

HOUSE No. 305.

[Mr. FLYNN of Boston gives notice that he will move to substitute this Resolve for the Report of the Committee on the Judiciary, leave to withdraw.]

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Eighty-eight.

RESOLVE

To amend the Constitution relative to the Election of Senators and Representatives.

Resolved, By both houses, that it is expedient to alter the constitution of this Commonwealth by the adoption of the subjoined article of amendment; and that the said article, being agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon, be entered on the journals of both houses, with the yeas and nays taken thereon, and referred to the general court next to be chosen; and that the said article be published, to the end that if agreed to in the manner provided by the constitution by the general court next to be chosen, it may be submitted to the people for their approval and ratification, in order that it may become a part of the constitution of the Commonwealth.

ARTICLE OF AMENDMENT.

1 *Section 1.* Any resident of this Commonwealth,
2 eligible under the constitution to the office of senator,
3 may be nominated as a candidate for said office by any
4 person.

5 No such nomination shall be valid unless the following
6 conditions are complied with:—

7 (1.) The nomination shall be in writing, signed by
8 the person making it, and shall contain the name and
9 place of residence of the candidate.

10 (2.) An acceptance of the nomination signed by the
11 candidate shall be endorsed thereon.

12 (3.) It shall be deposited in the office of the secre-
13 tary of the Commonwealth not more than three months
14 nor less than five weeks before the day of election.

15 (4.) There shall be deposited with the nomination
16 the sum of fifty dollars, or such other sum not exceeding
17 one hundred dollars, as the legislature may hereafter by
18 law direct.

1 *Sect. 2.* Not less than four weeks before the day of
2 election, the secretary of the Commonwealth shall fur-
3 nish to each candidate and to every voter who shall re-
4 quest it, a printed list containing the names of all the
5 candidates in alphabetical order with the place of resi-
6 dence of each, and the name of the person by whom each
7 was nominated.

1 *Sect. 3.* At any time after his nomination and not
2 less than three weeks before the day of election, any of
3 said candidates may furnish to the secretary of the Com-
4 monwealth a statement in writing, signed by himself and
5 acknowledged before any magistrate authorized to take
6 acknowledgment of deeds, which statement shall contain
7 the names of one or more others of said candidates with
8 whom he believes himself to be in accord upon the most

9 important public questions, and to one or more of whom
10 he wishes to transfer any ineffective votes cast for himself.

1 *Sect. 4.* The secretary shall prepare a new list of
2 candidates similar to that named in section two of this
3 article, but containing also against the name of each
4 candidate the names in alphabetical order of all candi-
5 dates named in the list, if any, furnished by that candi-
6 date, as provided in section three; and he shall, not less
7 than two weeks before the day of election, furnish to the
8 clerk of every city or town a sufficient number of copies
9 of said new list. Every such clerk shall, immediately
10 upon the receipt thereof, post conspicuously, and open
11 to the inspection of the public, one copy of said list at
12 each and every place in his city or town where votes are
13 to be received at said election, and shall also immediately
14 furnish one copy to every legal voter resident in said
15 city or town who shall demand the same.

1 *Sect. 5.* Every legal voter, wherever resident, shall
2 be entitled to cast his vote for senator in favor of any
3 person whose name appears in the aforesaid list of can-
4 didates; but no person shall vote for more than one can-
5 didate, nor for any person whose name does not appear
6 upon the aforesaid list of candidates.

7 But whenever a candidate duly nominated is omitted
8 from the list published by the secretary of the Common-
9 wealth, votes may be cast for him with the same effect as
10 if his name appeared on said list.

11 If the secretary shall make such omission intentionally
12 or through wilful neglect of duty, he shall, upon convic-
13 tion thereof, be ever after incapable of holding any office
14 of trust or profit under the Commonwealth.

1 *Sect. 6.* The returns of votes having been transmitted
2 to the secretary of the Commonwealth as provided by
3 the constitution, the secretary shall make a list of all
4 candidates voted for, with the vote received by each
5 candidate in each precinct or voting place, and his total
6 vote, and said list shall be transmitted, published and

7 distributed in the same manner provided in section four,
8 concerning the list therein named ; and after the secretary
9 shall have ascertained who are the persons who appear to
10 be elected, he shall make a list of the successful candi-
11 dates with the computation by which their election has
12 been ascertained, and shall forthwith furnish a copy of
13 the same to each candidate and also to every voter who
14 shall request it.

1 *Sect. 7.* Ineffective votes shall be transferred
2 according to the request of the candidate for whom they
3 were originally cast, to a person named in the list fur-
4 nished by said candidate as provided by section three.

5 The forty candidates then having the highest number
6 of votes shall be declared elected, and the secretary
7 shall issue certificates of election to them.

8 In case two or more candidates have the same number
9 of votes, the candidate residing at the greatest distance
10 from the state house shall be deemed, for the purpose of
11 election, to have the highest number.

1 *Sect. 8.* The following shall be deemed ineffective
2 votes, and shall be transferred in the order named : —

3 (1.) Any votes cast for a candidate in excess of one-
4 fortieth of the entire vote cast, beginning with the can-
5 didate receiving the largest vote, and proceeding to the
6 one next highest and so on.

7 In the case of two or more receiving the same vote,
8 the transfer shall be from each alternately, in alphabeti-
9 cal order.

10 (2.) Votes cast for candidates who have since their
11 nomination died or become ineligible in the same order.

12 (3.) Original votes cast for candidates who fail of
13 election, beginning with the candidate receiving the
14 smallest total vote, and proceeding to the one next lowest,
15 and so on ; in case of two or more receiving the same
16 vote the transfer to be made from each alternately in
17 alphabetical order.

18 No votes shall be transferred from any candidate who
19 has not furnished the statement named in section three.

1 *Sect. 9.* Every ineffective vote of a candidate shall
2 be transferred to the candidate named in his said list,
3 living and eligible at the time of counting the vote, for
4 whom the largest number of votes were originally cast
5 and whose vote by transfer or otherwise does not equal
6 one-fortieth of the whole vote cast, until all are trans-
7 ferred as far as possible.

8 If the same number of votes were originally cast for
9 two or more candidates named in said list, the candi-
10 date residing nearest the one from whom the votes are
11 to be transferred shall be preferred.

1 *Sect. 10.* The secretary shall at once transmit to the
2 treasurer and receiver-general all sums of money received
3 as provided in section one.

4 Immediately after declaring the names of the persons
5 elected senators, he shall draw on the treasurer and
6 receiver-general a warrant for the payment of the sum
7 received with one nomination, and issue the same to
8 each candidate who shall appear by the returns to have
9 received one thousand or more original votes, and all
10 such warrants shall be paid by the treasurer and receiver-
11 general on presentation. The remainder of the sums
12 paid under section one shall be and remain the property
13 of the Commonwealth.

1 *Sect. 11.* In case a vacancy shall occur in the senate
2 after the declaration of election provided in section
3 seven, the votes cast for the member whose seat shall have
4 become vacant together with any ineffective votes as-
5 signed to him, shall be re-distributed in the same man-
6 ner as if he had died or become ineligible before the
7 canvassing of the votes, and the candidate not before
8 elected, who, after returning to him any votes originally
9 cast for him, shall then appear to have largest number of
10 votes shall be declared elected.

1 *Sect. 12.* The supreme judicial court, upon the
2 petition of twenty-five legal voters, shall have jurisdic-
3 tion to enforce by mandamus the correction of any

4 erroneous or improper issue of such certificate of elec-
5 tion, when such error can be made to appear from the
6 face of the returns issued by the secretary as provided
7 in section six, upon canvassing said returns in the man-
8 ner provided in sections seven, eight and nine.

9 But the senate shall continue to be the final judge
10 of the election of its members.

1 *Sect. 13.* The legislature may at any time provide
2 by law that representatives be elected in substantially
3 the same manner as is herein provided for senators, and
4 by such law may, if it so decides, divide the Common-
5 wealth into not exceeding six electoral districts, from
6 each of which the candidates voted for in that district
7 must be taken.

