

HOUSE No. 1035.

Commonwealth of Massachusetts.

The Committee on Elections, to whom was referred the petition of John T. Maloney that he may be declared to be a duly elected member of the House of Representatives from the Seventh Essex District, submit the following report, — the petition in substance is as follows: —

“The undersigned petitioner, citizen of Lawrence, Mass., respectfully represents that at an election held November 5, 1901, in wards 3, 4, 5 and 6 of the city of Lawrence, comprising the Seventh Essex Representative District, the petitioner was one of the candidates for the office of Representative to the General Court from said district.

“The count of votes by the election officers cast at said election gave to Frank J. Stanley 2,495 votes and to the petitioner 2,465 votes.

“Upon a recount by the Registrars of Voters for the city of Lawrence, the vote was declared a tie, viz.: Frank J. Stanley receiving 2,486 votes and the petitioner 2,486 votes.

“In said recount there were a sufficient number of votes wrongly counted for said Stanley and a sufficient number of votes wrongly counted as blank by said Registrars of Voters which in each case should have been counted for the petitioner to have given him a majority of votes and elected him.

“[Signed]

JOHN T. MALONEY.”

The committee gave hearings to the parties, at all of which the petitioner and Mr. Stanley appeared by counsel.

Testimony was presented to the committee tending to show that the Board of Registrars of Voters of the city of Lawrence, who had charge of the recount and who declared the result a tie, had incorrectly counted certain ballots. It was the unanimous opinion of the committee that the evidence was sufficiently strong to render it necessary for a proper decision of the case, that an examination and recount of the ballots should be made.

The district is one in which each voter is entitled to vote for three candidates. Some of the ballots, in relation to which evidence was introduced, were described as follows:—

(a) A ballot marked with three heavy crosses and one very light cross, there being some evidence that the light cross bore the appearance of having been erased by the voter, was declared by the Board of Registrars of Voters to be void as containing too many crosses; but the following morning, after the votes had been tabulated, the Board reconsidered this ballot and reversed its decision, counting it as a vote for the candidates against whose names the three heavy crosses appeared, and considering the light cross to be an erasure.

(b) A ballot bearing in three places beside the names of candidates for Representative, the figure “3,” instead of crosses, was not counted as a vote by the Board of Registrars of Voters.

(c) A ballot bearing in three places beside the names of candidates, the Roman numeral “III,” instead of crosses, was not counted as a vote by the Board of Registrars of Voters.

In the opinion of the committee, the ballots above described could be passed upon only by an examination of the ballots by the committee. Other evidence was introduced, showing a probability that various ballots had been incorrectly passed upon by the Board of Registrars of Voters. These various ballots were intermingled with the bulk of the ballots.

The ballots were sent for, and the committee examined and recounted them. The committee counted the ballot described above as “a” as a vote for the candidates against whose names the three so-called heavy crosses were placed, it being the unanimous opinion of the committee that the so-called light cross had clearly been erased.

The committee counted ballots “*b*” and “*c*” as above described, as votes for the candidates against whose names the marks appeared, it being the unanimous opinion of the committee that, on examination of the whole of the ballots and the methods used by the voters in marking the same, that the voters had clearly shown their intention to vote for the candidates against whose names the marks were placed.

The result of the vote as counted by the committee is as follows:—

John T. Maloney of Lawrence, . . .	2,487 votes.
Frank J. Stanley of Lawrence, . . .	2,484 votes.

The committee accordingly report that the petitioner, John T. Maloney of Lawrence, was duly elected as a Representative to the General Court from the Seventh Essex Representative District for the year nineteen hundred and two.

CHARLES M. DRAPER,
WARREN P. BABB,
J. WILLIAM WILLIAMS,
JOHN J. MANSFIELD,
JOHN F. FOSTER,
ROBERT ROGERSON,
MARTIN P. HIGGINS,

Committee.

