

City of Cambridge

The Joint Rules and Government Operations Committee held a public meeting on September 24, 1994, beginning at 5:40 p.m. in the Sullivan Chamber for the purpose of considering proposed home rule legislation to prohibit persons convicted of felonies from holding elective municipal office in Cambridge (Attachment A).

Present at the hearing were Councillor Michael A. Sullivan and Vice Mayor Sheila T. Russell Co-Chairs of the Committee, Councillors Kathleen L. Born, Francis H. Duehay, Jonathan S. Myers, Katherine Triantafillou and City Clerk D. Margaret Drury. Also present was Deputy City Solicitor Donald Drisdell.

Councillor Sullivan convened the hearing and explained the purpose. He requested that the City Clerk report on the information that the City Council had requested that she provide for the Committee. Ms. Drury submitted a written report (Attachment B) and summarized the material.

Ms. Drury said that questionnaires were sent to all members of the Massachusetts City Clerk's Association with a self-addressed return envelope and a request that any similar laws or ordinances be returned with the questionnaire. Responses were received from thirty City Clerks out of a possible thirty nine. Of the thirty responding, twenty eight reported that no similar laws, regulations or ordinances exist in their jurisdiction. The City Clerks of two cities, Holyoke and Chelsea, replied that their cities do have laws, and they sent copies. See Attachment B.

Ms. Drury also reported on the status of inquiries made by her and Deputy City Clerk John E. Flynn regarding the Massachusetts Senate and House of Representatives and the United States Congress. See Attachment B.

Deputy City Solicitor Donald Drisdell then reported on research that has been done by the Law Department on this issue. He noted that the language raises many issues. For example, "convicted of a felony" includes a broad list, and the only way to determine is by checking every crime to determine whether it carries a sentence to a state prison because that is how a felony is defined in Massachusetts. Some antiquated crimes like stealing a chicken are included. It would be helpful if the Committee could think about what crimes it wants included.

Mr. Drisdell also said that the language "while holding office" raises significant issues. He pointed out that for the law to apply, the person would have to hold a Cambridge office both while the crime was committed and when convicted. He noted

that if a person were convicted while holding office in a different City the person could serve a sentence and return, run for office and hold office in Cambridge. He asked whether the language "shall not hold any municipal office" is intended to mean forever.

Councillor Sullivan noted that conviction of a violation of the Charter carries the same penalty.

Mr. Drisdell also said that the "reversed, vacated or the subject of a full pardon" language differs from the language in the state laws which currently governs the situation, M.G.L. Ch. 279. He asked whether partial pardons are included in this language. Mr. Drisdell suggested that the language is somewhat imprecise and suggested using the Ch. 279 language.

Regarding the issue of permanent prohibition, Mr. Drisdell noted that most of the of the cases which consider such prohibitions are not considering laws with permanent prohibitions.

Councillor Duehay said that his major concern is that a person convicted of a serious crime while in office brings discredit to the City Council. The concern should be with crimes which are committed while the person is in office. This would be a disqualification for a police officer, and it should be a disqualification for a city councillor.

Councillor Myers said that he agrees with Councillor Duehay. There is a concern across the city, not related to a particular individual. With regard to how to choose the felonies, he is sure that it is sure that a rational method can be found, perhaps relating to the number of felonies . He would like to see an outcome in this matter.

Councillor Sullivan said that it is certainly the intention of the co-chairs to have an outcome. He believes they may have an intern who will work on this, and the time frame they are looking at is early December.

Councillor Myers noted that because of the holidays, a time goal that is earlier or later might be preferable.

Mr. Drisdell said that there are precedents for the validity of some sort of law, but as currently drafted it goes further than other laws the Law Department has looked at.

Councillor Triantafillou summarized the concerns expressed by Mr. Drisdell:

- o definition of felony
- o commit and be convicted in the City of Cambridge
- o definition of municipal office

Councillor Born stated that the law should target the kinds of crimes they are truly concerned with. She is worried that the current draft may cover crimes they do not intend to cover.

Councillor Triantafillou pointed out that it is not really the City Council's job to try to analyze every situation where a person could be convicted unfairly if the law is a national one.

Councillor Sullivan said that the law as proposed is too much like mandatory sentencing, which in a particular situation can be very unjust.

Councillor Duehay stated that this must be weighed against the tremendous public cynicism with regard to elected officials. He said that he would like to see how other states handle this, large industrial states including Michigan, New York, Connecticut, California, New Jersey and Pennsylvania.

Councillor Born said that she is also concerned about whether the prohibition should last forever. Councillor Duehay said that he believes it should be for a good long time.

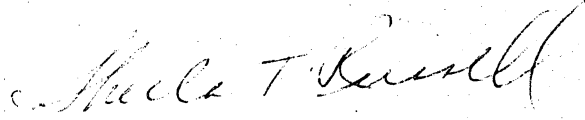
Councillor Sullivan suggested that perhaps there should be a distinction based on whether the crime related directly to the job, which would prohibit holding office for life, while another kind of felony would vacate the office but not prohibit holding office again in the future.

Vice Mayor Russell asked whether a prohibition lasting forever is legal. Mr. Drisdell said that he believes it would probably be found to be constitutional, but there are significant questions. There are constitutional practices relating both to the individual and the electorate.

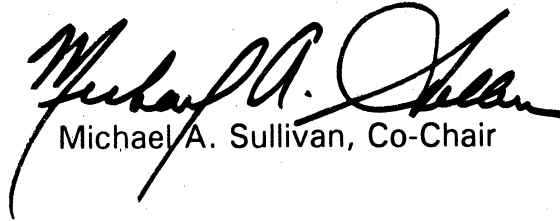
It was agreed that the City Solicitor will research the laws of one to eight of the other large industrial states and report back to the Committee.

The meeting was adjourned at 6:35 p.m.

For the Committee



Sheila T. Russell, Co-Chair



Michael A. Sullivan, Co-Chair



The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND NINETY- Four

AN ACT PROHIBITING CONVICTED FELONS FROM HOLDING ELECTIVE MUNICIPAL OFFICE IN THE CITY OF CAMBRIDGE

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. Notwithstanding any general or special law or charter provision to the contrary, no person convicted of a felony under any law of the commonwealth or of the United States committed while holding elected municipal office in the City of Cambridge shall hold any municipal elective office in the City of Cambridge, unless such conviction is reversed or vacated or is the subject of a full pardon.

SECTION 2. The state secretary shall place the following question upon the official ballots for the City of Cambridge at the state election in the current year: "Shall 'An Act Prohibiting Convicted Felons From Holding Elective Municipal Office in the City of Cambridge' Be Accepted?" This act shall take effect upon its acceptance by a majority of the voters of said city voting on such question, but not otherwise.

B



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4260

FAX (617) 349-4307

D. MARGARET DRURY
CITY CLERK

JOHN E. FLYNN
DEPUTY CITY CLERK

TO: Vice Mayor Sheila Russell
Councillor Michael Sullivan
Mayor Kenneth Reeves
Councillor Francis Duehay
Councillor Katharine Triantafillou

FROM: Margaret ^{MD} Drury, City Clerk

DATE: September 21, 1994

SUBJECT: Response to Calendar Item # 1 of June 27, 1994

In the above-noted order, the City Council voted to request the City Clerk to obtain from other localities, from the Massachusetts General Court and Senate and from the United States Congress any similar laws, by-laws or regulations and refer them to the Joint Committee on Rules and Government Operations.

In response to this order, I contacted the membership of the Massachusetts City Clerks Association, the Clerk of the Massachusetts House of Representative and the Massachusetts Senate, and Deputy Clerk John Flynn contacted the U.S. Congress.

All members of the Massachusetts City Clerks Association were sent a questionnaire with a self-addressed envelope and requested to return the questionnaire and to attach any law that laws, rules or ordinances in their jurisdiction similar to that under consideration in Cambridge. Responses were received from thirty city clerks out of a possible thirty-nine. Of the thirty responding jurisdictions, twenty-eight reported that no similar laws, regulations or ordinances exist in their jurisdiction. The city clerks of two cities, Holyoke and Chelsea, replied that their cities do have similar laws, and they sent copies, which are included with this memorandum.

The city of Chelsea has a provision in its charter that any individual who has been finally convicted of a criminal offense involving misconduct in any elective or appointive public office, trust or employment at any time held by him shall be deemed to have vacated office and shall

and shall not be eligible to serve in any other elective or appointive office or position under the city. Sec.9-7 of the City Charter of the City of Chelsea, adopted June 21, 1994. Attachment A. The city of Holyoke provides in Sec. 46 of the Holyoke Code that the conviction of the incumbent of any office established under the Holyoke Code of a crime punishable by imprisonment shall operate to create a vacancy in the office held by that person. Attachment B. Arthur McCue, Somerville City Clerk responded that Somerville does not have an ordinance addressing this issue, but that in an actual case in the city of Somerville, an elected official was terminated in accordance with MGL ch. 279 sec. 30. Attachment C.

According to Robert McQueen, Clerk of the Massachusetts House of Representatives, the House has no rules which deal with this topic. Mr. McQueen pointed out that The Massachusetts Constitution, in Articles 4 and 10 of Part 2 Chapter 1 Section 3, provides that the House and Senate shall be the final judge of the qualifications of their members. Copies of these provisions are attached as Attachments D and E. The Massachusetts Senate has established under its rules a standing Committee on Ethics to which all violations of rules and questions of conduct of members are referred. Upon receipt of such a referral, the committee is empowered to investigate and take testimony on any matters specified in the referral order, and to report to the full Senate, including recommendations for disciplinary action ranging from reprimand to removal from committee chair to expulsion. Senate Rule 12A. Attachment F.

Staff to the U.S. Congressional Standards for Officials Committee reported to Deputy City Clerk John Flynn that a felony conviction by a member of Congress triggers an automatic investigation by that office. The committee only reviews these cases where the conviction carries a prison sentence of one year or more. There is no automatic expulsion during the investigation. There have been some expulsions based on the investigation and report. Committee chairs must relinquish their post upon any indictment but remain on the committee.

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CITY OF CHELSEA
SPECIAL CITY ELECTION
JUNE 21, 1994
CITY CHARTER ADOPTED

A majority of the members of a multiple-member body shall constitute a quorum, but a smaller number may meet and adjourn from time to time.

(d) Notice of Vacancies

Whenever a vacancy occurs on a multiple-member body, whether because of death, resignation, removal from the city, removal by the city manager or the pending expiration of a term for which a person has been appointed, public notice of the vacancy or pending expiration of the term shall be given in the following manner: by publication in at least one newspaper of general circulation in the city, by title, length of term, brief description of duties and a general indication of the qualifications desired of candidates. Such notice shall also state the time in which persons who desire to be considered for appointment of such offices shall file a statement of interest, with whom, and shall indicate the form in which such applications should be made. A copy of all such notices shall be posted on the city bulletin board and in one or more public places within the city.

Section 9-7 Disqualification from Office

Any individual who has been finally convicted of a criminal offense involving misconduct in any elective or appointive public office, trust or employment at any time held by him shall be deemed to have vacated office and shall not be eligible to serve in any other elective or appointive office or position under the city.

Section 9-8 Charter Review

In every year ending in zero the city council shall establish a charter review committee to examine and review the charter and report to the city council findings, conclusions and recommendations.

Section 9-9 Reenactment and Publication of Ordinances

In the year following the initial review as referenced in section 9-8, and at five year intervals thereafter, the city council shall cause to be prepared a proposed revision or recodification of all city ordinances which shall be submitted to the city council for reenactment. The city council shall adopt the proposed revision or recodification with or without amendment prior to the expiration of the calendar year in which it is submitted to them. Such revisions or recodification shall be prepared under the supervision of the city solicitor, or if the city council so directs by special counsel retained for such purposes. Copies of the revised or recodified ordinances shall be made available for distribution, provided

removal shall state the reason therefor and shall be entered upon the records of the officer or board making the same, and removals shall take effect upon the filing of a copy of such order with the city clerk in a book provided for that purpose and open to public inspection. The above-named administrative officers and boards shall, in their respective departments, make all necessary contracts for work and for the furnishing of materials and supplies in the city, and for the construction, alteration, repair and care of public works, institutions, buildings and other property, except the water works, which shall continue to be under the management, direction and control of the water commissioners, and shall have, subject to the mayor, the direction and control of all the executive and administrative business of the city. They shall at all times be accountable to the mayor as the chief executive officer, for the discharge of their duties.

(Acts 1992, c. 189)

Editor's note—As to contracts involving the expenditure of \$500 or more, see § 52 of this charter.

Sec. 44. Keeping records of official transactions.

Every board and every officer above-named of the board shall keep a record of all official transactions, and such record shall be open to public inspection.

State law reference—For law of the commonwealth as to keeping, etc., of public records, see M.G.L.A., c. 66.

TITLE VIII. GENERAL PROVISIONS

Sec. 45. Eligibility to hold office.

No person shall be eligible to any of the offices of the city government, except superintendent of schools, unless he is a citizen and has been a resident of the city for at least two years.

★ Sec. 46. Officer ceasing to be resident; conviction of crime.

Any office established under or by this act, except the office of superintendent of schools, shall become vacant if the incumbent ceases to be a resident of the city. The conviction of the incumbent

of any such office of a crime punishable by imprisonment shall operate to create a vacancy in the office held by him.

State law reference—For similar provisions of the law of the commonwealth, see M.G.L.A., c. 41, § 109.

Sec. 47. Annual estimates of expenditures by officers and boards; appropriations.

The administrative officers and boards above-named shall annually on or before the first Monday of January furnish to the mayor an itemized and detailed estimate of the moneys required for their respective departments or offices during the ensuing financial year. The mayor, president of the city council and chairman of the board of assessors shall examine such estimates and shall submit the same to the city council on or before the first of March, with itemized and detailed apportionment; and said city council shall thereafter on or before the first day of May next following fix by order or otherwise the appropriations for the several departments and offices to be expended during the current municipal year.

(Acts 1992, c. 189)

Editor's note—As to school committee submitting annual estimate of expenses to mayor, see § 32 of this charter.

The provisions of this section are superseded by the provisions of M.G.L.A., c. 44, §§ 31A and 32 (municipal finance act). Under the provisions of M.G.L.A., c. 44, § 31A, annual estimates are to be furnished the mayor between November 1st and December 1st of each year.

Annotation—The school committee, among other boards, is required by this section to furnish to the mayor annually an itemized and detailed estimate of the moneys needed for its department during the ensuing financial year. *McLean v. Mayor of Holyoke*, 216 Mass. 62, 102 N.E. 929, 930.

Under the provisions of this section requiring school committee to furnish annual itemized and detailed estimates of moneys needed for its department during the ensuing financial year, an unitemized appropriation of a gross sum for school purposes was construed as being based upon the original detailed estimates of the school committee and were for the specific purposes therein pointed out. *McLean v. Mayor of Holyoke*, 216 Mass. 62, 102 N.E. 929, 930.

Sec. 48. Officers to give information required by city council.

Every officer of the city shall at the request of the city council give it such information in writing as it may require in relation



CITY OF SOMERVILLE, MASSACHUSETTS
CITY CLERKS OFFICE

MICHAEL E. CAPUANO
MAYOR

ARTHUR B. McCUE
CITY CLERK

August 12, 1994

Office of the City Clerk
D. Margaret Drury
City Hall
Cambridge, MA 02139

Dear Margaret:

This will acknowledge receipt of your letter of August 5, 1994 regarding your inquiry on prohibiting convicted felons from holding elective municipal office.

Please be advised that the City of Somerville does not have an Ordinance addressing this issue. However, in an actual case in the City of Somerville the elected official was terminated in accordance with MGLA C 279 Section 30. I am enclosing for your records a copy of that law.

If I can be of any further assistance, please do not hesitate to contact me.

Very truly yours,

Arthur B. McCue
City Clerk

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279:27.

JUDGMENT AND EXECUTION.

[Chap. 279.]

[Cha

impose sentence of imprisonment in the state prison and order it to
 take effect forthwith, notwithstanding the former sentence. The
 convict shall thereupon be removed to the reception center established
 under section twenty of chapter one hundred and twenty-seven, and
 shall be discharged at the expiration of his sentence thereto.

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279:28. Immediate execution of sentence to state prison or house of correction of convict sentenced to Massachusetts Correctional Institution.

Section 28. If a convict serving a sentence of imprisonment in the
 Massachusetts Correctional Institution, Concord, is convicted of a
 crime punishable by imprisonment in the state prison or house of
 correction, the court may impose sentence of imprisonment therein
 and may order it to take effect forthwith, notwithstanding the former
 sentence. A convict sentenced to state prison under this section shall,
 thereupon, be removed to the reception center established under
 section twenty of chapter one hundred and twenty-seven, and shall be
 discharged at the expiration of his sentence thereto. No sentence of
 imprisonment shall be imposed under this section in the Massachu-
 setts Correctional Institution, Concord, notwithstanding the provisions
 of section thirty-one.

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279:29. Repealed, 1955, 770, Sec. 122.

279:30. Vacation of office from time of sentence to state prison.

Section 30. If a convict sentenced by a court of the commonwealth
 or of the United States to imprisonment in the state prison or by a
 court of the United States to a federal penitentiary for a felony holds
 an office under the constitution or laws of the commonwealth at the
 time of sentence, it shall be vacated from the time of sentence. If the
 judgment against him is reversed upon writ of error, he shall be
 restored to his office with all its rights and emoluments; but, if
 pardoned, he shall not by reason thereof be restored, unless it is so
 expressly ordered by the terms of the pardon.

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279:31. Sentences for indefinite terms; jurisdiction of district courts.

Section 31. A male not previously sentenced for felony more than
 three times, convicted of a crime punishable by imprisonment in any
 correctional institution of the commonwealth or by imprisonment in a
 jail or house of correction may be sentenced for an indefinite term.
 District courts shall have the same jurisdiction to sentence such
 person to a correctional institution of the commonwealth for an
 indefinite term as they have to sentence him to such jail or house of
 correction.

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ion of the Justices (1939) 22 N.E.2d 261,
303 Mass. 664.

2. Expenses

Where the General Court had repeat-
ed adjournments during a valid and con-

stitutional session, members who have
actually been in attendance at any such
session are entitled to payments of ex-
penses under c. 3, § 9B. Op.Atty.Gen.
Sept. 25, 1956, p. 28.

Art. IX. Quorum

ART. IX. [Not less than sixty members of the house of repre-
sentatives, shall constitute a quorum for doing business.]

Articles of Amendment

This article was originally superseded
in 1857 by the Twenty-first Article of
Amendment which provided that not
less than one hundred members of the
house of representatives should consti-
tute a quorum for doing business. The

subject matter is now covered by the
Thirty-third Article of Amendment,
adopted in 1891, which provides that a
majority of the members of each branch
of the general court shall constitute a
quorum.

Library References

States ⇐ 33.

C.J.S. States § 38.

Art. X. House as judge of returns; elections and qualifications of its members; officers; rules; punishment for of- fenses; privileges of members

ART. X. The house of representatives shall be the judge of the
returns, elections, and qualifications of its own members, as pointed out
in the constitution; shall choose their own speaker; appoint their own
officers, and settle the rules and orders of proceeding in their own
house: They shall have authority to punish by imprisonment, every
person, not a member, who shall be guilty of disrespect to the house,
by any disorderly, or contemptuous behavior, in its presence; or who,
in the town where the general court is sitting, and during the time of
its sitting, shall threaten harm to the body or estate of any of its mem-
bers, for any thing said or done in the house; or who shall assault any
of them therefor; or who shall assault, or arrest, any witness, or other
person, ordered to attend the house, in his way in going or returning;
or who shall rescue any person arrested by the order of the house.
And no member of the house of representatives shall be arrested, or
held to bail on mesne process, during his going unto, returning from,
or his attending the general assembly.

Cross References

Freedom of debate in either house of Legislature, see Pt. 1, Art. 21.

Library References

States 40.

C.J.S. States §§ 61, 80, 84, 102.

Art. IV. Senate as final judge of elections, returns and qualifications of their own members; vacancies

ART. IV. The senate shall be the final judge of the elections, returns and qualifications of their own members, as pointed out in the constitution; and shall, [on the said last Wednesday in May] [annually,] determine and declare who are elected by each district, to be senators [by a majority of votes; and in case there shall not appear to be the full number of senators returned elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz.: The members of the house of representatives, and such senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in such district, and not elected, amounting to twice the number of senators wanting, if there be so many voted for; and out of these shall elect by ballot a number of senators sufficient to fill up the vacancies in such district; and in this manner all such vacancies shall be filled up in every district of the commonwealth; and in like manner all vacancies in the senate, arising by death, removal out of the state, or otherwise, shall be supplied as soon as may be, after such vacancies shall happen.]

Articles of Amendment

The time for determining and declaring election results was changed in 1831 by the Tenth Article of Amendment from the last Wednesday in May to the first Wednesday of January.

The Sixty-fourth Article of Amendment, § 1, adopted in 1918, and amended by Articles of Amendment Eighty and Eighty-two provides that senators shall be elected biennially.

The provision for election by a majority of votes was changed in 1855 by the Fourteenth Article of Amendment which provides that the person having the highest number of votes shall be deemed and declared to be elected.

The provision for filling of vacancies was changed in 1860 by the Twenty-fourth Article of Amendment which requires that "Any vacancy in the senate shall be filled by election by the people of the unrepresented district, upon the order of a majority of senators elected."

Law Review Commentaries

Assumption of office by state officers.
Frank W. Grinnell (1935) 20 Mass.L.Q.
No. 2, p. 12.

Eligibility of women for public office.
John G. Palfrey (1922) 7 Mass.L.Q. No.
1, p. 117.

Right of legislative bodies to exclude members-elect. Charles P. Kindregan
(1908) 2 Suffolk U.L.Rev. 58.

MEMBERS OF THE SENATE.

10. No member, officer, or employee shall use or attempt to use improper means to influence an agency, board, authority, or commission of the Commonwealth or any political subdivision thereof. No member, officer, or employee of the Senate shall receive compensation or permit compensation to accrue to his or her beneficial interest by virtue of influence improperly exerted from his or her position in the Senate. Every reasonable effort shall be made to avoid situations where it might appear that he or she is making such use of his or her official position. Members, officers, and employees should avoid accepting or retaining an economic interest or opportunity which represents a threat to their independence of judgement.

No member, officer, or employee shall use confidential information gained in the course of or by reason of his or her official position or activities to further his or her own financial interest or those of any other person.

[1977.]

10A. No member, officer, or employee shall employ anyone from state funds who does not perform tasks which contribute to the work of the Senate and which are commensurate with the compensation received; and no officer or full time employee of the Senate shall engage in any outside business activity during regular business hours, whether the Senate is in session or not. All employees of the Senate are assumed to be full time unless their personnel record indicates otherwise.

[1977.]

11. No member shall absent himself from the Senate without leave, unless there is a quorum without his presence.

[1817.]

11A. Each member of the Senate shall be assigned an office in the State House. Each member shall have full authority to employ and dismiss personal and committee staff within written guidelines developed by the Senate Committee on Administration.

[1983; 1985; 1993.]

11B. No member of the Senate shall hold, for more than eight consecutive years, any one of the following positions:

President of the Senate, Majority Leader, Assistant Majority Leader, Second Assistant Majority Leader, Minority Leader, Assistant Minority Leader, Second Assistant Minority Leader, and Third Assistant Minority Leader.

For purposes of this rule the counting of consecutive years will commence on January 4, 1995..

[1993.]

COMMITTEES.

12. The following standing committees shall be appointed at the beginning of the first year of the two year General Court and the appointments shall be for the life of the General Court, to wit:

A Committee on Rules;

To consist of the President, the Majority Leader, the Minority Leader, two members elected by the Majority Party in caucus and one member elected by the Minority Party in caucus.

A Committee on Ways and Means;

To consist of seventeen members.

A Committee on Bills in the Third Reading;

To consist of three members.

A Committee on Post Audit and Oversight;

To consist of seven members.

A Committee on Science and Technology;

To consist of five members.

[1831; 1836; 1840; 1844; 1847; 1863; 1864; 1870; 1876; 1882; 1885; 1886; 1888; 1891; 1896; 1897; 1920; 1937; 1939; 1941; 1945; 1946; 1957; 1960; 1963; 1965; 1969; 1971; 1972; 1982; 1989; 1991; 1993.]

12A. There shall be a standing Committee on Ethics consisting of six members to be appointed in accordance with Senate Rule 13 at the beginning of the first year of the biennial session of the General Court. All violations of rules and all questions of conduct of members, officers and employees of the Senate shall be referred by order of the Senate to said committee. Such orders shall be as specific as circumstances allow. The committee is also empowered to receive sworn written complaints or evidence regarding violations of Rules 10 and 10A. Until a hearing, if any, is held, the contents of such complaints or evidence shall be considered confidential information, unless they are already a matter of public record. If no hearing is held, such contents may be made public by the committee in a final report. Breach of confidentiality may itself be grounds for disciplinary action.

Upon receipt of an order, a sworn written complaint filed under penalties of perjury, or upon receipt of evidence, the committee is empowered to investigate and take written or oral testimony on any matters specified in the order or covered by Rules 10 and 10A. A majority of committee members must be present to receive sworn testimony unless a majority designates a lesser number to do so. In any case, at least one member of the committee must be present to receive such testimony. Upon majority vote of the full Senate, the committee may require by summons the attendance and testimony of witnesses and the production of books and papers and such other records as said committee may deem relevant.

Said committee shall consider and have authority to report to the Senate any recommendations regarding any infringement of the rules and all questions of conduct of members, officers and employees referred to it. If after investigation the committee determines that there has been a violation of the rules, or other misconduct, the committee shall file a report with the Clerk of the Senate, including a recommendation for disciplinary action, including but not limited to: in the case of a member, reprimand, censure, removal from committee chairmanship or other position of authority, or expulsion; in the case of an officer or employee, reprimand, suspension or removal. Said report shall not prevent the Senate from taking any other action as it shall deem advisable and appropriate.

Nothing in this rule shall be construed to require the disclosure of any allegation that the committee deems frivolous or without merit.

If the committee receives a sworn written complaint, evidence, order of the Senate, or request for an opinion involving a member of the committee, such member shall remove himself from the committee's deliberations on that matter.

The committee may, upon written request from a member, officer, or employee of the Senate, issue written advisory opinions on matters concerning Rules 10 and 10A. Such advisory opinions may be published, provided that the name of the person requesting the opinion, and any other identifying information shall not be included in the publication. The Senate may not penalize a member, officer or employee of the Senate for conduct satisfying the guidelines of an advisory opinion based on factually indistinguishable conduct.

At least three members shall sign all recommendations and reports of the committee.

The committee shall annually, on or before the first Wednesday in December, file a report with the Clerk summarizing its activities for the year. In addition, the committee may at any time recommend changes in the rules of conduct for the Senate or legislation relating thereto, and a majority vote of the Senate shall be required to approve any such recommended changes.

[1977; 1978; 1983; 1991.]

12B. There shall be a standing Committee on Steering and Policy consisting of the President, the chairman of the Senate Committee on Ways and Means, the leader of the majority party in the Senate, the leader of the minority party in the Senate, and seven other members to be appointed by the President, one of whom shall be a member of the minority party, at the beginning of the first year of the biennial session of the General Court. The first member appointed by the President shall be designated the chairman. The committee shall meet from time to time at the call of the chair for the purpose of assisting the President and the Senate in identifying the major matters which require consideration by the General Court during the pending session and to advise the President and the Senate on the relative priority of such matters, the relative urgency for consideration by the General Court of such matters, and alternative methods of responding to such matters by the General Court, and on scheduling legislative matters for their even distribution throughout the legislative year.

The Committee on Steering and Policy shall report on a legislative matter not later than thirty days following the day on which the matter was referred to it; provided that it shall report on all such matters prior to the last formal sitting of the legislative session. The committee shall not report that any matter referred to it ought to pass or ought not to pass, nor shall it recommend any amendment to such matter, but shall only report on what date prior to adjournment of the last formal session and within the forty-five day period referred to in the preceding sentence, the matter will be considered by the Senate.

[1983; 1985; 1986; 1991; 1993.]

S- 410

Committee Report #1

A communication was received from D. Margaret Drury transmitting a report from Vice Mayor Russell and Councillor Sullivan Co-Chairs of the Joint Rules and Government Operations Committee re: a public meeting held on September 24, 1994 for the purpose of considering proposed home rule legislation to prohibit persons convicted of felonies from holding elective municipal office.

In City Council October 3, 1994

*Report accepted &
Placed on file*