

SENATE No. 8

To accompany the petition of Edna Lawrence Spencer for legislation to repeal the laws authorizing the election of certain city and town officers by proportional representation and preferential voting, Election Laws.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Nine.

AN ACT REPEALING THE LAWS AUTHORIZING THE ELECTION OF CERTAIN CITY AND TOWN OFFICERS BY PROPORTIONAL REPRESENTATION AND PREFERENTIAL VOTING.

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 fifty-four A of the General
2 Laws, relative to the election of certain city and
3 town officers by proportional representation and pref-
4 erential voting, as appearing in section one of chapter
5 three hundred and forty-one of the acts of nineteen
6 hundred and thirty-eight, is hereby repealed.

1 SECTION 2. Section one of chapter forty-one of
2 the General Laws, as amended, is hereby further
3 amended by striking out the paragraph added thereto
4 by section two of said chapter three hundred and
5 forty-one.

1 SECTION 3. Section eleven of said chapter forty-
2 one, as amended, is hereby further amended by

3 striking out the words inserted therein by section
4 three of said chapter three hundred and forty-one,
5 — so as to read as follows:—

6 *Section 11.* If there is a failure to elect, or if a
7 vacancy occurs in any town office, other than the
8 offices of selectmen, town clerk, treasurer, collector
9 of taxes or auditor, the selectmen shall in writing
10 appoint a person to fill such vacancy. If there is a
11 vacancy in a board consisting of two or more mem-
12 bers, the remaining members shall give written notice
13 thereof to the selectmen, who, with the remaining mem-
14 ber or members of such board shall, after one week's
15 notice, fill such vacancy by ballot. A majority of the
16 ballots of the officers entitled to vote shall be neces-
17 sary to such election. The person so appointed or
18 elected shall perform the duties of the office until
19 the next annual meeting or until another is qualified.

1 SECTION 4. Section two of chapter fifty of the
2 General Laws, as amended, is hereby further amended
3 by striking out the sentence inserted therein by sec-
4 tion four of said chapter three hundred and forty-one.

1 SECTION 5. Section seven of chapter fifty-three of
2 the General Laws, as amended, and as affected by
3 chapter three hundred and eighty-four of the acts of
4 nineteen hundred and thirty-seven, is hereby further
5 amended by striking out the words inserted therein
6 by section five of said chapter three hundred and
7 forty-one and by inserting therein the words stricken
8 out therefrom by said section five, — so as to read
9 as follows:—

10 *Section 7.* Every voter signing a nomination
11 paper shall sign in person, with his name as regis-

12 tered, and shall state his residence on January first
13 preceding, and the place where he is then living,
14 with the street and number, if any; but any voter
15 who is prevented by physical disability from writing
16 or who had the right to vote on May first, eighteen
17 hundred and fifty-seven, may authorize some person
18 to write his name and residence in his presence; and
19 every voter may sign as many nomination papers for
20 each office as there are persons to be elected thereto,
21 and no more. Notwithstanding the foregoing, every
22 voter signing a nomination paper for party primaries
23 shall, in lieu of stating his residence on January first
24 preceding, state his residence on January first of the
25 year preceding the year of such primaries. Every
26 nomination paper of a candidate for a state office
27 and, except where otherwise provided by law, of a
28 candidate for a city or town office, shall be submitted,
29 on or before five o'clock in the afternoon of the seventh
30 day preceding the day on which it must be filed, to
31 the registrars of the city or town where the signers
32 appear to be voters. In each case the registrars shall
33 check each name to be certified by them on the nomi-
34 nation paper and shall forthwith certify thereon the
35 number of signatures so checked which are names of
36 voters both in the city or town and in the district
37 for which the nomination is made, and only names
38 so checked shall be deemed to be names of qualified
39 voters for the purposes of nomination. The regis-
40 trars need not certify a greater number of names
41 than are required to make a nomination, increased
42 by one fifth thereof. Names not certified in the first
43 instance shall not thereafter be certified on the same
44 nomination papers. The state secretary shall not
45 be required to receive nomination papers for a candi-

46 date after receiving such papers containing a sufficient
47 number of certified names to make a nomination, in-
48 creased by one fifth thereof.

1 SECTION 6. Section eleven of chapter fifty-four of
2 the General Laws, as amended, is hereby further
3 amended by striking out the words inserted therein
4 by section six of said chapter three hundred and
5 forty-one, — so as to read as follows:—

6 *Section 11.* The mayor of every city, except where
7 city charters provide otherwise and except as pro-
8 vided in section eleven A, shall annually not earlier
9 than June fifteenth nor later than August fifteenth
10 appoint as election officers for each voting precinct,
11 one warden, one deputy warden, one clerk, one deputy
12 clerk, four inspectors and four deputy inspectors,
13 who shall, at the time of their appointment, be en-
14 rolled voters in the ward of which such precinct forms
15 a part. He may, in like manner, appoint two in-
16 spectors and two deputy inspectors in addition, and
17 such additional inspectors to count and tabulate the
18 votes as he may deem necessary. Every such ap-
19 pointment shall be filed in the office of the city clerk
20 of such city within forty-eight hours after it is made,
21 and shall be acted on by the aldermen not less than
22 three days after the filing of such appointment and
23 on or before September first following. After said
24 September first, the mayor, with the approval of the
25 aldermen, may, from time to time, appoint temporary
26 additional inspectors to count and tabulate the votes.
27 Any appointment made under authority of this sec-
28 tion shall be open to public inspection.

1 SECTION 7. The fourth paragraph of section one
2 hundred and five of said chapter fifty-four, as amended,

3 is hereby further amended by striking out the words
4 inserted therein by section seven of said chapter
5 three hundred and forty-one, — so as to read as fol-
6 lows: —

7 In towns, the ballot box at any polling place may
8 be opened and ballots taken therefrom for counting
9 when all the selectmen and the town clerk, or, where
10 the moderator is in charge of the election, the moder-
11 ator and the town clerk, or all the election officers
12 at the voting precinct shall so order. When the bal-
13 lots have been thus removed the presiding officer
14 shall select from the election officers an equal number
15 from each of the two leading political parties, who
16 shall canvass such ballots, in accordance with this
17 section; but no announcement of the result of such
18 canvass shall be made by any election officer until
19 the total result of the canvass of ballots has been
20 ascertained.

1 SECTION 8. Chapter fifty-six of the General Laws
2 is hereby amended by striking out section twenty-
3 two, as appearing in section eight of said chapter
4 three hundred and forty-one, and inserting in place
5 thereof the following: —

6 *Section 22.* A primary or election officer who wil-
7 fully or negligently violates any provision relating to
8 the enclosing in envelopes, sealing, endorsing and de-
9 livering or transmitting of ballots and voting lists,
10 after the votes have been counted and recorded, shall
11 be punished by imprisonment for not more than one
12 year.

1 SECTION 9. Section twenty-eight of said chapter
2 fifty-six, as amended, is hereby further amended by
3 striking out the words inserted therein by section

4 nine of said chapter three hundred and forty-one, —
5 so as to read as follows: —

6 *Section 28.* A public officer, primary, caucus or
7 election officer, or officer or member of a political
8 committee or convention, upon whom a duty is im-
9 posed by law, who refuses or wilfully fails to perform
10 such duty, or who wilfully performs it contrary to
11 law, shall, if no other penalty is specifically provided,
12 be punished by a fine of not less than five nor more
13 than one thousand dollars, or by imprisonment for
14 not more than one year, or both.

1 SECTION 10. Section forty of said chapter fifty-six,
2 as amended, is hereby further amended by striking
3 out the words inserted therein by section ten of said
4 chapter three hundred and forty-one, — so as to read
5 as follows: —

6 *Section 40.* Whoever, at a primary, caucus or elec-
7 tion, behaves in a disorderly manner, and, after notice
8 from the presiding officer, persists in such behavior
9 and refuses to withdraw from the polling place, shall
10 be punished by imprisonment for not more than one
11 month.

1 SECTION 11. Section forty-four of said chapter
2 fifty-six, as amended, is hereby further amended by
3 inserting the words stricken out, and by striking out
4 the words inserted, therein by section eleven of said
5 chapter three hundred and forty-one, — so as to read
6 as follows: —

7 *Section 44.* Whoever interferes, or aids or abets
8 any person in interfering with an election commis-
9 sioner, city or town clerk, or election officer, in the
10 performance of his duties shall be punished by im-
11 prisonment for not more than one year.

1 SECTION 12. Section forty-five of said chapter
2 fifty-six, as amended, is hereby further amended by
3 striking out the words inserted by section twelve of
4 said chapter three hundred and forty-one, — so as to
5 read as follows: —

6 *Section 45.* Whoever wilfully obstructs or inter-
7 feres with the transmission of ballots or returns to
8 or from a polling place shall be punished by imprison-
9 ment for not more than one year.

