

HOUSE No. 1940

The Commonwealth of Massachusetts.

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

Under Chapter 719 of the Acts of the year 1912, the Commission on Economy and Efficiency begs to submit the following report and recommendation with accompanying bill.

We recommend the enlargement of the powers and the change of name of the State Ballot Law Commission, so that this Commission may become an "Elections Court for the Commonwealth," with ample powers to decide and finally determine all controversies, questions and causes arising and growing out of or affecting any or all elections, caucuses, primaries and conventions in the Commonwealth, on the rights of candidates or other persons interested therein or affected thereby, so that the administration of all laws relating to elections shall be referred, heard, considered and speedily determined by this court.

The present Ballot Law Commission as now organized has jurisdiction of objections to certificates of nomination and nomination papers filed with the Secretary of the Commonwealth by candidates for all offices to be elected at State elections, and all questions arising in relation thereto, and said Commission has also jurisdiction upon objection to nomination papers filed under the primary law by candidates for State offices.

By recent legislation in 1912, the Ballot Law Commission was constituted the State Board of Voting Machine Examiners, charged with the duty of examining voting machines, ballot boxes, counting apparatus, and to approve such thereof

as in their judgment conformed to the requirements of law.

The jurisdiction of the Ballot Law Commission would be much more effective and efficient, and money expended from the State's Treasury for the support of this Commission would be much better administered, in our opinion, if the Ballot Law Commission was not limited to questions which arise after the filing of papers and confined to the precise question stated in the objection. Greater efficiency and direct results would be obtained if the Ballot Law Commission should have the power to deal with all election cases. At present the law expressly states that upon all questions within the jurisdiction of the Ballot Law Commission its decision shall be final, but oftentimes questions have arisen where the common law courts have been appealed to, resulting in an apparent needless conflict of authority.

In order to give relief in election matters, which are now most intricate, and by most persons little understood, we believe the Ballot Law Commission should be empowered to hear and determine all election controversies, and give prompt settlement to all questions affecting the administration of election laws, particularly as it is clear that such laws require speedy determination.

Serious questions have arisen which, owing to lack of time and to distance involved, and necessity of notice and emergencies incidental to the printing and distribution of ballots, have been prevented from consideration by the court where speedy determination is necessary, and in these questions an elections court, composed of men, students of and familiar with our intricate election laws and conversant with their history, would speedily and justly give adequate consideration and prompt correction and decision.

In the bill appended hereto, in order to make provision for distance from said court in these matters, we recommend that the elections court, by vote of its members, may direct testimony to be taken in all causes before it, in such manner as depositions may be taken to be used in civil causes pending within the Commonwealth, and may limit the time and appoint one or more commissioners for the taking of such depositions.

Prerogative writs to which those who administer elections are properly amenable should be within the jurisdiction of an elections court familiar with all laws relating to elections. Those persons throughout the Commonwealth who administer election laws, both in State and municipal elections, constantly, from time to time, require direction and advice to provide for uniform and systematic administration of elections and matters pertaining thereto, as well as a uniform consideration of election laws.

In order to wisely expend the State's money and to justly determine these matters, we respectfully submit there should be an elections court, a central department empowered and charged with administration and with final and full authority to compel a uniform and harmonious administration and interpretation, and this authority should have the right to hear and finally determine all election appeals.

Massachusetts stands since the adoption of the Australian ballot as the foremost state in equipment and secrecy in elections. This position will be difficult to maintain under our present intricate election laws; but we feel that an elections court established on lines similar to the act hereto appended, charged with the duty of keeping thoroughly informed regarding legislation in foreign states concerning election laws, ballots and all other methods, jurisdiction and paraphernalia concerning elections, would be economical and efficient and give speedy relief to the condition which is now pressing.

We furthermore believe and recommend that such a court should be empowered with the power of recommendation and final approval and adoption of ballot voting machines, counting devices and other equipment pertaining to election matters, as the Ballot Law Commission is now empowered.

In view of the above facts and the additional duties and responsibilities proposed and the enlargement of the powers of the Ballot Law Commission as outlined above with the responsibility to finally determine election matters, we believe the inadequate salary of the Ballot Law Commissioners should be made commensurate with the labors and duties and responsibilities which we trust will be added to them.

We heartily approve of the conscientious work of the present Ballot Law Commissioners, and respectfully call the attention of your Honorable Bodies to their efficiency and work at small remuneration. The work of all the commissioners is most praiseworthy, but we especially wish to commend the work of the Chairman, Mr. Henry V. Cunningham, whose careful study of election matters and whose service on the Ballot Law Commission has made him the leading exponent and authority on election matters in this country, and has given to the State service an inestimable value, at a salary which is entirely nominal.

Respectfully submitted,

COMMISSION ON ECONOMY AND EFFICIENCY.

NORMAN H. WHITE, *Chairman.*

FRANCIS X. TYRRELL.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Thirteen.

AN ACT

To establish an Elections Court.

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. The duties of the ballot law commissions
2 throughout the commonwealth are hereby transferred to
3 the state ballot law commission as it is now constituted,
4 which shall hereafter be known as the elections court, as
5 herein created, established and described, and all powers,
6 duties and jurisdiction heretofore vested in any or all
7 bodies known as ballot law commissions throughout the
8 commonwealth are hereby transferred to the elections
9 court of the commonwealth.

10 The presiding member of the elections court shall be
11 designated by the governor.

1 SECTION 2. The elections court of the commonwealth
2 shall have the power to summon and compel the attend-
3 ance of witnesses and administer oaths, and may re-
4 quire the production of books and papers at hearings be-
5 fore it upon all matters within its jurisdiction.

6 Witnesses shall be summoned in the same manner, be
7 paid the same fees, and be subject to the same penalties
8 as witnesses before the superior court. The summons

9 may be signed and the oath may be administered by any
10 member of said court.

1 SECTION 3. All controversies, questions and causes,
2 arising and growing out of, or affecting any or all elec-
3 tions, caucuses, primaries and conventions in this com-
4 monwealth, or the rights of candidates or other persons
5 interested therein, or affected thereby, and the adminis-
6 tration of all laws relating to elections shall be within
7 the exclusive, original jurisdiction of and shall be heard,
8 considered and finally determined by said elections court.

1 SECTION 4. The elections court by vote of its members
2 may direct testimony to be taken in all causes before it,
3 in such manner as depositions may be taken to be used
4 in civil causes pending within the commonwealth, and
5 may limit the time and appoint one or more commis-
6 sioners for the taking of such depositions.

1 SECTION 5. The presiding member of said court shall
2 receive a salary of two thousand dollars, and the other two
3 members shall receive a salary of fifteen hundred dollars
4 each per annum.

1 SECTION 6. The elections court may spend for ex-
2 penses and clerk hire a sum not more than twenty-five
3 hundred dollars for the year ending November thirtieth,
4 nineteen hundred and thirteen, and in succeeding year or
5 years such sum or sums as may be appropriated by the
6 great and general court.

1 SECTION 7. All acts and parts of acts inconsistent
2 herewith are hereby repealed.

1 SECTION 8. This act shall take effect upon its passage.