Commonwealth of Massachusetts
Supreme Judicial Court for Suffolk County

Committee to Recall Max Tassinari
v.
Town Clerk Denise Quist

SJ-2025-0378

Corrected Plaintiffs' Omnibus Reply

Introduction & Framing

This case presents no abstract dispute of law. It is, at bottom, about enforcing a decision already made by the Winthrop Board of Registrars of Voters. On September 3, 2025, after hearing from counsel for the Committee to Recall Max Tassinari and the Town Clerk, the Board of Registrars voted 3–1 to sustain the objection under G. L. c. 55B, § 7, and to certify the recall petition for placement on the November ballot. That decision was duly communicated to the Town Council pursuant to § 5.1(k) of the Town Charter.

The present dispute exists only because the Town Clerk, who sat as the dissenting member of that Board, has refused to execute the lawful and final order of the majority. This is not an invitation for the Court to opine on the meaning of the Charter or to resolve abstract constitutional questions about recall. The only question is whether a ministerial officer may nullify the determination of the body empowered by statute to make it.

This case is thus a straightforward candidate for mandamus and certiorari. Mandamus is the ancient writ used "to set aside the illegal performance of duty and to compel the performance of duty according to law, by public officers … when it is their duty to act." Attorney General v. Suffolk County Apportionment Comm'rs, 224 Mass. 598, 610 (1916). The Court's traditional jurisdiction in election contests by way of mandamus is long-settled. Desjourdy v. Registrars of Uxbridge, 360 Mass. 109, 113 (1971).

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SUPREME JUDICIAL COURT
FOR THE COUNTY OF SUFFOLK

As the Supreme Judicial Court explained more than a century ago: "Scarcely any right more nearly relates to the liberty of the citizen and the independence and the equality of the freeman in a republic than the method and conditions of his voting and the efficacy of his ballot." Attorney General v. Suffolk County Apportionment Comm'rs, 224 Mass. at 610. That principle governs here.

Authority of the Registrars under G. L. c. 55B, § 7

The Registrars' authority to hear objections regarding local ballot questions arises from G. L. c. 55B, § 7, enacted by St. 1986, c. 624, and amended thereafter. The statute vests jurisdiction in the Board of Registrars to resolve disputes over certification of local ballot measures, including recall petitions.

This statutory assignment must be understood within the broader framework of Massachusetts election law. The State Ballot Law Commission (SBLC) serves as the statewide tribunal for objections concerning state ballot questions, candidates, and election disputes. The Registrars serve as the SBLC's "little cousin," charged with local election matters. Both function as quasi-judicial tribunals. See Dane v. Registrars of Voters of Concord, 374 Mass. 152, 160 (1978) (treating registrars' factual determinations as reviewable under the "substantial evidence" test).

The Board of Registrars is not a mere adjunct of the Town Clerk. Massachusetts law has long recognized the Board's independent quasi-judicial authority. They are entrusted to make factual findings, hear objections, and determine voter qualifications, recounts, and ballot disputes. That authority extends back to their statutory creation in St. 1881, c. 210, and was reaffirmed in later codifications. Their role is judicial in nature: to conduct hearings, receive evidence, and render binding determinations.

Massachusetts courts have consistently held that local election boards' decisions are entitled to deference. In Swift v. AutoZone, Inc., 441 Mass. 443, 450 (2004), the Court reiterated that "we grant substantial deference to an interpretation of a statute by the administrative agency charged with its administration." Similarly, in Duteau v. Zoning Bd. of Appeals of Webster, 47 Mass. App. Ct. 664, 669 (1999), the Appeals Court emphasized that "although interpretation of the by-law is in the last analysis a judicial function, deference is owed to a local board's home grown knowledge." The same principle applies here: deference is owed to the Registrars' interpretation of the recall provisions they are charged to administer.

The Registrars' jurisdiction under § 7 is intentionally broad. Whereas the SBLC's jurisdiction is circumscribed to state matters, § 7 charges the Registrars with "any kind of question about local ballot questions." By legislative design, they are the forum of first and last resort. This reflects a deep tradition: local election controversies are to be resolved locally, in the first instance, by officials with expertise and direct responsibility.

McCarthy v. Secretary and Legislative Response (1977 & 1985 Acts)

Respondents lean heavily on McCarthy v. Secretary of the Commonwealth, 371 Mass. 667 (1977), for the proposition that the SBLC lacked jurisdiction over local election disputes. That case, decided in January 1977, construed the SBLC's authority under the law as it then existed. But later that same year, the Legislature answered.

St. 1977, c. 927, titled "An Act Restructuring the State Ballot Law Commission," expanded and reorganized the SBLC's authority. The timing is instructive: McCarthy was decided in January; the restructuring Act followed in November. The Legislature had heard the Court's narrow reading and responded by affirming and clarifying the SBLC's broad role in election oversight.

The point was reinforced in 1985. By St. 1985, c. 624, the Legislature amended § 7 to add explicit reference to "local ballot questions" — leaving no doubt that the statute was meant to empower the Registrars to adjudicate recall petitions and related disputes.

Thus, McCarthy is good law for its day, but it is not controlling here. The Legislature has spoken twice since then, reshaping the framework in ways that directly answer the jurisdictional doubts McCarthy expressed. The Court has recognized that when the Legislature acts in response to a judicial decision, the revision must be understood as a correction of the earlier reading. Commonwealth v. Callahan, 440 Mass. 436, 441 (2003).

The statutory history shows that objections to local recall petitions belong squarely before the Registrars, whose decision here — after notice and hearing — is binding. The Town Clerk may not override it, and Respondent Tassinari, having failed to participate in that process, cannot relitigate it now.

Preclusion: Res Judicata, Collateral Estoppel, and Law of the Case

The September 3, 2025 decision of the Winthrop Board of Registrars is not an advisory opinion, nor a mere preliminary step. It is a quasi-judicial determination, after notice and hearing, within the Board's statutory authority under G. L. c. 55B, § 7. That decision is final and binding unless timely appealed. It has not been appealed.

As the Supreme Judicial Court has explained, "[w]hen an administrative body is acting in a judicial capacity and resolves disputed issues of fact properly before it which the parties have had an opportunity to litigate, the courts have not hesitated to apply res judicata." United States v. Utah Construction & Mining Co., 384 U.S. 394, 422 (1966). That principle squarely applies here.

The Town Clerk, who participated in the hearing and cast a dissenting vote, has not sought judicial review. Respondent Tassinari, who declined to appear or object before the Registrars, has

waived his right to do so now. Under principles of collateral estoppel and law of the case, their objections cannot reopen a final determination. See Heacock v. Heacock, 402 Mass. 21, 24 (1988) (res judicata bars relitigation of matters that were or could have been litigated); Ellis v. Board of Registration in Medicine, 422 Mass. 423, 426 (1996) (law of the case doctrine applies to issues finally decided in the same proceeding).

Here, the only proper role for this Court is enforcement. As the Supreme Judicial Court observed in Brewster v. Sherman, 195 Mass. 222, 224 (1907), a single petitioner was entitled to mandamus to correct an error of the registrars in counting ballots on a local option liquor question. Mandamus, the Court emphasized, is the correct and proper remedy when a registrar's determination is ignored.

Deference to the Registrars

Massachusetts law has long recognized the quasi-judicial status of local boards of registrars. They conduct hearings, receive evidence, and render determinations in matters ranging from voter qualifications to recounts to local ballot disputes. Their decisions are entitled to judicial respect.

In Dane v. Registrars of Voters of Concord, 374 Mass. 152 (1978), the Court applied the substantial evidence test in reviewing registrars' decisions about the registration and domicile of prisoners, treating the Board as the finder of fact. Similarly, in Santana v. Registrars of Voters of Worcester (Santana I), 384 Mass. 487, 493 (1981), the Court reaffirmed "our strong tradition of resolving voting disputes, where at all possible, in favor of the voter."

The principle of deference extends beyond election law. In Swift v. AutoZone, Inc., 441 Mass. 443, 450 (2004), the Court reiterated that "[i]n general, we grant substantial deference to an interpretation of a statute by the administrative agency charged with its administration." In Brady

v. State Ballot Law Commission, 382 Mass. 254, 263 (1981), the SJC noted that although it was not then construing the "general election laws within the special expertise of the SBLC," that expertise was ordinarily entitled to respect.

Local boards are no different. As the Appeals Court explained in Duteau v. Zoning Bd. of Appeals of Webster, 47 Mass. App. Ct. 664, 669 (1999), "[a]lthough interpretation of the by-law is in the last analysis a judicial function, deference is owed to a local zoning board's home grown knowledge about the history and purpose of its town's zoning by-law." And in Eastern Point, LLC v. Zoning Bd. of Appeals of Gloucester, 74 Mass. App. Ct. 481, 486 (2009), the court held that "some measure of deference" is due to a local board's interpretation.

The same logic applies, with even greater force, to a Board of Registrars interpreting the recall provision it is charged to apply. These boards exist precisely to resolve disputes about petitions, signatures, and ballots. Their determinations, like those of the SBLC, are entitled to deference — and unless appealed, they are final.

Mandamus as the Remedy

Mandamus is not extraordinary in the election context; it is routine. As the Court held in Brewster v. Sherman, 195 Mass. 222, 224 (1907), mandamus lies to compel registrars to correct their errors in counting ballots. In Madden v. Board of Election Commissioners of Boston, 251 Mass. 95 (1925), mandamus compelled election commissioners to perform their statutory duties. In Strong, Petitioner, 20 Pick. 484 (1838), mandamus issued in an election context to enforce compliance with law.

The classic formulation comes from Lord Mansfield in Rex v. Barker, 97 Eng. Rep. 823, 824–25 (K.B. 1762): "[Mandamus] was introduced to prevent disorder from a failure of justice … Therefore it ought to be used upon all occasions where the law has established no specific remedy,

and where in justice and good government there ought to be one. … If there be a right, and no other specific remedy, [mandamus] should not be denied."

The Supreme Judicial Court has embraced this tradition. "Mandamus affords the appropriate form of relief. It is the remedy to which resort usually is had to set aside the illegal performance of duty and to compel the performance of duty according to law, by public officers … when it is their duty to act." Attorney General v. Suffolk County Apportionment Comm'rs, 224 Mass. 598, 610 (1916).

That tradition continues. As the Court observed in Town of Reading v. Attorney General, 362 Mass. 266, 268 (1972), mandamus is the proper remedy to compel action unlawfully withheld, while certiorari corrects administrative decisions unlawfully made. Both remedies, in tandem, are available here.

And the guiding principle remains: "[a] voter … should not be disenfranchised because of the failure of a ministerial officer to perform some duty imposed upon him." McCavitt v. Registrars of Voters of Brockton, 385 Mass. 833, 841–42 (1982). That is precisely the case here.

Certiorari as a Complementary Remedy

Where mandamus compels performance of ministerial duties, certiorari under G. L. c. 249, § 4 serves to correct errors of law in the decisions of local boards acting in a quasi-judicial capacity. The distinction is settled: "mandamus is the remedy for administrative inaction, but certiorari is used to correct administrative decisions." Town of Reading v. Attorney General, 362 Mass. 266, 268 (1972).

That principle applies here. The Board of Registrars has already rendered a quasi-judicial decision within its jurisdiction under § 7. To the extent Respondents challenge the Board's authority or legal interpretation, certiorari is the traditional vehicle. "[C]ertiorari review under G.

L. c. 249, § 4 is most often used when challenging decisions of local (i.e., municipal) boards and entities." Randazzo, LexisNexis Massachusetts Administrative Law & Practice § 4.05[1][b] (2020).

Voting Rights and Constitutional Scaffold

The Massachusetts Constitution places electoral rights at its core. Article 4 of the Declaration of Rights affirms that the people have "an incontestable, unalienable and indefeasible right to institute government; and to reform, alter, or totally change the same." Article 5 makes clear that government officials remain accountable to the people. Article 7 reiterates that "the people alone" retain the right to reform or alter government "when their protection, safety, prosperity and happiness require it." Article 8 ensures that government officers do not become oppressors, but may be returned to private life. Article 9 enshrines the right of free elections — "that all elections ought to be free; and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments."

This constitutional scaffolding is not mere rhetoric. As the Court explained in Jones v. Robbins, 8 Gray 329, 340 (1857): "In considering constitutional provisions, especially those embraced in the Declaration of Rights, … we are rather to regard them as the enunciation of great and fundamental principles … we are to look at the spirit and purpose of them, as well as the letter." Similarly, in Commonwealth v. Harriman, 134 Mass. 314, 316 (1883), the Declaration was described as "a general declaration of the great, fixed and fundamental principles of reason and right which underlie our system of government and are the safeguards of liberty."

The point is timeless. John Adams embedded Jefferson's language from the Declaration of Independence into the Preamble of the Massachusetts Constitution: "whenever these great objects

are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness." That right, codified in Article 7, is "incontestable, unalienable, and indefeasible."

As Loring v. Young, 239 Mass. 349, 373 (1921), put it: "Sovereignty in this Commonwealth resides in the people. … When their will in this regard, manifest according to forms which ought to be observed, has been ascertained, it must prevail."

The recall provision of the Winthrop Charter is precisely such a form. As Donohue v. Selectmen of Saugus, 343 Mass. 93, 96 (1961), recognized, recall is "a device to make elected officers responsive to the opinions of the voters on particular issues." The Court has consistently held that "The voter is not to be disenfranchised because of minor irregularities." Morris v. Registrars of Voters of E. Bridgewater, 362 Mass. 48, 49–50 (1972). To allow the Town Clerk to nullify the recall petition here would be to deny the people the mechanism designed for their sovereignty.

The same values have been recognized in federal law. "[V]oting has long been recognized as a fundamental political right and indeed the 'preservative of all rights.'" Massachusetts Pub. Interest Research Group v. Secretary of the Commonwealth, 375 Mass. 85, 94 (1978), quoting Yick Wo v. Hopkins, 118 U.S. 356, 370 (1886). "[T]he Constitution requires that access to the electorate be real, not 'merely theoretical.'" American Party of Texas v. White, 415 U.S. 767, 783 (1974).

Or as the SJC put it in O'Brien v. Board of Registrars, 257 Mass. 332, 338 (1926): "Of course the right to vote is a sacred privilege. Every rational intendment is to be made in favor of its rightful exercise."

Emergency and the Need for Speed

Time is of the essence. Ballots must soon be printed. Once they are printed without the recall question, the electorate's rights cannot be restored.

Massachusetts precedent underscores the urgency of resolving recall disputes expeditiously. In Mieczkowski v. Board of Registrars of Voters of Hadley, 53 Mass. App. Ct. 62, 69 (2001), the Court observed that recall provisions "do not envision a prolonged period while the official under siege mounts a defense." In Donohue, supra, the Court entertained recall disputes on an emergency basis before ballots were finalized. In Lyons v. Secretary of the Commonwealth (2022), the Court issued a decision before the printing deadline, recognizing that delay would effectively decide the case by default.

The Appeals Court captured the point in King v. Shank, 92 Mass. App. Ct. 837, 847 (2018): a recall cannot be "mire[d in] the process of litigation delay and under the purpose of [recall provisions]." *Rv'd on other grounds*, 480 Mass. 80 (2018). The same case warned that enjoining a recall election would cause "harm to the public interest … [because] the voters will be deprived of the ability to make their elected officials accountable by recall, as the course of litigation could likely extend to the expiration of the official's term in office." Id.

The Supreme Judicial Court has been emphatic in related contexts: "The regnant design of all election laws is to provide expeditious and convenient means for expression of the will of the voters free from fraud. The right to vote is a precious personal prerogative to be sedulously guarded." Swift v. Registrars of Voters of Quincy, 281 Mass. 271, 276 (1932). And "Election laws are framed to afford opportunity for the orderly expression by duly qualified voters of their preferences among candidates for office, not to frustrate such expression." Id. at 277.

Or as Blackmer v. Hildreth, 181 Mass. 29, 31 (1902), explained — a line quoted approvingly in Swift: "The object of elections is to ascertain the popular will and not to thwart it. The object of election laws is to secure the rights of duly qualified electors and not to defeat them. This must be borne in mind in the construction of such statutes."

To delay here is to deny. The emergency jurisdiction of the Single Justice exists precisely to prevent such disenfranchisement.

The Secretary of State's Unwarranted Interference

In the proceedings below, the Elections Division of the Secretary of the Commonwealth repeatedly injected itself into a dispute that is not within its jurisdiction. The Division issued a series of impatient and impertinent emails, characterizing the Registrars as "rogue officials" for the simple act of exercising their statutory authority.[1] Their real "sin" was declining to defer blindly to the advice of Town Counsel. For that independence, they were condemned by the very office that should be safeguarding local democratic processes.

The Elections Division's position is revealing: it prefers government-by-lawyer to government-by-the-people. That approach offends the basic structure of our Constitution. Article 5 of the Declaration of Rights makes plain that "all power residing originally in the people, and being derived from them, the several magistrates and officers of government are at all times accountable to them." The Registrars acted as they were supposed to — by exercising independent judgment under the law, not by ceding their authority to counsel.

The SJC has cautioned against substituting bureaucratic judgment for the will of the electorate. "Scarcely any right more nearly relates to the liberty of the citizen … than the method

[1] *Ex.* Pg 107 of Attorney Delahunty's Appendix on behalf of Town Clerk Quist (characterizing the Registrars as rogue officials for ignoring the advice of Town Counsel).

and conditions of his voting and the efficacy of his ballot." Attorney General v. Suffolk County Apportionment Comm'rs, 224 Mass. 598, 610 (1916). And in Loring v. Young, 239 Mass. 349, 373 (1921), the Court reminded: "Sovereignty in this Commonwealth resides in the people … When their will in this regard … has been ascertained, it must prevail."

The Elections Division's hostility toward the Registrars' independence reflects precisely the danger John Adams warned against. A written constitution, he explained, is "the ultimate grant of the powers and the conclusive definition of the limitations of the departments of State and of public officers. To its provisions the conduct of all governmental affairs must conform. From its terms there is no appeal." Loring, 239 Mass. at 376–77. Bureaucratic displeasure, no matter how strenuously expressed, cannot override the people's rights or the statutory duties of local officials.

The registrars are not "rogue." They are public officials performing the function assigned to them by law. The real danger lies in allowing lawyers and bureaucrats, offended that their advice was not obeyed, to displace the judgment of officials accountable to the people. That danger is exactly what the Declaration of Rights was written to resist.

State Law Supremacy: Article 89 and G.L. c. 55B, §7

The Respondents' arguments disregard the controlling effect of state election law. The Massachusetts Constitution is explicit: under the Home Rule Amendment, Article 89, § 6, "[n]othing in this article shall be deemed to grant to any city or town the power to… (2) enact private or civil law governing civil relationships except as an incident to an exercise of an independent municipal power; (3) enact any law relating to elections, except with respect to the election of town meeting members, town meeting officers, and other purely local officers." Elections are thus the special province of the General Court, and any attempt by a municipality to create rules inconsistent with or contrary to state law is without effect.

G.L. c. 55B, §7, enacted by St. 1977, c. 927 and later amended by St. 1985, c. 624 and St. 1988, c. 296, confers upon boards of registrars the specific authority to hear and decide "any objections to local ballot questions." The legislature made a deliberate policy choice to extend the jurisdiction of the Registrars beyond ordinary voter registration and recounts, ensuring that local ballot questions—including recall petitions—were subject to impartial adjudication by a local body with electoral expertise.

Under settled principles of constitutional and statutory construction, where state law speaks with clarity, it displaces inconsistent local provisions. *See generally Bloom v. Worcester*, 363 Mass. 136, 155–56 (1973) (municipalities lack authority under Article 89 to contravene statutes on matters of statewide concern). Election procedures, including recall processes, are matters of statewide concern. The Town Charter cannot strip the Registrars of authority granted them by statute, nor can the Town Clerk elevate her own role over that of the Board.

Accordingly, the Board's decision of September 3, 2025, sustaining the objection and directing that the recall question appear on the ballot, was the product of jurisdiction conferred by G.L. c. 55B, §7, and its force cannot be undone by unilateral municipal action. The Clerk's refusal to comply with that order is therefore unlawful, and this Court should enforce the statute's mandate through mandamus and certiorari.

Ambiguity in the Recall Charter Must Be Resolved in Favor of Voters

Even assuming arguendo that the Town Charter's recall provision is ambiguous, Massachusetts precedent leaves no doubt that ambiguities in election law must be resolved in favor of protecting the franchise. As this Court has long recognized, "[t]he regnant design of all election laws is to provide expeditious and convenient means for expression of the will of the voters free from fraud. The right to vote is a precious personal prerogative to be sedulously guarded." *Swift v.*

Registrars of Voters of Quincy, 281 Mass. 271, 276 (1932). Likewise, "[t]he object of elections is to ascertain the popular will and not to thwart it. The object of election laws is to secure the rights of duly qualified electors and not to defeat them. This must be borne in mind in the construction of such statutes." *Blackmer v. Hildreth*, 181 Mass. 29, 31 (1902), quoted in *Swift*, 281 Mass. at 277.

The same principle has been repeated across generations: "Of course the right to vote is a sacred privilege. Every rational intendment is to be made in favor of its rightful exercise." *O'Brien v. Board of Registrars of Voters*, 257 Mass. 332, 338 (1926). "[We] resolve voting disputes, where at all possible, in favor of the voter." *McCavitt v. Registrars of Voters of Brockton*, 385 Mass. 833, 837 (1982); see also *Santana v. Registrars of Voters of Worcester*, 384 Mass. 487, 493 (1981) ("[W]e note further our strong tradition of resolving voting disputes, where at all possible, in favor of the voter.").

Thus, even if the Charter's recall provision admits of multiple readings, the law requires that the interpretation favoring ballot access be adopted. Any contrary approach would improperly disenfranchise nearly 2,000 Winthrop voters who signed the petition in good faith reliance on the Charter.

Prior Arguments Before the Registrars Incorporated by Reference

Finally, Petitioners respectfully incorporate by reference the arguments and submissions presented to the Winthrop Board of Registrars in their September 3, 2025 proceedings. Those arguments squarely addressed the meaning of the Charter's recall provision and demonstrated that the Committee satisfied the applicable threshold. The Board, acting within its statutory authority under G.L. c. 55B, § 7, agreed and ruled accordingly.

The Plaintiffs' earlier memos, to Town Counsel and the Registrars were both included in their appendix in this Court and adequately and substantially refute the arguments offered by multiple opponents.

This Court need not rehear those same interpretive arguments de novo. The record before the Board fully preserves them, and Petitioners rely upon and adopt them here as if fully set forth.

Conclusion & Relief Requested

This case does not ask the Court to resolve deep constitutional riddles or to rewrite the Winthrop Town Charter. The only question is whether the lawful and final decision of the Winthrop Board of Registrars of Voters will be given effect.

The Board held a hearing pursuant to G. L. c. 55B, § 7. Both sides were heard. Counsel for the petitioners and the Town Clerk presented their arguments. After deliberation, the Board voted 3–1 to certify the petition. That decision was duly transmitted to the Town Council as required by the Charter. It has not been appealed.

Instead, a ministerial officer — who dissented in the vote — has attempted to substitute her own judgment for that of the majority. If allowed to stand, that action nullifies the voters' right to decide and strips the recall provision of any meaning. It also invites chaos: any clerk, unhappy with the ruling of the board on which she sits, could simply disregard it. That is not the law of this Commonwealth.

The remedies are plain. Mandamus lies to compel the Clerk to perform her ministerial duty of preparing the ballot in conformity with the Board's ruling. Madden v. Board of Election Comm'rs of Boston, 251 Mass. 95 (1925); Brewster v. Sherman, 195 Mass. 222, 224 (1907).

Certiorari lies to confirm the validity of the Board's quasi-judicial decision and to reject belated collateral attacks. Town of Reading v. Attorney General, 362 Mass. 266, 268 (1972).

Above all, "[a] voter … should not be disenfranchised because of the failure of a ministerial officer to perform some duty imposed upon him." McCavitt v. Registrars of Voters of Brockton, 385 Mass. 833, 841–42 (1982). The integrity of the process depends on the Court's intervention now.

Summation of Election Law

The law of elections is clear, and it speaks with unusual force:

- "The object of elections is to ascertain the popular will and not to thwart it." Blackmer v. Hildreth, 181 Mass. 29, 31 (1902), quoted in Swift v. Registrars of Voters of Quincy, 281 Mass. 271, 277 (1932).
- "The regnant design of all election laws is to provide expeditious and convenient means for expression of the will of the voters free from fraud. The right to vote is a precious personal prerogative to be sedulously guarded." Swift, 281 Mass. at 276.
- "Of course the right to vote is a sacred privilege. Every rational intendment is to be made in favor of its rightful exercise." O'Brien v. Board of Registrars, 257 Mass. 332, 338 (1926).
- "[V]oting has long been recognized as a fundamental political right and indeed the 'preservative of all rights.'" Massachusetts PIRG v. Sec'y of the Commonwealth, 375 Mass. 85, 94 (1978).
- "The Constitution requires that access to the electorate be real, not 'merely theoretical.'" American Party of Texas v. White, 415 U.S. 767, 783 (1974).

The people of Winthrop gathered more than 2,200 signatures. The Registrars certified the recall petition. Nothing remains but to print the ballot. The Court should act swiftly to ensure that the voters — not lawyers, not bureaucrats, not reluctant officials — decide this recall.

Respectfully Submitted,
Committee to Recall Max Tassinari
By its Attorney
/S/ Michael Walsh
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Certificate of Service
I, Michael Walsh, hereby certify that a copy of this was served on all counsel by email on this 30th day of September, 2025.
/S/ Michael Walsh

Appendix: Historical Development of Election Regulation in Massachusetts

- 1643 — The Massachusetts Bay Colony General Court required the use of Indian corn and beans to signal "yes" and "no" votes for public office. Anyone voting more than once, or voting without the right to do so, would forfeit £10.
- 1647 — The Colony allowed freemen who did not attend the General Court to have their votes cast by proxy by another freeman.
- 1730 — An enactment required tax assessors to submit to the selectmen (or town clerk) the list of eligible voters to be publicly posted. Codified in 1779 as ch. 163 of the provincial laws ("An Act directing how rates and taxes … shall be assessed and collected"), passed as the 4th act under the reign of George II.
- St. 1800, c. 74 — First voter registration act. Charged tax assessors with registering all qualified voters. At the time, voting was conducted in person at town meetings under the Massachusetts Constitution.
- St. 1804, c. 117 — Required selectmen in towns with more than 1,000 voters to hold extended voter qualification sessions immediately before elections.
- St. 1813, c. 68, § 4 — Gave a $30 fine for giving false evidence to selectmen during voter qualification sessions.
- St. 1822, c. 104, § 2 — Required tax collectors to keep lists of those qualified to vote by virtue of paying taxes. Selectmen were required to publicly post the lists at least ten days before elections.
    - § 6 punished collectors who made false returns or failed to make a return.
    - § 4 shielded selectmen from liability for omissions or refusals to accept votes if they followed the statutory procedure, unless the person had attended the voter qualification session and furnished evidence.
    - § 5 placed responsibility on the moderator, who ran elections, to accept votes only from qualified voters on the list.
- St. 1833, c. 102 — Continued penalties for collectors failing to return proper lists.
- St. 1839, c. 42, § 4; St. 1839, c. 165, § 3 — Expanded selectmen's duties to add qualified voters missed and remove unqualified voters. Codified later in G.S. c. 6, § 8.
- St. 1839, c. 42, § 6 — Provided penalties for local officers failing to perform electoral duties, up to $200. Supported by R.S. 4, § 11 and Williams v. Whiting, 11 Mass. 424 (1814).
- Revised Statutes (1836), c. 3, §§ 2, 5–6 — Continued collectors' obligation to produce lists; required selectmen/mayor and aldermen to hold voter qualification sessions with public notice.
- General Statutes (1860), c. 6, §§ 2, 5–6 — Same pattern, continuing publication of lists and sessions.
    - G.S. c. 6, § 4 — Collector neglecting duty forfeited $100; $20 per false name returned.
- G.S. c. 7, § 4–5 (1860) — Required the Secretary to provide self-sealing envelopes for voting, passed originally in St. 1851, c. 226, § 3 and St. 1853, c. 36, § 2.
- G.S. c. 7, § 17 — Obligated clerks to return votes to the Secretary. Earlier: R.S. c. 14, §§ 17, 44, 101, 107; St. 1850, c. 299, § 2; St. 1852, c. 53; St. 1855, c. 92, § 2; St. 1856, c. 118; St. 1857, c. 171, §§ 1–2; St. 1857, c. 311; St. 1858, c. 93, §§ 4, 12.
- G.S. c. 7, § 34 — Fined any town officer who neglected or refused to perform electoral duties up to $200.

- G.S. c. 7, § 35 — Fined town clerks $5–$50 for failing to return votes. Originated in St. 1856, c. 255, § 1.
- Public Statutes (1882) — First explicit creation of boards of registrars, overlaid on the skeleton of earlier system.
    - P.S. c. 6, § 5 — Continued duty of collectors to supply lists. See St. 1874, c. 376, § 3.
    - P.S. c. 6, § 6 — Collectors required to return lists twice yearly and before elections. St. 1874, c. 376, § 4; St. 1879, c. 68; St. 1881, c. 210, § 4.
    - P.S. c. 6, § 7 — Penalties for collectors: $100 per neglect, $20 per false name.
- St. 1874, c. 376 — Expanded obligations for lists and penalties; § 7 required voter qualification sessions; § 10 required registrars/selectmen to run them; § 16 punished false names/evidence; § 17 gave immunity to officials if procedures followed; § 18 extended fines to registrars.
- St. 1877, c. 298, § 1; St. 1878, c. 251, § 1; St. 1878, c. 233, §§ 1–2 — Refined obligations for lists and sessions.
- St. 1881, c. 210 — Created registrars for cities (by city council vote); registrars could hold no other office. City clerk served as clerk of the board.
    - § 4 — Extended penalties to registrars; provided immunity for omissions if procedures followed.
    - § 7 — Extended false evidence penalties to registrars.
- P.S. c. 6, §§ 11–13 — Registrars kept the register of voters in cities; otherwise mayor/aldermen or selectmen continued.
- P.S. c. 6, § 12 — Required city councils to fund registrars' expenses and provide office space.
- P.S. c. 6, § 18 — Required registrars to hold voter registration sessions pre-election, as selectmen had. See 10 Cush. 143.
- P.S. c. 6, §§ 22–23 — Empowered registrars to summon evidence.
- P.S. c. 6, § 25 — Required registrars to run registration sessions after posting lists. See 7 Allen 155.
- P.S. c. 6, § 29 — Extended immunity to registrars; entitled them to information from assessors and collectors. See 3 Allen 1.
- P.S. c. 6, § 30 — Extended $200 fine to registrars for refusing duties. See 11 Mass. 350.
- P.S. c. 6, § 31 — Applied penalties for false names/evidence to registrars. See 7 Allen 135.

Selected Newer Developments

- St. 1977, c. 927 ("An Act Restructuring the State Ballot Law Commission")
    - Enacted in direct response to jurisdictional disputes (e.g., McCarthy v. Secretary of the Commonwealth, 371 Mass. 667 (1977), decided January 1977).
    - Reorganized the State Ballot Law Commission (SBLC), clarifying its authority over disputes concerning state elections and candidate ballot access.
    - By restructuring SBLC jurisdiction, the Act necessarily left local ballot questions to municipal boards of registrars under G.L. c. 55B.
- St. 1985, c. 624
    - Amended G.L. c. 55B, § 7 to insert repeated references to "local ballot questions."

    - First paragraph: changed deadline language ("two working days" instead of "forty-eight hours").
    - Third, fourth, and fifth paragraphs: added "local ballot questions" to the scope of registrar review.
    - Effect: explicitly confirmed that boards of registrars, not the SBLC, have jurisdiction over objections relating to local ballot questions.
- St. 1988, c. 296, § 27
    - Rewrote the first sentence of the first paragraph of G.L. c. 55B, § 7.
    - Continued to emphasize the local role of registrars in adjudicating ballot disputes.
- Modern Codification — G.L. c. 55B, § 7
    - Today, § 7 provides that registrars "shall" hear objections concerning nomination papers and local ballot questions.
    - This authority is quasi-judicial, paralleling the SBLC's role in state contests.
    - Placement in Chapter 55B (Ballot Law Commission statutes) reinforces the design: registrars are the local counterpart to the SBLC.
- Home Rule Amendment (Article 89 of Amendments to the Massachusetts Constitution, 1966)
    - Grants municipalities authority to adopt local charters, subject to approval by the Attorney General.
    - Once approved, such provisions — including recall mechanisms — carry the force of state law and fall under the supervision of local registrars, not discretionary override by town counsel or the Secretary of the Commonwealth.