

# HOUSE . . . . No. 1168

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, March 29, 1928.

The committee on Bills in the Third Reading, to whom was referred the Bill providing for the election to any elective city office upon a failure to elect thereto or upon a vacancy therein, and providing for the filling of vacancies in cases of tie votes at city or town primaries (House, No. 1135), report recommending that the same be amended by the substitution of the accompanying bill (House, No. 1168).

For the committee,

THOMAS R. BATEMAN.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Twenty-Eight.

An Act providing for the Filling of Vacancies resulting from Failure to Elect at City Elections and from Tie Votes at City or Town Primaries.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter forty-one of the General  
2 Laws is hereby amended by inserting after section  
3 eleven, under the heading "Failure of Election of  
4 City Officers" the following new section:—

5 *Section 11A.* If there is a failure at any city elec-  
6 tion to elect to any office, the city council of such city  
7 shall forthwith declare a vacancy and cause a new  
8 election to be held to fill the same for the unexpired  
9 term; provided, that no provision is otherwise made  
10 for the filling of such vacancy by its charter or other-  
11 wise.

1 SECTION 2. Section sixty-two of chapter fifty-  
2 three of the General Laws is hereby amended by  
3 adding at the end thereof the following new sentence:  
4 — In the case of a tie vote at a city or town primary  
5 where the number of persons receiving equal votes  
6 exceeds the number of nominations available, there  
7 shall be deemed to be a vacancy, and such vacancy,  
8 if in respect to an office to be filled by all the voters

9 of the city or town, shall be filled by the city or town  
10 committee and, if in respect to an office to be filled by  
11 the voters of a ward, by the ward committee; pro-  
12 vided, that any such vacancy shall be filled only by  
13 the choice of one of the candidates receiving the tie  
14 vote.

1 SECTION 3. Section two of this act shall apply to  
2 city or town primaries in every city and town in which  
3 the provisions of sections twenty-three to forty, in-  
4 clusive, and fifty-six to sixty-four, inclusive, of said  
5 chapter fifty-three are operative, whether said pro-  
6 visions were accepted as provided in said section fifty-  
7 six or made applicable by special law.

