

By Mr. Edward J. Kelley of Worcester, petition of Charles H. McGlue for an official tabulation of votes before a recount can be ordered in the case of offices to be filled by all the voters of the Commonwealth. Election Laws. Jan. 22.

The Commonwealth of Massachusetts.

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

An Act to provide for an Official Tabulation of Votes before a Recount can be ordered in the Case of Offices to be filled by All the Voters of the Commonwealth.

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 one hundred and thirty-five of chapter fifty-
2 four of the General Laws is hereby amended by adding
3 at the end of the first paragraph the words:— At a
4 biennial state election in those offices which are filled
5 by all the voters of the commonwealth, the petition
6 for recount shall be signed in the aggregate by at least
7 one thousand voters, not less than two hundred and fifty
8 to be from each of four different counties, and shall
9 be submitted, on or before five o'clock in the afternoon
10 of the fourth day following the announcement of the
11 official tabulation of the vote by the governor and
12 council, to the registrars of the city or town in which
13 the signers appear to be voters, who shall forthwith
14 certify thereon the number of signatures which are
15 names of voters in said city or town. Said petitions
16 for recount shall be filed with the state secretary on or

17 before five o'clock in the afternoon on the seventh day
18 following the aforesaid official tabulation. The state
19 secretary, upon receipt of a petition for the recount of
20 a state-wide vote containing the required number of
21 signers properly certified, shall forthwith order the
22 election commissions and boards of registrars in the
23 various cities and towns of the commonwealth to re-
24 count the ballots cast for said office and determine
25 the questions raised. The governor and council shall
26 withhold certification of the records in said elective
27 offices until seven days after the biennial state election,
28 and in the event of a recount being ordered shall await
29 until the new copy of the records have been made and
30 transmitted to them. Such new copy shall be trans-
31 mitted by the city or town clerk to the state secretary
32 within seven days of the date of the recount, and the
33 procedure outlined in sections one hundred and fifteen
34 and one hundred and sixteen of chapter fifty-four of
35 the General Laws shall then be followed, — and is
36 further amended by adding after the word "writing",
37 in the tenth line of the second paragraph, the following
38 words:— If, upon written complaint of an interested
39 candidate, his attorney or agent, it shall appear that
40 proper written notice of the time and place of the mak-
41 ing of the recount was not given by the registrars to
42 the several candidates interested, then a new recount
43 shall be ordered and the first recount declared void, —
44 so that said section as amended shall read as follows:—
45 *Section 135.* If, on or before five o'clock in the after-
46 noon on the third day following an election in a ward
47 of a city or in a town, ten or more voters of such ward
48 or town, except Boston, and in Boston fifty or more
49 voters of a ward, shall sign in person, adding thereto
50 their respective residences on April first of that year,

51 and cause to be filed with the city or town clerk a
52 statement sworn to by one of the subscribers that they
53 have reason to believe and do believe that the records,
54 or copies of records, made by the election officers,
55 of certain precincts in such ward or town, or in case
56 of a town not voting by precincts, by the election
57 officers of such town, are erroneous, specifying wherein
58 they deem them to be in error and that they believe a
59 recount of the ballots cast in such precincts or town
60 will affect the election of one or more candidates voted
61 for at such election, specifying the candidates, or will
62 affect the decision of a question voted upon at such
63 election, specifying the question, the city or town clerk
64 shall forthwith transmit such statement and the en-
65 velopes containing the ballots, sealed, to the registrars
66 of voters, who shall, without unnecessary delay, but
67 not before the last hour for filing requests for recounts,
68 open the envelopes, recount the ballots and determine
69 the questions raised; but upon a recount of votes for
70 town officers in a town where the selectmen are members
71 of the board of registrars of voters, the recount shall
72 be made by the moderator, who shall have all the
73 powers and perform all the duties conferred or imposed
74 by this section upon registrars of voters. At a biennial
75 state election in those offices which are filled by all the
76 voters of the commonwealth, the petition for recount
77 shall be signed in the aggregate by at least one thousand
78 voters, not less than two hundred and fifty to be from
79 each of four different counties, and shall be submitted,
80 on or before five o'clock in the afternoon of the fourth
81 day following the announcement of the official tabulation
82 of the vote by the governor and council, to the registrars
83 of the city or town in which the signers appear to be
84 voters, who shall forthwith certify thereon the number

85 of signatures which are names of voters in said city
86 or town. Said petitions for recount shall be filed with
87 the state secretary on or before five o'clock in the after-
88 noon on the seventh day following the aforesaid official
89 tabulation. The state secretary, upon receipt of a
90 petition for the recount of a state-wide vote containing
91 the required number of signers properly certified, shall
92 forthwith order the election commissions and boards
93 of registrars in the various cities and towns of the
94 commonwealth to recount the ballots cast for said office
95 and determine the questions raised. The governor and
96 council shall withhold certification of the records in
97 said elective offices until seven days after the biennial
98 state election, and in the event of a recount being or-
99 dered shall await until the new copy of the records have
100 been made and transmitted to them. Such new copy
101 shall be transmitted by the city or town clerk to the
102 state secretary within seven days of the date of the
103 recount, and the procedure outlined in sections one
104 hundred and fifteen and one hundred and sixteen of
105 chapter fifty-four of the General Laws shall then be
106 followed. The registrars shall, before proceeding to re-
107 count the ballots, give written notice to the several
108 candidates interested in such recount and likely to be
109 affected thereby, or to such person as shall be desig-
110 nated by the petitioners for a recount of ballots cast
111 upon questions submitted to the voters, of the time
112 and place of making the recount, and each such candi-
113 date or person representing petitioners shall be allowed
114 to be present and witness such recount, either in person,
115 accompanied with counsel if he so desires, or by an
116 agent appointed by him in writing. And is hereby
117 further amended by adding after the word "writing",
118 in the tenth line of the second paragraph, the following

119 words:— If, upon written complaint of an interested
120 candidate, his attorney or agent, it shall appear that
121 proper written notice of the time and place of the
122 making of the recount was not given by the registrars
123 to the several candidates interested, then a new recount
124 shall be ordered and the first recount declared void.
125 In the case of a recount of the ballots cast upon a ques-
126 tion submitted to the voters, one representative from
127 any committee organized to favor or to oppose the
128 question so submitted shall be permitted to be present
129 and witness the recount.

130 All recounts shall be upon the questions designated
131 in the statements filed, and no other count shall be
132 made, or allowed to be made, or other information
133 taken, or allowed to be taken, from the ballots on such
134 recount.

135 The registrars shall, when the recount is complete,
136 enclose all the ballots in their proper envelopes, seal
137 each envelope with a seal provided therefor, and certify
138 upon each envelope that it has been opened and again
139 sealed in conformity to law; and shall likewise make
140 and sign a statement of their determination of the
141 questions raised. The envelopes, with such statement,
142 shall be returned to the city or town clerk, who shall
143 alter and amend, in accordance with such determina-
144 tion, such records as have been found to be erroneous;
145 and the records so amended shall stand as the true
146 records of the election. Such amended records of
147 votes cast at a state election shall be made and trans-
148 mitted as required by law in the case of copies of origi-
149 nal records. If, in case of a recount of votes for town
150 officers, it shall appear that a person was elected other
151 than the person declared to have been elected, the
152 registrars of voters shall forthwith make and sign a

153 certificate of such fact, stating therein the number of
154 votes cast, as determined by the recount, for each can-
155 didate for the office the election to which is disputed,
156 and shall file the same with the town clerk. The town
157 clerk shall record the certificate and shall, within twenty-
158 four hours after such filing, cause a copy of such cer-
159 tificate, attested by him, to be delivered to or left at
160 the residence of the person so declared to have been
161 elected, and to the person who by such certificate
162 appears to be elected.

163 Registrars of voters may employ such clerical assist-
164 ance as they deem necessary to enable them to carry
165 out this section.