

Journal of the Joint Assembly

IN JOINT ASSEMBLY, MARCH 29, 2012

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:

By Senator Nitka,

J.R.S. 50. Joint resolution providing for a Joint Assembly to vote on the retention of two Superior Judges and one Magistrate.

Whereas, declarations have been submitted by the following two Superior Judges that they be retained for another six-year term, Judge Karen R. Carroll, Judge Dennis R. Pearson, and one Magistrate that he be retained for another six year term, Magistrate Barry Peterson, and

Whereas, the procedures of the Joint Committee on Judicial Retention require at least two public hearings and the review of information provided by each candidate and the comments of members of the Vermont bar and the public, and

Whereas, the Committee was unable to fulfill its responsibilities under subsection 608(b) of Title 4 to evaluate the judicial performance of the candidates seeking to be retained in office by March 8, 2012, the date specified in subsection 608(e) of Title 4, and for a vote in Joint Assembly to be held on March 15, 2012, the date specified in subsection 10(b) of Title 2, and

Whereas, subsection 608(g) of Title 4 permits the General Assembly to defer action on the retention of 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 Thursday, March 29, 2012, at one o'clock in the afternoon to vote on the retention of two Superior Judges and one Magistrate. In case the vote to retain said Judges and Magistrate shall not be made on that day, the two Houses shall meet in Joint Assembly at nine

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

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 two Superior Judges, and one Magistrate.

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 Magistrates. In particular, amendments made in 2010 require the retention of Magistrates and this is the first year you will also be voting on the retention of a Magistrate. 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 two separate written ballots: one containing the names of all of the candidates for retention as superior judges; and one containing the name of the candidate for retention as magistrate.

Retention of Superior Judges

We shall now proceed to the matter of retention of the incumbent Superior Judges. As stated previously, we are operating under the Judicial Retention Act passed in 1976, 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. 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 question to be decided is:

"Shall the following Superior Judges 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.

Tellers Appointed

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

Senator Jeannette K. White, of Windham District, as Chief Teller
Senator Randolph D. Brock, of Franklin District
Senator Mark A. MacDonald, of Orange District
Representative Jill Krowinski, of Burlington
Representative Teo Zagar, of Barnard
Representative William E. Johnson, of Canaan
Representative Christopher Pearson, of Burlington

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

Karen R. Carroll
Dennis R. Pearson

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

"Shall Superior Judge Karen R. Carroll be retained in office?"

Yes _____ No _____.

"Shall Superior Judge Dennis R. Pearson 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, 2012, 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 two Judges will be received separately. At the end of the debates for the two 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 Vice-Chair of this Committee, the Member from Shrewsbury, Eldred Minor French, for the purpose of receiving his report.

Representative Eldred Minor French, then delivered a general report for the Joint Committee on Judicial Retention with respect to the candidacy of the two Superior Court Judges and one Magistrate.

The Chair then recognized Senator Peter W. Galbraith, of Windham District, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Karen R. Carroll.

The Chair then recognized Senator Joseph C. Benning, of Caledonia District, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Dennis R. Pearson.

Results of Balloting

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

For Superior Judge Karen R. Carroll

Total votes cast	152
Necessary for a majority	77
For retention	148
Against retention	4

Whereupon the Chair declared that

KAREN R. CARROLL, of VERNON

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, 2012, and until her successor is elected and has qualified.

For Superior Judge Dennis R. Pearson

Total votes cast	152
Necessary for a majority	77
For retention	150
Against retention	2

Whereupon the Chair declared that

DENNIS R. PEARSON, of JERICHO

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, 2012, and until his successor is elected and has qualified.

Retention of Magistrate

Statement of Presiding Officer

We shall now proceed to the matter of retention of the incumbent Magistrate. For this position we have received a declaration of intention to seek retention to the office of Magistrate from the following:

Barry Peterson

As in the case of the Superior Judges, the names of each magistrate seeking retention are automatically voted on, and the question to be decided is:

"Shall Magistrate Barry Peterson be retained in office?"

Yes _____ No _____.

The vote on this question shall again be by one single written ballot. The term of this Magistrate is for six years, from and including the first day of April, 2012, and until his successor is elected and qualified.

Committee Report

The Chair then recognized Representative Eldred Minor French of Shrewsbury, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Magistrate Barry Peterson.

Results of Balloting

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

For Magistrate Barry Peterson

Total votes cast	147
Necessary for a majority	74
For retention	143
Against retention	4

Whereupon the Chair declared that

BARRY PETERSON, of EAST FAIRFIELD

having received a majority of the total votes cast was duly elected to the office of Magistrate for a term of six years, from and including the first day of April, 2012, 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.

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