed this Joint Assembly from the eleventh Thursday of the session (which was March 16) to the present date of March 28th.

The act requires that the vote will be by *written* ballot on the specific question:

“Shall the following Judges be retained in office?”

There will be two separate written ballots: one containing the names of all of the Justices for the Supreme Court and one containing the names of all of the Judges of the Superior Court.

Retention of Supreme Court Justices

We shall first proceed to the vote on the retention of the five Justices of the Supreme Court. Nominations are not received from the floor, rather, each Justice who seeks retention files a declaration of intention to state for retention with the Secretary of State. By this means, the name of each Justice is automatically placed in nomination and considered for retention pursuant to the terms of the Judicial Selection Act.

In addition, the Judicial Selection Act provides that when a Justice does so declare for retention, the question to be decided shall automatically be:

“Shall the following Justices of the Supreme Court 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 Justices.

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

Tellers Appointed

Senator Andrew J. Perchlik, of Washington District, as Chief Teller
 Senator Tanya C. Vyhovsky, of Chittenden-Central District
 Senator Robert W. Norris, of Franklin District
 Representative Dara Torre, of Moretown
 Representative Paul Clifford, of Rutland City
 Representative Ashely Bartely, of Fairfax
 Representative Rey Garofano, of Essex

With respect to the retention of the incumbent Justices of the Supreme Court, we have declarations of intention to stand for retention to the office of Justice of the Supreme Court as follows:

Paul L. Reiber, Chief Justice
 Harold E. Eaton, Jr., Associate Justice
 Karen R. Carroll, Associate Justice
 William D. Cohen, Associate Justice
 Nancy J. Waples, Associate Justice

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

"Shall Chief Justice Paul L. Reiber be retained in office?"

Yes_____No_____.

"Shall Associate Justice Harold E. Eaton be retained in office?"

Yes_____No_____.

"Shall Associate Justice Karen R. Carroll be retained in office?"

Yes_____No_____.

"Shall Associate Justice William D. Cohen be retained in office?"

Yes_____No_____.

"Shall Associate Justice Nancy J. Waples 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 Justices to the Supreme Court is six years, from and including the first day of April, 2023, and until their successors are elected and qualified.

To facilitate the procedure for this afternoon, the Chair will rule, unless there is objection, that debate on these five Justices shall be conducted separately. At the conclusion of the debate for all of the Justices, 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 Windsor District, Senator Richard J. McCormack, 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 the Member from Stannard, Representative Joseph J. Troiano, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Chief Justice Paul L. Reiber.

The Chair then recognized the Member from Stannard, Representative Joseph J. Troiano, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Associate Justice Harold E. Eaton, Jr.

The Chair then recognized Senator Martine Gulick, of Chittenden-Central District, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Associate Justice Karen R. Carroll.

The Chair then recognized Senator Brian P. Collamore, of Rutland District who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Associate Justice William D. Cohen.

The Chair then recognized Senator Ruth E. Hardy, of Addison District who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Associate Justice Nancy J. Waples.

Results of Balloting

Balloting then proceeded for the office of Justices of the Supreme Court, with the following results:

For Chief Justice Paul L. Reiber

Total votes cast.....	164
Necessary for a majority.....	83
For retention.....	161

Against retention..... 3

Whereupon the Chair declared that

PAUL L. REIBER

having received a majority of the total votes cast was duly elected to the office of Chief Justice of the Supreme Court for a term of six years, from and including the first day of April, 2023, and until his successor is elected and has qualified.

For Associate Justice Harold E. Eaton, Jr.

Total votes cast.....163
 Necessary for a majority..... 82
 For retention..... 160
 Against retention..... 3

Whereupon the Chair declared that

HAROLD E. EATON, JR.

having received a majority of the total votes cast was duly elected to the office of Supreme Court Justice for a term of six years, from and including the first day of April, 2023, and until his successor is elected and has qualified.

For Associate Justice Karen R. Carroll

Total votes cast.....164
 Necessary for a majority..... 83
 For retention..... 162
 Against retention..... 2

Whereupon the Chair declared that

KAREN R. CARROLL

having received a majority of the total votes cast was duly elected to the office of Supreme Court Justice for a term of six years, from and including the first day of April, 2023, and until her successor is elected and has qualified.

For Associate Justice William D. Cohen

Total votes cast.....161
 Necessary for a majority..... 81
 For retention..... 157
 Against retention..... 4

Whereupon the Chair declared that

WILLIAM D. COHEN

having received a majority of the total votes cast was duly elected to the office of Supreme Court Justice for a term of six years, from and including the first day of April, 2023, and until his successor is elected and has qualified.

For Associate Justice Nancy J. Waples

Total votes cast..... 164
 Necessary for a majority..... 83
 For retention..... 160
 Against retention..... 4

Whereupon the Chair declared that

NANCY J. WAPLES

having received a majority of the total votes cast was duly elected to the office of Supreme Court Justice for a term of six years, from and including the first day of April, 2023, and until her successor is elected and has qualified.

Retention of Superior Court Judges

We shall now proceed to the vote of the Judges of the Superior Court. Again, nominations are not received from the floor; rather, each judge who seeks retention files a declaration of intention to stand for retention with the Secretary of State. By this means, the name of each judge is automatically placed in nomination and considered for retention pursuant to the terms of the Judicial Selection Act.

With respect to the retention of the incumbent Superior Court Judges, eight declarations of intention to stand for retention to the office of the Superior Court Judge were received, subsequently, one Superior Judge withdrew their retention declaration, as such, we have seven Superior Court Judges seeking retention and are as follows:

- Alison S. Arms
- Thomas Carlson
- Cortland T. Corsones
- Justin Jiron
- Michael Kainen
- Mary Morrissey
- Kristin Schoonover

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

“Shall Superior Judge Alison S. Arms be retained in office?”

Yes _____ No _____

“Shall Superior Judge Thomas Carlson be retained in office?”

Yes _____ No _____

“Shall Superior Judge Cortland T. Corsones be retained in office?”

Yes _____ No _____

“Shall Superior Justin Jiron be retained in office?”

Yes _____ No _____

“Shall Superior Judge Michael R. Kainen be retained in office?”

Yes _____ No _____

“Shall Superior Judge Mary Morrissey be retained in office?”

Yes _____ No _____

“Shall Superior Judge Kristin Schoonover 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 for each Superior Court Judge is six years, from and including the first day of April, 2023, and until their successors are appointed and qualified.

Committee Reports

The Chair then recognized the Member from Sheldon, Representative Thomas Oliver, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Alison S. Arms.

The Chair then recognized the Member from Williston, Representative Angela Arsenault, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Thomas Carlson

The Chair then recognized Senator Brian P. Collamore, of Rutland District, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Cortland T. Corsones.

The Chair then recognized Member from Rutland City, Representative William Notte, of Rutland City, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Justin Jiron.

The Chair then recognized Senator Richard J. McCormack, of Windsor District who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Michael R. Kainen.

The Chair then recognized Senator Martin Gulick, of Chittenden-Central District who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Mary Morrissey.

The Chair then recognized Member from Rutland City, Representative William Notte, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Kristin Schoonover.

Results of Balloting

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

For Superior Judge Alison S. Arms

Total votes cast..... 161
 Necessary for a majority..... 81
 For retention..... 161
 Against retention..... 0

Whereupon the Chair declared that

ALISON S. ARMS

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, 2023, and until her successor is elected and has qualified.

For Superior Judge Thomas Carlson.

Total votes cast..... 160
 Necessary for a majority..... 81
 For retention..... 157
 Against retention..... 3

Whereupon the Chair declared that

THOMAS CARLSON

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, 2023, and until his successor is elected and has qualified.

For Superior Judge Cortland T. Corsones

Total votes cast..... 160
 Necessary for a majority..... 81
 For retention..... 156
 Against retention..... 4

Whereupon the Chair declared that

CORTLAND T. CORSONES

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, 2023, and until his successor is elected and has qualified.

For Superior Judge Justin Jiron

Total votes cast.....	159
Necessary for a majority.....	80
For retention.....	150
Against retention.....	9

Whereupon the Chair declared that

JUSTIN JIRON

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, 2023, and until his successor is elected and has qualified.

For Superior Judge Michael R. Kainen

Total votes cast.....	159
Necessary for a majority.....	80
For retention.....	156
Against retention.....	3

Whereupon the Chair declared that

MICHAEL R. KAINEN

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, 2023, and until his successor is elected and has qualified.

For Superior Judge Mary Morrissey

Total votes cast.....	161
Necessary for a majority.....	81
For retention.....	158
Against retention.....	3

Whereupon the Chair declared that

MARY MORRISSEY

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, 2023, and until her successor is elected and has qualified.

For Superior Judge Kristin Schoonover

Total votes cast..... 161
Necessary for a majority..... 81
For retention..... 159
Against retention..... 2

Whereupon the Chair declared that

KRISTIN SCHOONOVER

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, 2023, and until her successor is elected and has qualified.

Dissolution

There being no further business, the Chair then declared the Joint Assembly dissolved.

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