HOUSE DOCKET, NO. 1469 FILED ON: 1/16/2019

HOUSE . . . . . No. 3529

The Commonwealth of Massachusetts

PRESENTED BY:

***Jay D. Livingstone*, (BY REQUEST)**

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying order for the adoption of an order relative to requiring the opinions of the Justices of the Supreme Judicial Court on important questions of law, regarding the marijuana (cannabis) laws.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Mark Thomas	

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HOUSE . . . . . No. 3529

The Commonwealth of Massachusetts

House of Representatives,

In the One Hundred and Ninety-First General Court
(2019-2020)

Ordered, 1. WHEREAS, the citizens of the Commonwealth by Ballot Referendum Law on November 8, 2016 purported to legalize the production, regulation, sale and consumption of Marijuana in the Commonwealth of Massachusetts;

2. WHEREAS, on July 20, 2017 the Massachusetts General Court by legislative law also purported to legalize the production, regulation, sale and consumption of Marijuana in the Commonwealth of Massachusetts (H.3818);

3. WHEREAS, on July 28, 2017 the Governor of Massachusetts signed into law the legislative bill, purporting to legalize the production, regulation, sale and consumption of Marijuana in the Commonwealth of Massachusetts (M.G.L. c. 10 & c. 94G);

4. WHEREAS, the production, regulation, sale and consumption of Marijuana in the Commonwealth of Massachusetts violates Federal Laws as a prohibited controlled substance

activity (21 U. S. C. §801, et seq.), upheld by Gonzales v. Raich, 545 U.S. 1 (2005), rebutting any legislative presumption of constitutionality of the Massachusetts Marijuana Laws;

5. WHEREAS, the production, regulation, sale and consumption of Marijuana in the Commonwealth of Massachusetts appears to violate both the Massachusetts Constitution and the United States Constitution in various and sundry ways;

6. WHEREAS, it appearing that the purported Citizen Referendum Question on November 8, 2016 could, in no way, have been correctly and legally certified by the Massachusetts Attorney General to the Massachusetts Secretary of State, as being without constitutional, legal impediment and acceptable for citizen voting;

7. WHEREAS, the Massachusetts Supreme Judicial Court decision, Sears v. Treasurer & Receiver General, 98 N.E.2d 621, 629 (Mass. 1951) has asserted, "The people themselves and all branches of government, Legislative, Executive, Judiciary alike, are bound by the Constitution and owe to it implicit obedience."

8. WHEREAS, the decisive landmark U.S. Supreme Court decision, Gibbons v. Ogden, 22 U.S. 1, 210-11 (1824) declared, "When a federal and state law are in conflict, the federal law is supreme, and the state law must yield to it."

9. WHEREAS, there appears no justifiable or legal reason why state laws contradicting the Massachusetts and United States Constitutions may exist as supposed laws;

10. WHEREAS, Amendment Article 85 of the Massachusetts Constitution grants authority for either the House of Representatives or the Senate to "require the opinions of the justices of the supreme judicial court, upon important questions of law;" this legal conflict being important,

exigent questions of law, as the General Court having neglected to secure such judicial opinions prior to authorizing the Marijuana Laws;

11. WHEREAS, Article VI, Clause 2 of the United States Constitution mandates the Judges in every State shall be bound by the Supremacy Clause, thereby obligating them and the General Court, by Oath, to confront these "important questions of law."

12. WHEREAS, Article XXX of the Massachusetts Constitution declares: "the legislative department shall never exercise the judicial powers," it being reserved exclusively to the Supreme Judicial Court to settle all "important questions of law" of grave doubt.

NOW THEREFORE, it appearing that the Citizen Referendum and Legislative laws legalizing Marijuana in the Commonwealth of Massachusetts are: (1) repugnant, both to the Massachusetts and United States Constitutions; (2) such laws appearing null and void by violating the dual constitutions; (3) it appearing that numerous Massachusetts' officials stand in default of their Oaths of Office regarding the aforementioned dual constitutions:

BE IT ORDERED, by the Massachusetts House of Representatives in the General Court assembled, by authority of Article 85 of the constitutional amendments, this body does respectfully require the opinions of the Justices of the Massachusetts Supreme Judicial Court, in an expeditious manner, on the following important, exigent question(s) of law, namely:

I. Does the Citizen Ballot law and Massachusetts General Court laws ('the Laws") purporting to legalize the production, regulation, sale and consumption of Marijuana in the Commonwealth ("the Acts"), plainly violate the Massachusetts Constitution, Declaration of Rights, Article IV, as defying the United States Congress' laws already in force regulating and prohibiting Marijuana?

II. Do “the Laws and Acts” violate the Massachusetts Constitution, Chapter I; § I; Article IV, “so as the same be not repugnant or contrary to this Constitution,” as also described by Amendment Article 48, II, § 2, Cl. 5?

III. Do “the Laws and Acts” impermissibly violate and defy the Supremacy Clause, Art. VI, et seq. of the United States Constitution and 21 U. S. C. §801, et seq.?

IV. Do the “Laws and Acts” unlawfully deprive all citizens the Privileges, Immunities and equal protection of being governed by “the supreme Law of the Land?”

V. May the Massachusetts Cannabis Commission purport to promote and regulate Marijuana use in the Commonwealth when the U.S. Congress has prohibited same?

VI. May that Commission, and others, execute illegal contracts with various entities against the Contracts Clause, Art. I, § 10, Cl. 1 of the United States Constitution?

VII. Do “the Laws and Acts” run afoul of Art. IV § 1, the Full Faith and Credit Clause?

VIII. Do “the Laws and Acts” violate the several Oaths of Office and performance required of Massachusetts government officials?

IX. Did the Massachusetts Attorney General properly certify to the Secretary of State that, such Question presented no constitutional, legal impediments regarding the Marijuana Referendum Ballot Question submitted to voters in November 8, 2016?

X. Can the foregoing important questions of law be summed up by answering the following question: “Are ‘the Laws and Acts’ null and void?”