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25 Elections and Electoral Districts

PURDON'S
PENNA. STATUTES
ANNOTATED

Title 25

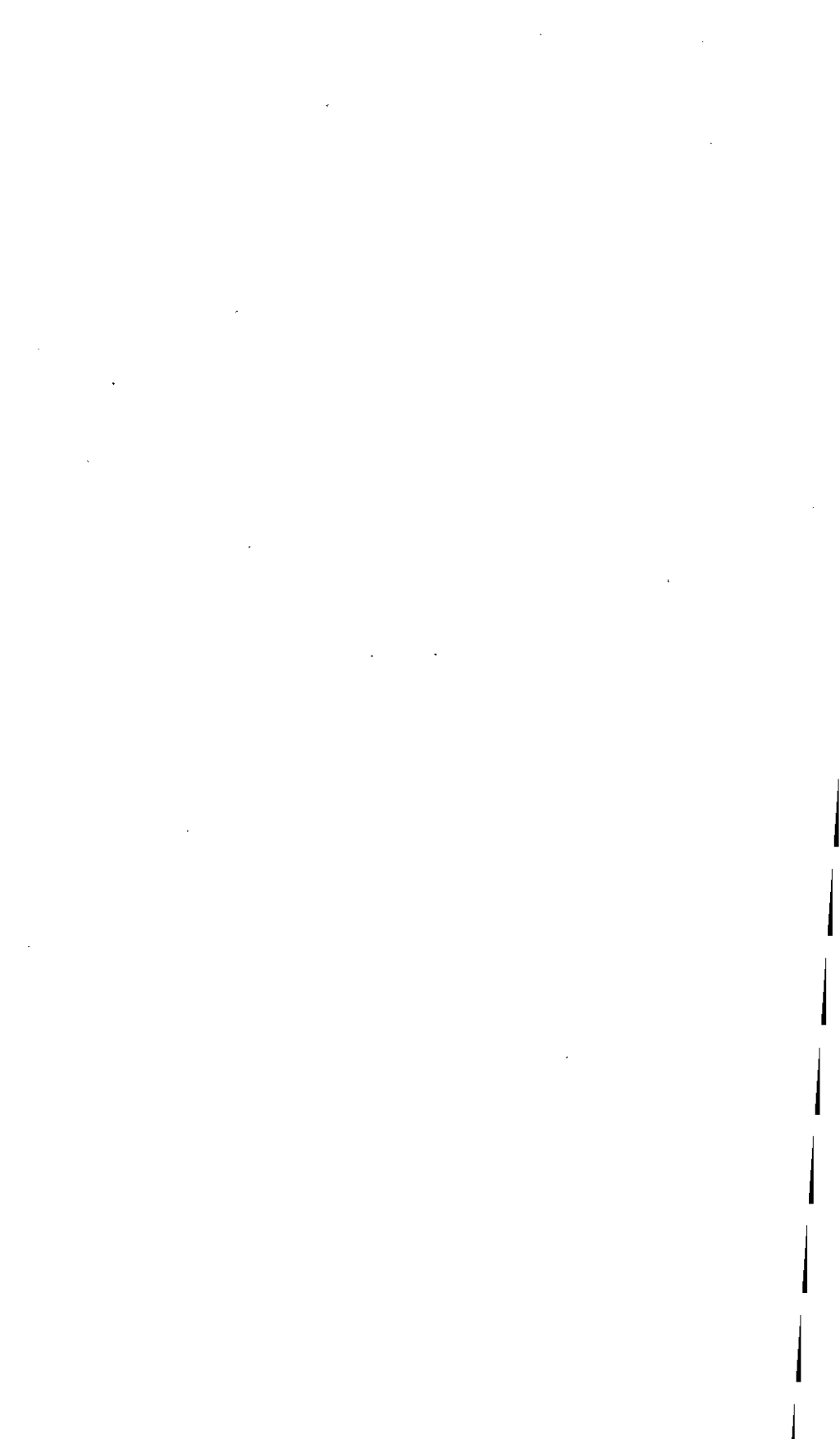
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TITLES OF PURDON'S PENNSYLVANIA STATUTES AND PENNSYLVANIA CONSOLIDATED STATUTES

Title	Purdon's Statutes	Consolidated Statutes
1	Adoption [Repealed] -----	General Provisions
2	Aeronautics -----	Administrative Law and Procedure
3	Agriculture -----	Agriculture
4	Amusements -----	Amusements
5	Arbitration [Repealed] -----	Athletics and Sports
6	Bailees and Factors -----	Bailees and Factors
7	Banks and Banking -----	Banks and Banking
8	Bonds and Recognizances ---	Boroughs and Incorporated Towns
9	Burial Grounds -----	Burial Grounds
10	Charities and Welfare -----	Charities
11	Children -----	Cities
12	Civil and Equitable Remedies and Procedure [Repealed] -----	Commerce and Trade
12A	Uniform Commercial Code [Repealed]	
13	Constables -----	Commercial Code
14	Cooperative Associations ----	Community Affairs
15	Corporations and Unincorporated Associations -----	Corporations and Unincorporated Associations
16	Counties -----	Counties
17	Courts [Repealed] -----	Credit Unions
18	Crimes and Offenses [Repealed] -----	Crimes and Offenses
19	Criminal Procedure [Repealed] -----	(Reserved)

TITLES OF PENNSYLVANIA STATUTES

Title	Purdon's Statutes	Consolidated Statutes
20	Decedents' and Trust Estates [Repealed] -----	Decedents, Estates and Fiduciaries
21	Deeds and Mortgages -----	(Reserved)
22	Detectives -----	Detectives and Private Police
23	Divorce -----	Domestic Relations
24	Education -----	Education
25	Elections and Electoral Districts -----	Elections
26	Eminent Domain -----	Eminent Domain
27	Escheats -----	Environmental Resources
28	Evidence and Witnesses [Repealed] -----	Escheats
29	Fences -----	Federal Relations
30	Fish [Repealed] -----	Fish
31	Food -----	Food
32	Forests, Waters and State Parks -----	Forests, Waters and State Parks
33	Frauds, Statute of -----	Frauds, Statute of
34	Game [Repealed] -----	Game
35	Health and Safety -----	Health and Safety
36	Highways and Bridges -----	Highways and Bridges
37	Hotels and Lodging Houses -	Historical and Museums
38	Industrial Police -----	Holidays and Observances
39	Insolvency and Assignments	Insolvency and Assignments
40	Insurance -----	Insurance
41	Interest -----	(Reserved)
42	Justices of the Peace, Aldermen and Magistrates [Repealed] ----	Judiciary and Judicial Procedure
43	Labor -----	Labor
44	Legal Holidays and Observances -----	Law and Justice
45	Legal Notices and Advertisements -----	Legal Notices
46	Legislature and Statutes ----	Legislature
47	Liquor -----	Liquor
48	Marriage -----	Lodging and Housing
49	Mechanics' Liens -----	Mechanics' Liens

TITLES OF PENNSYLVANIA STATUTES

Title	Purdon's Statutes	Consolidated Statutes
50	Mental Health -----	Mental Health
51	Military Affairs [Repealed] --	Military Affairs
52	Mines and Mining -----	Mines and Mining
53	Municipal and Quasi- Municipal Corporations --	Municipalities Generally
54	Names [Repealed] -----	Names
55	Navigation -----	(Reserved)
56	Negotiable Instruments -----	(Reserved)
57	Notaries Public -----	Notaries Public
58	Oil and Gas -----	Oil and Gas
59	Partnerships -----	Partnerships
60	Peddlers -----	Peddlers
61	Penal and Correctional Institutions -----	Penal and Correctional Institutions
62	Poor Persons and Public Welfare -----	Procurement
63	Professions and Occupations (State Licensed) -----	Professions and Occupations (State Licensed)
64	Public Lands -----	Public Authorities and Quasi- Public Corporations
65	Public Officers -----	Public Officers
66	Public Service Companies [Repealed] -----	Public Utilities
67	Railroads, Railways and Canals. <i>See Title 15</i> -----	Public Welfare
68	Real and Personal Property -	Real and Personal Property
69	Sales -----	Savings Associations
70	Securities -----	Securities
71	State Government -----	State Government
72	Taxation and Fiscal Affairs --	Taxation and Fiscal Affairs
73	Trade and Commerce -----	Townships
74	United States -----	Transportation
75	Vehicles [Repealed] -----	Vehicles

TITLES OF PENNSYLVANIA STATUTES

Title	Purdon's Statutes	Consolidated Statutes
76	Weights, Measures and Standards, [Transferred to Title 31, Food; Title 68, Real and Personal Property; Title 73, Trade and Commerce]	----- Weights, Measures and Standards
77	Workmen's Compensation	--- Workmen's Compensation
78		Zoning and Planning
79		Supplementary Provisions

PURDON'S
PENNSYLVANIA STATUTES
ANNOTATED

Title 25
Elections and Electoral Districts

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PREFACE

This volume contains Title 25 of Purdon's Statutes, Elections and Electoral Districts, with text current through the close of the 1993 General Assembly. It is designed to preserve the utility of PURDON'S PENNSYLVANIA STATUTES ANNOTATED by bringing to date the presentation of the law and the judicial constructions thereof within the scope of the subject matter.

HISTORICAL AND STATUTORY NOTES

A practical and popular feature of Purdon's Pennsylvania Statutes Annotated and Purdon's Pennsylvania Consolidated Statutes Annotated which is continued in these volumes and their Pocket Parts is the Historical and Statutory Notes citing prior statutes and explaining major changes effected in the statutes.

CONSTITUTIONAL PROVISIONS

Where applicable, the substance of closely related constitutional provisions is set out under the heading Constitutional Provisions.

CROSS REFERENCES

Citations to related or qualifying laws or rules are included in the form of cross references.

PENNSYLVANIA CODE REFERENCES

Convenient references are provided to the Pennsylvania Code, the official compilation of administrative regulations of the Commonwealth of Pennsylvania.

LAW REVIEW COMMENTARIES

References to informative discussions in law reviews and periodicals appear under the sections to which they are pertinent.

LIBRARY REFERENCES

Library References to the Key Number Digests, to WESTLAW Digest Topic numbers, to Corpus Juris Secundum, and to Penn-

PREFACE

sylvania Law Encyclopedia open the door to constructions and interpretations in all jurisdictions throughout the country.

UNITED STATES CODE ANNOTATED

Cross references to federal laws as contained in United States Code Annotated (U.S.C.A.) are also provided where deemed relevant or helpful.

UNITED STATES SUPREME COURT

This feature specially annotates pertinent references to leading decisions of the United States Supreme Court, regardless of the geographical origins of the cases.

JUDICIAL CONSTRUCTIONS OR NOTES OF DECISIONS

The annotations or constructions of the laws by the courts contained in these volumes cover all the decisions of the Supreme Court, the Superior Court, the Commonwealth Court and other courts of Pennsylvania, as well as the Supreme Court of the United States and other Federal Courts construing and applying Pennsylvania laws.

Annotations or Notes of Decisions have been carefully subdivided into groups according to related subject matter or provisions of the statute construed to provide greater certainty and convenience in research.

The annotations from the decisions of the State and Federal Courts construing the laws close with cases reported in:

Atlantic Reporter, Second Series	634 A.2d 869
Pennsylvania Reports	533 Pa.
Pennsylvania Superior Court Reports	426 Pa.Super.
Lower Court Reports	Current Vols.
Supreme Court Reporter	114 S.Ct. 751
Pennsylvania Commonwealth Court Reports -	156 Pa.Cmwlt.
United States Reports	499 U.S. (part)
Lawyers' Edition, Second Series	126 L.Ed.2d (part)
Federal Reporter, Third Series	11 F.3d 169
Federal Supplement	837 F.Supp. 1258
Federal Rules Decisions	151 F.R.D. 700
Bankruptcy Reporter	161 B.R. 741
Federal Claims Reporter	30 Fed.Cl. 157
Opinions of the Attorney General	Op.Att'y.Gen. No. 90-2
	(November 7, 1990)

Other Standard Reports

PREFACE

ACKNOWLEDGMENT

Acknowledgment is made to the Pennsylvania Legislative Reference Bureau and to the Joint State Government Commission for their continued cooperation and assistance in providing essential information and services to the Publisher.

The Publisher is indebted to various State Officials, to the members of the Legal Profession and to the Law Teachers whose continued interest and cooperation and valuable suggestions have contributed materially to the practical success of this set of annotated statutes.

CUMULATIVE SUPPLEMENTARY SERVICE

These volumes will be kept to date through supplementary service of current Pamphlets and annual Pocket Parts.

THE PUBLISHER

April, 1994

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WESTLAW ELECTRONIC RESEARCH GUIDE

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When you know the citation to a case or statute that is not in your library, use FIND to retrieve the document on WESTLAW. The following are sample FIND requests:

find 42 pa.c.s.a. 7302
find 40 p.s. 1008.3
find 289 pa super 248
find 495 pa 177

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- Retrieve cases citing a particular statute.
- Update a state statute by typing UPDATE or by using the appropriate jump marker (> or ►), from the displayed statute.
- Retrieve newly enacted legislation by searching in the appropriate legislative service database.
- Retrieve cases not yet reported by searching in case law databases.
- Read the latest U.S. Supreme Court opinions the same day they are released.
- Update West digests by searching topic and key numbers.

Determining Case History

Insta-Cite[®], a service of West Publishing, is the most current source for the history of a particular case. Insta-Cite also provides citation verification and parallel citations. Use Insta-Cite when you need to know if the case you are relying on has any subsequent history.

Shepard's[®] Citations, a service of McGraw-Hill, is also available on WESTLAW. Shepard's on WESTLAW offers several advantages, including the following:

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- the ability to view only those references for a specific jurisdiction, treatment code or headnote
- direct access to citing cases from the West National Reporter System[®]

Shepard's PreView[™] is a WESTLAW exclusive that offers a preview of citing references from the National Reporter System before they are available in print.

Retrieving Citing Cases

You can supplement existing annotations or create your own set of annotations. Simply use the following approach:

1. Determine the format of the statute or case citation to which you wish to find references.
2. Select a case database in the desired jurisdiction.

WESTLAW GUIDE

3. Run a search containing key portions of the citation, plus any appropriate terms.*

*Because of the great variety of citations and citing styles, you should refer to the *WESTLAW Reference Manual* or consult with the West Reference Attorneys for more specific examples.

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CITE THIS BOOK

Purdon's Statutes

Thus: 25 P.S. § ____

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ABBREVIATIONS

A. -----	Atlantic Reporter
A.2d -----	Atlantic Reporter, Second Series
Abb. -----	Abbott's Circuit Court Reports, U.S.
Abb.Adm. -----	Abbott's Admiralty Reports, U.S.
Adams L.J. -----	Adams County Legal Journal
Add. -----	Addison's Reports
Am.Dec. -----	American Decisions
Am.L.J.,N.S. -----	American Law Journal, New Series
Am.L.J.,O.S. -----	American Law Journal, Hall's
Am.L.Reg.,N.S. -----	American Law Register, New Series
Am.L.Reg.,O.S. -----	American Law Register, Old Series
Am.Rep. -----	American Reports
Am.St.Rep. -----	American State Reports
Ann.Cas. -----	American & English Annotated Cases
Ashm. -----	Ashmead's Reports
Baldw. -----	Baldwin's Reports, U.S.
Beaver -----	Beaver County Legal Journal
Ben. -----	Benedict's Reports, U.S.
Berks -----	Berks County Law Journal
Binn. -----	Binney's Reports
Binns' Just. -----	Binns' Justice
Biss. -----	Bissell's Reports, U.S.
Black -----	Black's United States Supreme Court Reports
Blair -----	Blair County Law Reports
Blatchf.C.C. -----	Blatchford's Reports, U.S.
Bond -----	Bond's Reports, U.S.
B.R. -----	Bankruptcy reports
Bright.E.C. -----	Brightly's Election Cases
Bright.N.P. -----	Brightly's Nisi Prius Reports
Browne -----	P. A. Browne's reports
Brock. -----	Brockenbrough's Reports, U.S.
Bucks -----	Bucks County Law Reporter
C.A. -----	United States Court of Appeals
C.C.A. -----	United States Circuit Court of Appeals
Cambria -----	Cambria County Legal Journal
Cambria C.R. -----	Cambria County Reports
Camp. -----	Campbell's Legal Gazette Reports
Cent. -----	Central Reporter
C.C. (see Pa.C.C.) -----	County Court Reports
Chest. -----	Chester County Reports

ABBREVIATIONS

C.J. -----	Corpus Juris
C.J.S. -----	Corpus Juris Secundum
Clark -----	Clark's Pennsylvania Law Journal Reports
Cliff. -----	Clifford's Reports, U.S.
Com. -----	Commonwealth
Const. -----	Constitution
Cont.Elect.Case -----	Contested Election Cases, U.S.
Corp. -----	Pennsylvania Corporation Reporter
C.P.Rep. -----	Common Pleas Reporter
Crabbe -----	Crabbe's Reports, U.S.
Cranch -----	Cranch's United States Supreme Court Reports
Cranch C.C. -----	Cranch's Circuit Court Reports, U.S.
Cl.Ct. -----	Claims Court Reporter
Cumb. -----	Cumberland Law Journal
Curt.C.C. -----	Curtis' Reports, U.S.
Daily L.N. -----	Daily Legal News
Daily L.R. -----	Daily Legal Record
Dall. -----	Dallas' United States Supreme Court Reports
Dauph. -----	Dauphin County Reports
D.C. -----	United States District Court
Deady -----	Deady's Reports, U.S.
Del. -----	Delaware County Reports
Del.Co.L.J. -----	Delaware County Legal Journal
Dick.L.Rev. -----	Dickinson Law Review
Dill. -----	Dillon's Reports, U.S.
Dist. -----	Pennsylvania District Reports
D. & C. -----	Pennsylvania District & County reports
D. & C.2d -----	District & County Reports, Second Series
Docket -----	The Docket
Duq.L.Rev. -----	Duquesne University Law Review
East. -----	Eastern Reporter
Erie -----	Erie County Law Journal
F. -----	Federal Reporter
F.2d -----	Federal Reporter, Second Series
F.3d -----	Federal Reporter, Third Series
Fay.L.J. -----	Fayette Legal Journal
Fed.Cas.No. -----	Federal Cases
Fed.Cl. -----	Federal Claims Reporter
F.R.D. -----	Federal Rules Decisions
F.Supp. -----	Federal Supplement
Fiduciary -----	Fiduciary Reporter
Fisher -----	Fisher's Prize Cases, U.S.
Flippin -----	Flippin's Reports, U.S.
Foster -----	Foster's Legal Chronicle Reports

ABBREVIATIONS

Gall. -----	Garrison's Reports, U.S.
Gilp. -----	Gilpin's Reports, U.S.
Grant -----	Grant's Cases
Hall's Am.L.J. -----	Hall's American Law Journal
Haz.Pa.Reg. -----	Hazard's Register of Pennsylvania
Haz.U.S.Reg. -----	Hazard's United States Register
Hempst. -----	Hempstead's Reports, U.S.
Holmes -----	Holmes' Reports, U.S.
Hopk.Adm. -----	Hopkinson's Admiralty Cases
Hopk.Wks. -----	Hopkinson's Works
How. -----	Howard's United States Supreme Court Reports
Id. -----	Idem. The same
Jour.Law -----	Journal of Law
J.P. -----	Justice of the Peace
Just. -----	Justice's Law Reporter
Key (☞) -----	American Digest Key Number System
Kulp -----	Kulp's Report, Luzerne Legal Register Reports
L.Ed. -----	United States Supreme Court Reports, Lawyers' Edition
L.Ed.2d -----	United States Supreme Court Reports, Lawyers' Edition, Second Series
Lack.Bar -----	Lackawanna Bar
Lack.Bar R. -----	Lackawanna Bar Reports
Lack.Co.Rep. -----	See Wilcox
Lack.Jur. -----	Lackawanna Jurist
Lack.L.N. -----	Lackawanna Legal News
Lack.L.R. -----	Lackawanna Legal Record
Lanc.Bar -----	Lancaster Bar
Lanc.Rev. -----	Lancaster Law Review
Law.L.J. -----	Lawrence Law Journal
Law Times, N.S. -----	Law Times, New Series
Law Times, O.S. -----	Law Times, Old Series, Luzerne
Lebanon -----	Lebanon County Legal Journal
Leg. Chron. -----	See Foster
Leg.Gaz. -----	Legal Gazette
Leg.Gaz.Rep. -----	See Camp
Leg.Op. -----	Legal Opinion
Leg.Rec. -----	Legal Record Reports
Leg. & Ins.Rep. -----	Legal and Insurance Reporter, Pa.
Leh.L.J. -----	Lehigh County Law Journal
Lehigh -----	Lehigh Valley Law Reporter
L.I. -----	Legal Intelligencer
Low. -----	Lowell's Reports, U.S.
L.R.A. -----	Lawyers' Reports Annotated

ABBREVIATIONS

L.R.A., N.S. -----	Lawyers' Reports Annotated, New Series
Luz.L.J. -----	Luzerne Law Journal
Luz.L.O. -----	Luzerne Legal Observer
Luz.L.Reg. -----	Luzerne Legal Register
Luz.L.Reg.Rep. -----	Luzerne Legal Register Reports, Continuation of Kulp
Luz.L.T.,N.S. -----	Luzerne Law Times, New Series
Luz.L.T.,O.S. -----	Luzerne Law Times, Old Series
Lycoming -----	Lycoming Reporter
McAll. -----	McAllister's Reports, U.S.
McCrary -----	McCrary's Reports, U.S.
McLean -----	McLean's Reports, U.S.
Mag. & Con. -----	Magistrate and Constable
Mason -----	Mason's Reports, U.S.
Miles -----	Miles' Reports
Mona. -----	Monaghan's Reports
Monroe L.R. -----	Monroe Legal Reporter
Montg. -----	Montgomery County Law Reporter
Mun. -----	Municipal Law Reporter
Nat.Bank.Reg. (or N.B.R.) -----	National Bankruptcy Register Reports, U.S.
Newb.Adm. -----	Newberry's Admiralty Reports, U.S.
Niles Reg. -----	Niles' Register
North. -----	Northampton County Reports
Northumb.Co. -----	Northumberland County Legal News
Northumb.L.J. -----	Northumberland Legal Journal
Olcott -----	Olcott's Admiralty Reports, U.S.
O.L.J. -----	Olwines Law Journal
Op.Atty.Gen. -----	Opinions of the Attorney General
Pa. -----	Pennsylvania State Reports
Pa.B.A.Q. -----	Pennsylvania Bar Association Quarterly
Pa.Bk.Cas. -----	Pennsylvania Bank Cases
Pa.C.C. -----	Pennsylvania County Court Reports
Pa.C.S.A. -----	Pennsylvania Consolidated Statutes Annotated
Paine -----	Paine's Report, U.S.
Pa.L.J. -----	Pennsylvania Law Journal
Pa.L.M. -----	Pennsylvania Law Magazine
Pa.L.S. -----	Pennsylvania Law Series
Pa.L.Rec. -----	Pennsylvania Law Record
Pars. -----	Parson's Select Equity Cases
Pa.Super. -----	Pennsylvania Superior Court Reports
Pears. -----	Pearson's Reports
PEB -----	Permanent Editorial Board for the Uniform Commercial Code
Penny. -----	Pennypacker's Supreme Court Reports
Penny.Col.Cas. -----	Pennypacker Colonial Cases

ABBREVIATIONS

Pet. -----	Peters' United States Supreme Court Reports
Pet. Adm. -----	Peters' Admiralty Reports, U.S.
Pet. C.C. -----	Peters' Circuit Court Reports, U.S.
P.F.S. -----	P. F. Smith
Phila. -----	Philadelphia Reports
Pitts. -----	Pittsburgh Reports
P.L. -----	Pamphlet Laws
P.L.E. -----	Pennsylvania Law Encyclopedia
P.L.J. -----	Pittsburgh Legal Journal
P.S. -----	Purdon's Pennsylvania Statutes Annotated
P. & W. -----	Penrose and Watts' Reports
Rawle -----	Rawle's Reports
Sadler -----	Sadler's Pennsylvania Supreme Court Cases
Sawy. -----	Sawyer's Reports, U.S.
Sch.L.R. -----	Schuykill Legal Record
Sch.Reg. -----	Schuykill Register
Shingle -----	The Shingle
Singers -----	Singers Probate Cases
S.Ct. -----	United States Supreme Court Reporter
Som. -----	Somerset Legal Journal
Sprague -----	Sprague's Reports, U.S.
Story -----	Story's Reports, U.S.
Sumn. -----	Sumner's Reports, U.S.
Super.Ct.Rep. -----	See Pa.Super.
Susq.L.Chron. -----	Susquehanna Legal Chronicle
S. & R. -----	Sergeant & Rawle's Reports
Taney -----	Taney's Reports, U.S.
Temp.L.Q. -----	Temple Law Quarterly
Temp.L.Rev. -----	Temple Law Review
U.Pa.L.Rev. -----	University of Pennsylvania Law Review
U.Pitt.L.Rev. -----	University of Pittsburgh Law Review
U.Pitt.J.L. & Comm. -----	The Journal of Law and Commerce
U.S. -----	United States Supreme Court Reports
U.S.C.A. -----	United States Code Annotated
Vaux -----	Vaux Recorder's Decisions
Vill.L.Rev. -----	Villanova Law Review
W. -----	Watts' Reports
W. & S. -----	Watts' & Sergeant's Reports
Walk. -----	Walker's Pennsylvania Supreme Court Cases
Wall. -----	Wallace's United States Supreme Court Reports
Wall.C.C. -----	Wallace, Sr.'s, Reports, U.S.
Wall.Jr.C.C. -----	Wallace, Jr.'s, Reports, U.S.

ABBREVIATIONS

War.Op. (or Warwick's Op.) -----	Warwick's Opinions, City Solicitor of Philadelphia
Ware -----	Ware's Reports, U.S.
Wash. -----	Washington County Reports
Watts -----	Watts' Reports
Watts & S. -----	Watts' & Sergeant's Reports
West. -----	Westmoreland County Law Journal
West's Op. -----	West's Opinions, City Solicitor of Philadelphia
Wh. -----	Wharton's Reports
Wheat. -----	Wheaton's United States Supreme Court Reports
Wilcox -----	Wilcox's Lackawanna County Reports
W.N.C. -----	Weekly Notes of Cases
Woodb. & M. -----	Woodbury & Minot's Reports, U.S.
Woods -----	Woods' Reports, U.S.
Woodw. -----	Woodward's Decisions
Woolw.Rep. -----	Woolworth's Reports, U.S.
Work.Comp. -----	Workmen's Compensation Law of Pennsylvania
Y. -----	Yeates' Reports
Yeates -----	Yeates' Reports
York -----	York Legal Record

PURDON'S PENNSYLVANIA STATUTES ANNOTATED

TITLE 25

ELECTIONS AND ELECTORAL DISTRICTS

Acts 1970, No. 230, approved November 25, 1970, as amended, establishes the structure of the Pennsylvania Consolidated Statutes by listing the Titles thereof which will be implemented from time to time in the future. For Text of the Act including the list of Titles, see Title 1, Appendix.

Title 25 of the Pennsylvania Consolidated Statutes appears as Appendix following this title.

Chapter	Section
1. Election Law Commission [Expired]	1
2. Constitutional Amendments [Repealed]	21
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12. Offenses Against Election Laws	2271
13. Contested Elections [Repealed]	2391
14. Election Code	2600
15. Election District Alteration and Data Reporting Act	3601
16. Electors in Military Service [Repealed]	4001
17. Validating Acts	4051

Cross References

Borough officers, election, see 53 P.S. § 45801 et seq.
 Cities of the Third Class, officers, election, see 53 P.S. § 35701 et seq.
 Constables, election, see 13 P.S. § 1 et seq.
 Constitutional provisions, see Const. Art. 8, § 1 et seq.
 District justices, election, see 42 Pa.C.S.A. § 1 et seq.
 Holidays, election days, see 44 P.S. §§ 11, 21.
 Home rule charter and optional plans adoption, elections, see 53 P.S. § 1-101 et seq.
 Incorporated towns, officers, election, see 53 P.S. § 53151 et seq.
 Judicial officers, see Const. Art. 5, §§ 13, 15; 42 Pa.C.S.A. § 3131 et seq.
 Libraries, election concerning, see 24 P.S. § 4402.
 School directors, election, see 24 P.S. § 3-301 et seq.
 Townships of the First Class, officers, election, see 53 P.S. § 55501 et seq.
 Townships of the Second Class, officers, election, see 53 P.S. § 65401 et seq.

ELECTIONS, ELECTORAL DISTRICTS

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CHAPTER 1

ELECTION LAW COMMISSION [EXPIRED]

§§ 1 to 3. Expired

Historical and Statutory Notes

These sections, derived from act of 1929, May 8, P.L.1672, §§ 1 to 3, provided that the Election Law Commission created by Joint Resolution approved 1927, May 4, P.L. 756, to codify, amend

and revise the election laws of the Commonwealth, should be continued until the close of the 1931 session of the Legislature, and make a report to such Legislature.

CHAPTER 2

CONSTITUTIONAL AMENDMENTS [REPEALED]

Historical and Statutory Notes

Under act of 1919, June 4, P.L. 388, §§ 1 to 6, the Governor was authorized to appoint a commission composed of twenty-five citizens known as the "Commission on Constitutional Amendment and Revision." This Commission was appointed and made a printed report. No authority was conferred in the act to submit the draft which the Commission reported, to the People for adoption.

The act of 1921, April 27, P.L. 323, No. 162, provided for the calling together of a constitutional convention to be held at

Harrisburg on the second Tuesday of January, 1922, but the vote of the electors was against the convention.

Act of 1923, June 12, P.L. 962, No. 289, §§ 1 to 14, provided for the submission, at the general election to be held in 1924, of the question whether a constitutional convention should be held in 1926. At such general election in 1924 the question was submitted and the vote was negative and the act having accomplished its purpose is now of no moment.

§ 21. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

This section, derived from acts of 1913, July 7, P.L. 693, § 1; 1923, April 3, P.L. 55, § 1; 1925, April 27, P.L. 311, § 1, related to the submission to electors of proposed constitutional amendments.

The subject matter is now covered by §§ 2755 and 2963 of this title.

Constitutional amendments, see Const. Art. 11, § 1.

§§ 22 to 24. Repealed. 1972, Dec. 6, P.L. 1339, No. 290, § 4

Historical and Statutory Notes

The repealed sections, derived from Act 1965, Aug. 17, P.L. 345, §§ 1 to 3, imposed duties on the governor and other executive officers regarding the announcement of the adoption of constitu-

tional amendments and the numbering of articles and sections of the constitution.

See, now, 1 Pa.C.S.A. § 901 et seq.

CHAPTER 3

ELECTION OFFICERS

ELECTION AND DUTIES

GENERAL PROVISIONS

Section

- 41. Repealed.
- 42. Election of judges and inspectors in boroughs; officers to be elected.
- 43 to 56. Repealed.
- 57. Election officers in Philadelphia may be re-elected.
- 58. Setting aside election of officers in Philadelphia.
- 59 to 63. Repealed.
- 64 to 66. Expired.

OATH OF OFFICE [REPEALED]

- 71 to 77. Repealed.

PAY

- 91. Repealed.
- 92. Compensation of judges, inspectors, and clerks in boroughs.
- 93 to 96. Repealed.

PENALTIES FOR OFFENSES

- 121 to 129. Repealed.
- 130. Receiving votes without proof, in Philadelphia.
- 131 to 133. Repealed.

ELECTION EXPENSES [REPEALED]

- 161. Repealed.
- 162. Repealed.

Constitutional Provisions

Const. Art. 7, § 11 provides:

“District election boards shall consist of a judge and two inspectors, who shall be chosen at municipal elections for such terms as may be provided by law. Each elector shall have the right to vote for the judge and one inspector, and each inspector shall appoint one clerk. The first election board for any new district shall be selected, and vacancies in election boards filled, as shall be provided by law. Election officers shall be privileged from arrest upon days of election, and while engaged in making up and transmitting returns, except upon warrant of a court of record or judge thereof, for an election fraud, for felony, or for wanton breach of

the peace. In cities they may claim exemption from jury duty during their terms of service.”

Const. Art. 7, § 12 provides:

“No person shall be qualified to serve as an election officer who shall hold, or shall within two months have held any office, appointment or employment in or under the government of the United States, or of this State, or of any city, or county, or of any municipal board, commission or trust in any city, save only notaries public and persons in the national guard or in a reserve component of the armed forces of the United States; nor shall any election officer be eligible to

any civil office to be filled at an election at which he shall serve, save only to such subordinate municipal or local offices, below the grade of city or county offices, as shall be designated by general law."

ELECTION AND DUTIES

GENERAL PROVISIONS

Cross References

County boards of elections, see 25 P.S. § 2641 et seq.

District election officers, see 25 P.S. § 2671 et seq.

Office of judge, inspector, or clerk of election incompatible with federal office, see 65 P.S. § 1.

§ 41. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

This section, derived from acts of 1874, Jan. 30, P.L. 31, § 15; 1933, Sp.Sess., Jan. 17, 1934, P.L. 236, § 5, related to the election of a judge and inspectors of election and a registry assessor. The election of judges and inspectors of elections is now covered by § 2671 of this title.

This section was repealed absolutely in so far as it affected personal registration

and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44. It was also repealed, in so far as it related to assessors who perform duties relative to elections in boroughs, towns or townships or to the assessment or registration of voters therein, by act of 1937, April 29, P.L. 487, § 46(b). See § 951-46 of this title.

§ 42. Election of judges and inspectors in boroughs; officers to be elected

It shall be lawful for the borough electors annually to elect:

- I. The corporate officers designated in the charter or by this act.
- II. One judge and two inspectors of the general election.
- III. One assessor and two assistant assessors, when required by the laws of this commonwealth.
- IV. One borough auditor to serve three years.
- V. One constable.
- VI. Two overseers of the poor, if necessary, who shall perform the duties and be subject to the provisions of the law respecting township officers and elections.

1851, April 3, P.L. 320, § 17.

Repealed in Part

This section was repealed, insofar as it relates to the annual election of members of town council, by the act of 1883, June 1, P.L. 54, which was repealed by section 1 of art. I of ch. XIII

of the act of 1915, May 14, P.L. 312. It was also repealed, except insofar as it relates to assessors, constables, elections, justices of the peace, overseers of the poor, school directors, or taxation, by section 1 of art. I of ch. XIII of the act of 1915, May 14, P.L. 312. It was supplied, as to borough officers generally, by art. I of ch. VIII of the act of 1915, May 14, P.L. 312, repealed by act of 1927, May 4, P.L. 519, art. XXXIII, § 3301, and was supplied as to such officers by art. VIII(a) of act of 1927, May 4, P.L. 519. It was supplied, as to assessors, by the act of 1889, Feb. 14, P.L. 7, § 1, repealed, by the act of 1889, May 8, P.L. 133, § 1, repealed, and by the act of 1891, June 16, P.L. 298, § 1, as amended by act of 1917, April 20, P.L. 87, § 1, repealed. It was supplied, as to the auditor, by §§ 5, 17, 20, of art. I of ch. VIII of the act of 1915, May 14, P.L. 312, repealed by act of 1927, May 4, P.L. 519, art. XXXIII, § 3301, and was supplied as to such officers by art. VIII(a) of act of 1927, May 4, P.L. 519. It was supplied, as to the constable, by the act of 1895, June 26, P.L. 375, § 1, section 2 of Title 13, Constables. It was supplied, as to the overseers of the poor, by the act of 1883, June 4, P.L. 66, § 1, repealed.

Cross References

Election officers, see 25 P.S. § 2671 et seq.

Library References

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| Elections ⇨51. | C.J.S. Sheriffs and Constables § 13. |
| Municipal Corporations ⇨130, 971(1). | P.L.E. Elections §§ 6 to 8. |
| Sheriffs and Constables ⇨9. | P.L.E. Municipal Corporations §§ 116, 716. |
| WESTLAW Topic Nos. 144, 268, 353. | P.L.E. Social Welfare § 21. |
| C.J.S. Elections § 57 et seq. | P.L.E. Sheriffs and Constables § 21. |
| C.J.S. Municipal Corporations §§ 472, 2042 et seq. | |

§§ 43 to 56. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

These sections were derived from acts of 1839, July 2, P.L. 519, §§ 1 to 4, 7, 14 to 17; 1840, April 16, P.L. 410, § 4; 1840, June 13, P.L. 683, § 1; 1874, Jan. 30, P.L. 31, §§ 6, 7; 1893, May 18, P.L. 101, § 1; 1897, May 5, P.L. 38, § 1; 1897, May 19, P.L. 78, § 1; 1921, May 16, P.L. 618, § 1.

Section 48 of this title was derived from § 1 of act 1840, June 13, P.L. 683.

The repealing section incorrectly gives the date of the act repealed as April 16 instead of June 13.

Act of 1897, May 19, P.L. 78, repealed, by implication, § 1 of the act of 1893, June 6, P.L. 324, repealed, which amended § 84 of the act of 1842, March 4, P.L. 43, repealed.

§ 57. Election officers in Philadelphia may be re-elected

All persons acting as judges and inspectors of the general election in the city and county of Philadelphia may be re-elected, any law to the contrary notwithstanding.

1851, April 28, P.L. 724, § 6.

Library References

Elections ⇨51.
WESTLAW Topic No. 144.

C.J.S. Elections § 57 et seq.
P.L.E. Elections §§ 6 to 8.

§ 58. Setting aside election of officers in Philadelphia

Whenever thirty citizens of any ward, in the city of Philadelphia, shall present a petition to the court of common pleas of the said city, setting forth that in any election division of said ward the inspectors of elections, or the return inspectors, are of the same political party, and have been chosen, or elected, in violation of the spirit and intention of the several acts of assembly, regulating elections, verified by the oaths, or affirmations, of any two of them, it shall be the duty of the said court to grant a rule on the officers returned, chosen or elected, for such division, to show cause, if any they have, why the selection of such election officers should not be set aside; and if, upon the investigation of the matters set forth in the said petition, they shall be found to be true, it shall be the duty of said court to set aside the selection of such officers, and to appoint a judge, two inspectors and two return inspectors, to serve in such election division, for the next election, and until others are duly elected, or chosen; said appointments may be made from any part of the ward in which such election division is located; and the officers, so appointed, shall have and exercise the same powers and duties, and be liable to the same penalties, as officers elected by the qualified voters now are.

1866, April 17, P.L. 969, § 1.

Notes of Decisions**Repeal 1****1. Repeal**

The right given by Const. Art. 8, § 14 [see, now, Const. Art. 7, § 11], to each

elector to vote for a judge and one inspector, being the paramount law, must be deemed to have repealed this section in so far as it denies such right. In re Election Officers, 9 Dist. 83 (1900).

Repealed

§§ 59 to 63. Repealed. 1937, June 3, P.L. 1333, § 1901**Historical and Statutory Notes**

These sections, derived from act of 1935, May 29, P.L. 246, §§ 1 to 5, related to the recording, computing and certify-

ing election returns. The subject matter is now covered by § 3151 et seq. of this title.

§§ 64 to 66. Expired. See Const. Art. 7, § 11**Historical and Statutory Notes**

These sections, derived from act of 1945, April 3, P.L. 114, §§ 1 to 3, provided for the appointment of election officers to fill vacancies caused by the expiration of terms of election officers until such time as the Constitution was amended to provide for the lengthening of the term of election officers.

Section 4 of the act of 1945 read as follows: "This act shall expire when, and if, the Constitution has been amended to

authorize the election of election officers for a longer term than one year, and legislation shall have been enacted to carry said constitutional amendment into effect."

The amendment to Const. Art. 8, § 14 (see, now, Const. Art. 7, § 11), in effect, terminating the provisions of the act of April 3, 1945 was adopted Nov. 6, 1945.

For legislation relating to election officers see § 2671 et seq. of this title.

OATH OF OFFICE [REPEALED]**§§ 71 to 77. Repealed. 1937, June 3, P.L. 1333, § 1901****Historical and Statutory Notes**

These sections were derived from acts of 1839, July 2, P.L. 519, §§ 18 to 22; 1840, June 13, P.L. 683, § 14; 1874, Jan. 30, P.L. 31, § 9.

Section 77 was derived from act of 1840, June 13, P.L. 683, § 14. The re-

pealing section incorrectly gives the date of the act repealed as April 16 instead of June 13.

Oaths of office and administration of oaths, see § 2676 et seq. of this title.

PAY**§ 91. Repealed. 1937, June 3, P.L. 1333, § 1901****Historical and Statutory Notes**

This section was derived from act of 1927, May 5, P.L. 819, § 1.

Section 2 of the act of 1927, repealed the act of 1917, July 5, P.L. 684, § 1 as amended by act of 1919, May 8, P.L. 115, § 1. Earlier legislation on the subject was contained in the act of 1895, June 24, P.L. 237, repealed 1937, June 3, P.L. 1333, § 1901, the act of 1903, April 16, P.L. 220, § 1, repealed 1937, June 3, P.L. 1333, § 1901, and the act of 1913, June 27, P.L. 632, § 1, repealed, 1937, June 3, P.L. 1333, § 1901. The act of 1929, March 20, P.L. 28, § 1, No. 22, repealed

the act of 1895, June 24, P.L. 237. The act of 1929, March 21, P.L. 59, No. 63, § 1 repealed the act of 1903, April 16, P.L. 220, § 1.

By the act of 1854, May 1, P.L. (1852) 864, §§ 17, 18, the judges, clerks and inspectors of elections, in Philadelphia, were to receive four dollars each as a full compensation for all services; and the return-judges the additional sum of two dollars each. And by the act of 1854, April 18, P.L. (1853) 821, § 14, the compensation of the judges, inspectors and clerks was increased to five dollars each.

ELECTION OFFICERS

25 P.S. §§ 93 to 96
Repealed

A special rate of compensation was allowed in the following counties: In Erie by the act of 1865, March 21, P.L. 478; in Clearfield, by the act of 1868, March 25, P.L. 480; in Susquehanna, by the act of 1869, April 9, P.L. 792; in Northampton, by the act of 1869, April 15, P.L. 982; in Allegheny, by the act of 1872, Feb. 26, P.L. 158; in Bradford, by the act of 1873,

Feb. 21, P.L. 146; and in Lycoming, by the act of 1873, March 13, P.L. 285. Section 1 of the act of 1853, Jan. 25, P.L. 8, providing a special rate of compensation for Carbon county was repealed by the act of 1883, Feb. 14, P.L. 4, § 1.

Compensation of election officers, see § 2682.1 of this title.

§ 92. Compensation of judges, inspectors, and clerks in boroughs

The town council of every borough hereafter incorporated, shall from time to time fix the salaries of the high constable, town clerk, treasurer, street commissioner and such other officers as they may appoint; and also the compensation to be made to the judges, inspectors and clerks of the election for borough officers, which salaries and allowances shall be paid out of the proper borough treasury by orders drawn thereon signed by the burgess.

1834, April 1, P.L. 163, § 15.

Repealed in Part

This section was repealed, except insofar as it relates to assessors, constables, elections, justices of the peace, overseers of the poor, school directors, or taxation, by section 1 of art. I of ch. XIII of the act of 1915, May 14, P.L. 312. It was supplied, as to high constables, by clause 8 of section 6 of art. I of ch. VII of the act of 1915, May 14, P.L. 312, repealed by act of 1927, May 4, P.L. 519, art. XXXIII, § 3301. It was repealed by act of 1937, June 24, P.L. 2017, § 702, insofar as it relates to overseers of the poor.

§§ 93 to 96. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

These sections were derived from acts of 1915, June 2, P.L. 724, § 1; 1923, May 25, P.L. 455, No. 246, § 1; 1923, June 12, P.L. 692, No. 287, § 1; 1925, April 27, P.L. 305, No. 168, § 1; 1929, April 3, P.L. 131, § 1; 1933, May 25, P.L. 1025, No. 235, § 1.

Act of 1915, June 2, P.L. 724, § 1, was repealed absolutely, in so far as it affected the personal registration and enrollment of voters in boroughs, towns and townships, by act of 1937, April 29, P.L. 487, § 46(a). See § 951-46 of this title.

It was also repealed by act of 1933, April 7, P.L. 26, No. 19, § 1.

Act of 1923, June 12, P.L. 692, No. 287, § 1, was also repealed by act of 1933, April 7, P.L. 26, No. 19, § 1.

Act of 1925, April 27, P.L. 305, No. 168, § 1, as amended 1929, April 3, P.L. 131, § 1, was repealed in so far as it related to townships of the second class by act of 1933, May 1, P.L. 103, art. XXI, § 2101. Effective July 1, 1933.

Compensation of election officers, see § 2682.1 of this title.

PENALTIES FOR OFFENSES

Cross References

Election Code, penalties, see 25 P.S. § 3501 et seq.

§§ 121 to 129. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

These sections were derived from acts 1869, April 17, P.L. 49, § 6; 1874, Jan. of 1839, July 2, P.L. 519, §§ 99-104; 30, P.L. 31, §§ 9, 12.

§ 130. Receiving votes without proof, in Philadelphia

Whenever, in the investigation of any contested election, whether before any committee of councils, any court of the city and county of Philadelphia, or committee of the senate, or house of representatives, or a joint committee thereof, it shall appear that in any election division of said city, the officers of election shall have wilfully received the votes of ten persons, or upwards, whose names are not contained in the list of taxable inhabitants, furnished to the election officers of such division, by the city commissioners, without requiring proof of the payment of taxes, citizenship and residence, which now are, or hereafter may be, required by law, such dereliction of duty shall be deemed a misdemeanor; upon conviction whereof the said officers of election shall be fined in a sum not exceeding one thousand dollars, and be imprisoned for a period not exceeding two years, both, or either, at the discretion of the court.

1866, April 17, P.L. 969, § 3.

Library References

Elections ⇨314.
WESTLAW Topic No. 144.

C.J.S. Elections § 327.
P.L.E. Elections § 141.

§§ 131 to 133. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

These sections were derived from acts of 1839, July 2, P.L. 519, §§ 105, 126; 1887, May 19, P.L. 126, § 1.

ELECTION EXPENSES [REPEALED]

§ 161. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

This section was derived from act of 1876, May 8, P.L. 136, § 1.

§ 162. Repealed. 1992, Nov. 24, P.L. 717, No. 108, § 3, imd. effective

Historical and Statutory Notes

The repealed section related to election expenses in Philadelphia and was derived from act 1869, April 17, P.L.49, § 41.

CHAPTER 4

REGISTRATION OF VOTERS; ENROLLMENT OF VOTERS

GENERAL PROVISIONS

IN GENERAL

Section

- 191 to 195. Repealed.
- 221, 222. Repealed.
- 222a. December assessment and registration abolished.
- 223 to 228. Repealed.
- 229. When temporary voting place is established, assessor to sit at his residence.
- 230 to 235. Repealed.
- 236. Election of assistant assessor; filling vacancies.

ENUMERATION OF REGISTERED PERSONS

- 261. Enumeration of registered persons.
- 262. County commissioners to tabulate totals and forward to Secretary of Commonwealth.
- 263. Form for returns.

PERSONS IN ARMED FORCES

- 271. Expired.

ENROLLMENT ACCORDING TO PARTY AFFILIATIONS

- 291. Party enrollment required; non-partisan primaries; right to vote.
- 292. Enrollment in cities; challenges; designation or change of affiliation; counting presidential electors; exclusive use of party name.
- 293. Enrollment by assessors or registry assessors; certificate.
- 294. Inquiry by assessor; absent electors; time for return of certificate.
- 295. Preparation of register; inserting enrollment; continuance or change; necessity of enrolling.
- 296. Challenges; oath; counting presidential electors.
- 297. Compensation of assessors.
- 298. Correction of mistakes.
- 299. Right to vote at primary.
- 300. Registration in boroughs and townships before primary election.
- 301. Offenses by officials; wrongful enrollment; excluding from enrollment.
- 302. Electors; false affidavits or statements.
- 303. Wrongful voting; receiving illegal vote.

PERSONAL REGISTRATION; FEDERAL AND STATE EMPLOYEES

- 321. Registration of federal and state employees; certificate; payment of taxes.
- 322. Forms; preparation; furnishing.

VOTER REGISTRATION

Section

IN CITIES OF THE FIRST CLASS

IN GENERAL

341 to 622. Repealed.

PERMANENT REGISTRATION ACT

- 623-1. Title of act.
- 623-2. Definitions.
- 623-3. Registration commission; membership, bipartisan; term of office; compensation; action by vote of majority of members; record of proceedings; annual report.
- 623-4. Powers of commissions; regulations; enforcement; correction of errors or irregularities; cancellation of registration; powers of commissioners.
- 623-5. Employes, registrars, inspectors of registration; duties; appointment.
- 623-6. Removal of registrars; voter registration in each ward.
- 623-7. Counsel; compensation; duties.
- 623-8. Appropriations; unexpended balances of appropriations.
- 623-9. Acts and omissions of employes, registrars and inspectors.
- 623-10. Commissioners may act as registrars and inspectors.
- 623-11. Immunity from arrest.
- 623-12. Acts to be done on legal holidays and Sundays.
- 623-13. Records and documents to be open to public inspection.
- 623-14. Watchers at places of registration; privileges.
- 623-15. Watchers or attorneys at sessions of commission.
- 623-16. Candidates may be present at proceedings.
- 623-17. Day and hours of registration; places of registration; use of polling places; payments of rentals; use of school buildings; public notice.
- 623-18. Repealed.
- 623-19. Registration cards; preparation and distribution.
- 623-19.1. Official nonpersonal voter registration application cards; preparations and distribution.
- 623-19.2. Change of registration by mail.
- 623-20. Manner of registration.
- 623-20.1. Renumbered.
- 623-20.1A. Voter's identification card; registration statements.
- 623-20.2. Manner of registration by persons in military service, persons in the Merchant Marine, persons in religious and welfare groups officially attached to and serving with the Armed Forces and civilian federal personnel overseas and their spouses and dependents.
- 623-20.3. Manner of registration by certain electors.
- 623-20.4. Approval of official registration application cards.
- 623-21. Who may register; who may vote; electors need register only once; exception.
- 623-22. Applicants to register may be challenged; procedure; challenge affidavit.
- 623-23. Repealed.
- 623-24. Incomplete or rejected application to be recorded.
- 623-25. Appeal of rejected applicant.
- 623-26. General register.

ELECTIONS

Section

- 623-27. District registers; registration cards.
- 623-28. Removal notices.
- 623-29. Recording change of residence.
- 623-30. Change of party enrollment; notice of change of enrollment of political party; cancellation of party enrollment; persons suffering disability after registration to have fact recorded; cancellation.
- 623-31. Report of deaths from Department of Health; cancelling registration; correction if person is falsely reported deceased; reports of removals from certain public service companies, real estate brokers, rental agents, and persons, firms, and corporations operating vehicles for moving furniture and household goods.
- 623-32. Mail check-up of register.
- 623-33. Canvass of registered voters.
- 623-34. Comparison and correction of registers, street lists.
- 623-35. Petitions to strike off names; filing and notice.
- 623-36. Hearing on petition to strike off names.
- 623-37. Delivery of district registers to commissioners in charge of elections.
- 623-38. Persons registered are entitled to vote at general or municipal elections if identified by signature, proviso; evidence of registration discrepancies; persons registered and enrolled may vote at primaries if identified by signature, proviso; persons not registered are not entitled to vote; challenging of persons; registered voter's certificates; voting check list, elections and primaries; counting, et cetera, of names checked as having voted; sealing of registers and voting check lists; return of lists of voters and registers.
- 623-39. Entry of information in general register following elections and primaries; report of indications of fraud to district attorney.
- 623-40. Cancellation of registration upon failure to vote within certain periods; request for reinstatement; correction of errors of the commission in cancellation of registrations.
- 623-41. Cancellation, removal, and preservation of registration affidavits.
- 623-42. Appeals to court; time of hearing; notice; postponement; hearing decision of court; costs and fees.
- 623-43. Production of document, et cetera, at appeals.
- 623-44. Subpoenas and witness fees.
- 623-45. Crimes and penalties.
- 623-46. Effective date; partial invalidity; legislative intent.

IN CITIES OF THE SECOND CLASS, SECOND CLASS A AND THIRD CLASS, BOROUGHs, TOWNS AND TOWNSHIPS

IN GENERAL

- 641 to 661. Repealed.
- 662. Term of registration commissioners where cities consolidate.

PERSONAL AND PERMANENT REGISTRATION

- 663 to 806. Repealed.
- 807-1 to 807-44. Repealed.
- 807-101 to 807-147. Repealed.

VOTER REGISTRATION

Section

- 808-1 to 808-45. Repealed.
- 809-1 to 809-49. Repealed.
- 821 to 945. Repealed.
- 946-1 to 946-40. Repealed.
- 947-1 to 947-47. Repealed.
- 951-1. Short title citation.
- 951-2. Definitions.
- 951-3. County commissioners to act as registration commission for cities of the second class, cities of the second class A, cities of the third class, boroughs, towns and townships.
- 951-4. Powers of commission; regulations; enforcement; correction of errors or irregularities; cancellation of registration; powers of commissioners.
- 951-5. Employes, registrars, inspectors of registration; duties; appointment; incompatible offices.
- 951-6. Counsel.
- 951-7. Appropriations by county commissioners; unexpended balances of appropriations heretofore made; additional appropriations.
- 951-8. Acts of employes.
- 951-9. Commissioners and chief clerk may act as registrars and inspectors.
- 951-10. Immunity from arrest.
- 951-11. Acts to be done on legal holidays and Sundays.
- 951-12. Records and documents to be open to public inspection.
- 951-13. Watchers at places of registration; privileges.
- 951-14. Watchers or attorneys at sessions of commission.
- 951-15. Candidates may be present at proceedings.
- 951-16. Days and hours of registration; places of registration; use of polling places; payment of rentals; use of school buildings; public notice.
- 951-17. Registration cards; preparation and distribution.
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- 951-20. Applicants to register may be challenged; procedure; challenge affidavit.
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ELECTIONS

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- 951-28. Change of enrollment of political party; cancellation of party enrollment; persons suffering disability after registration to have fact recorded; cancellation.
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- 951-37. Examination of district registers; report of indications of fraud to district attorney.
- 951-38. Cancellation or suspension of registration upon failure to vote during two calendar years; request for reinstatement; effect of removal notice.
- 951-39. Cancellation, removal, and preservation of registration cards.
- 951-40. Correction by commission of errors in cancellation or suspension of registration.
- 951-41. Appeals to court; time of hearing; notice; postponement; hearing; decision of court; costs and fees.
- 951-42. Production of documents, et cetera, at appeals.
- 951-43. Subpoenas and witness fees.
- 951-44. Crimes and penalties.
- 951-45. Effective date; partial invalidity; legislative intent.
- 951-46. Repeal of prior laws; proviso.

Cross References

Election and registration laws, see Const. Art. 7, § 6.
Qualification of electors, see Const. Art. 7, § 1.

Library References

P.L.E. Elections § 21 et seq.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

GENERAL PROVISIONS

IN GENERAL

§ 191. Repealed. 1937, June 3, P.L. 1333, § 1901**Historical and Statutory Notes**

This section was derived from act of 1840, June 13, P.L. 683, § 9. The repealing section incorrectly gives the date of the act repealed as April 16, instead of June 13.

§§ 192 to 195. Repealed. 1937, June 3, P.L. 1333, § 1901**Historical and Statutory Notes**

These sections were derived from acts of 1839, July 2, P.L. 519, §§ 98, 107; 1840, June 13, P.L. 683, § 3; 1874, Jan. 30, P.L. 31, § 17. P.L. 683. The repealing section incorrectly gives the date of the act repealed as April 16 instead of June 13.

Section 192 of this title was derived from §§ 3 and 9 of act 1840, June 13,

§§ 221, 222. Repealed. 1937, June 3, P.L. 1333, § 1901**Historical and Statutory Notes**

These sections were derived from acts of 1874, Jan. 30, P.L. 31, § 1; 1874, Feb. 13, P.L. 44, § 1; 1891, May 29, P.L. 134, § 1; 1933, Sp.Sess., Jan. 17, 1934, P.L. 236, § 1.

Act of 1874, Feb. 13, P.L. 44, § 1, was considered practically repealed by the act of 1889, Feb. 14, P.L. 7, and act of 1889, May 8, P.L. 133, in *Com. v. Cornelius*, 15 C.C. 73, 42 Pitts. 69, 1894, but those acts were in turn expressly repealed in so far as they related to boroughs by act of 1927, May 4, P.L. 519, art. XXXIII, § 3301, § 48501 of Title 53, Municipal and Quasi-Municipal Corporations, which latter section did not repeal this section. It was repealed absolutely in so far as it affected personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44. It was also repealed absolutely, in so far as it affected the personal registration and enroll-

ment of voters in boroughs, towns, and townships, by act of 1937, April 29, P.L. 487, § 46(a). See § 951-46 of this title.

Act of 1874, Jan. 30, P.L. 31, § 1, as amended, was repealed absolutely in so far as it affected personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44. It was also repealed absolutely, in so far as it affected the personal registration and enrollment of voters in boroughs, towns and townships, by act of 1937, April 29, P.L. 487, § 46(a). See § 951-46 of this title.

Act of 1891, May 29, P.L. 134, § 1, was repealed in so far as inconsistent with act of 1933, May 22, P.L. 837, No. 145, by § 2 of that act.

Act of 1874, Jan. 30, P.L. 31, § 1, supplied § 1 of the act of 1869, April 17, P.L. 49, repealed by act of 1937, June 3, P.L. 1333, § 1901.

§ 222a. December assessment and registration abolished

The annual assessment and registration of voters in the election districts of this Commonwealth commencing on the first Monday in December, and ending on the sixty-first day before the third Tuesday in February, be, and the same is hereby, abolished and superseded; and that all the duties with respect to such December assessment and registration, or in any way appertaining or applicable thereto, heretofore required of and from the assessors in the various election districts, be, and the same are hereby, abrogated and annulled. 1933, May 22, P.L. 837, No. 145, § 1.

Historical and Statutory Notes

Section 2 of act of 1933, repealed so much of § 1 of act of 1891, May 29, P.L. 134, the act of 1895, May 16, P.L. 75, and all other acts or parts of acts to the extent of inconsistency with this section.

§§ 223 to 228. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

These sections were derived from acts of 1874, Jan. 30, P.L. 31, §§ 1, 2; 1891, May 29, P.L. 134, §§ 1, 2; 1895, May 16, P.L. 75, § 1; 1933, May 22, P.L. 908, § 1; 1933, Sp.Sess., Jan. 17, 1934, P.L. 236, §§ 1, 2. and townships, by act of 1937, April 29, P.L. 487, § 46(a). See § 951-46 of this title.

Act of 1874, Jan. 30, P.L. 31, § 2, supplied the act of 1869, April 17, P.L. 49, § 2, repealed by act of 1937, June 3, P.L. 1333, § 1901.

Act of 1891, May 29, P.L. 134, § 1, was repealed in so far as inconsistent with act of 1933, May 22, P.L. 837, No. 145, by § 2 of that act.

Act of 1895, May 16, P.L. 75, was repealed in so far as inconsistent with act of 1933, May 22, P.L. 837, No. 145, by § 2 of that act.

These sections were repealed absolutely in so far as they affected personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44. They were also repealed absolutely, in so far as they affected the personal registration and enrollment of waters in boroughs, towns

§ 229. When temporary voting place is established, assessor to sit at his residence

It shall be the duty of the assessor in all voting districts or precincts in this commonwealth, where temporary voting places are or may be established, to be present at his place of residence in said election district or precinct during the two secular days next preceding the day fixed by the third section of the act¹ of May 29, 1891, being a supplement to the act of January 30, 1874, for returning the list to the county commissioners, from 10 A.M. to 3 P.M., and from 6 P.M. to 9 P.M., of each of said days, to perform all the duties as set

forth in section two of the act¹ of May 29, 1891, being a supplement to the act of January 30, 1874.

1893, June 12, P.L. 455, § 1.

¹ Repealed.

Repealed in Part

This section was repealed absolutely insofar as it affects personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44. It was also repealed absolutely, insofar as it affects the personal registration and enrollment of voters in boroughs, towns, and townships, by act of 1937, April 29, P.L. 487, § 46(a). See section 951-46 of this title.

Library References

Elections ⇨ 103.

WESTLAW Topic No. 144.

C.J.S. Elections § 43.

§§ 230 to 235. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

These sections were derived from acts of 1839, July 2, P.L. 519, § 108; 1870, April 6, P.L. 53, § 10; 1874, Jan. 30, P.L. 31, §§ 3, 18, 19; 1891, May 29, P.L. 134, § 3; 1895, May 16, P.L. 75, § 3; 1933, Sp.Sess., Jan. 17, 1934, P.L. 236, §§ 3, 6, 7.

These sections were repealed absolutely in so far as they affected personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44. They were also repealed absolutely, in so far as they affected the personal registration and enrollment of voters in boroughs, towns and townships, by act of 1937, April 29, P.L. 487, § 46(a). Also repealed, in so far as relate to assessors who perform duties relative to elections in boroughs, towns or

townships or to the assessment or registration of voters therein, by act of 1937, April 29, P.L. 487, § 46(b). See § 951-46 of this title.

Act of 1874, Jan. 30, P.L. 31, § 3, supplied the third section of the act of 1869, April 17, P.L. 49, repealed by act of 1937, June 3, P.L. 1333, § 1901.

Act of 1874, Jan. 30, P.L. 31, § 19, supplied the corresponding part of § 14 of the act of 1869, April 17, P.L. 49, repealed 1937, June 3, P.L. 1333, § 1901, which omitted the word "knowingly," and prescribed an indefinite punishment "by fine or imprisonment."

Act of 1895, May 16, P.L. 75, was repealed in so far as inconsistent with the act of 1933 by act of 1933, May 22, P.L. 837, No. 145, § 2.

§ 236. Election of assistant assessor; filling vacancies

The qualified voters of every election district, in boroughs and townships in the Commonwealth of Pennsylvania wherein more than one election district is authorized, and where but one assessor for valuation of taxable property resides in the borough or township

having more than one election district, shall, at the next municipal election and every four years thereafter, elect a properly qualified person for assistant assessor in each of said election districts, who shall perform all the duties relating to elections now required to be performed by assessors in boroughs and townships having but one election district.

In case of a vacancy in said office, the court of quarter sessions, or any judge of the said court of the same county, shall appoint a person to fill such vacancy.

1891, June 16, P.L. 298, § 1. Amended 1917, April 20, P.L. 87, § 1.

Repealed in Part

This section was repealed absolutely insofar as it affects personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44, and in boroughs, towns, and townships, by act of 1937, April 29, P.L. 487, § 46(a).

Historical and Statutory Notes

This section was also set forth as § 15381 and § 18613, both of Title 53, Municipal and Quasi-Municipal Corpora-

tions. When Title 53 was recompiled, §§ 15381 and 18613 were eliminated.

Library References

Elections ⇨51.
WESTLAW Topic No. 144.

C.J.S. Elections § 57 et seq.
P.L.E. Elections §§ 6 to 8.

Notes of Decisions

- Boroughs divided into wards** 2
- Duties of assessor** 4
- Repeal** 1
- Term of office** 3
- Vacancies** 5

Under the act of 1891, cited to the text, in boroughs divided into wards, each ward elects an assessor for three years, who performs all the duties in their respective wards, as to elections and the valuation of property, and there is no authority for the election of a borough assessor or assistant assessors. *Blackman v. Horton*, 15 C.C. 314, 1894.

1. Repeal

This act, repealed at least by implication, the legislation relating to assistant assessors. *Assistant Assessors (No. 2)*, 3 Dist. 254, 1894.

2. Boroughs divided into wards

In boroughs divided into more than two wards, the assessors elected for the various wards shall jointly perform the duties required by law of assistant assessors in making the triennial assessment in the several wards. *Blackman v. Horton*, 15 C.C. 314, 1894; *Assistant Assessors (No. 2)*, 3 Dist. 254, 41 Pitts. 313, 1894.

3. Term of office

Under the act of 1891, cited to the text, in every township or ward of a borough which contains more than one election district, the qualified voters elect an assessor for three years, who performs all the duties in relation to the valuation of property in said township; and elect an assistant assessor for one year, for each election district, who shall perform all the duties relating to elections required to be performed by assessors in boroughs and townships having but one election

district. *Blackman v. Horton*, 15 C.C. 314, 1894; *Com. v. Cornelius*, 15 C.C. 73, 1894; Assistant Assessors, (No. 1), 3 Dist. 252, 41 Pitts. 312, 1894.

4. Duties of assessor

Since the passage of the act of 1891, cited to the text, the assessors of such townships as are divided into election districts have no duties to perform in relation to elections, or the registration of voters. These duties are performed by the assistant assessors elected for that

purpose. Assistant Assessors (No. 2), 3 Dist. 254, 41 Pitts. 313, 1894.

5. Vacancies

By the act of 1891, June 16, P.L. 298, § 1, cited to the text, a vacancy in the office of assistant assessor is to be filled by the court of quarter sessions, or a judge thereof; Assistant Assessors (No. 1), 3 Dist. 252, 41 Pitts. 312, 1894; Assistant Assessors (No. 2), 3 Dist. 254, 41 Pitts. 313, 1894.

ENUMERATION OF REGISTERED PERSONS

§ 261. Enumeration of registered persons

The registrars, registration commissioners, assessors, and registry assessors of the various cities, boroughs, and townships, charged with the registration and enrollment of voters, shall immediately after the last registration day before the general or municipal election in cities, and immediately after the last day fixed for the assessment of voters in boroughs and townships, forward to the commissioners of their respective counties, on forms to be furnished by the county commissioners, a summary of the total number of persons registered or assessed in their respective election districts, enumerating them by sex, color, political affiliation, and whether native or foreign born. 1925, May 13, P.L. 663, § 1.

Library References

Elections ⇨103.
WESTLAW Topic No. 144.

C.J.S. Elections § 43.
P.L.E. Elections § 25.

§ 262. County commissioners to tabulate totals and forward to Secretary of Commonwealth

The county commissioners shall immediately upon the receipt of the returns provided for in the foregoing section ¹ tabulate the totals thereof and forward a copy of said totals to the Secretary of the Commonwealth, who may tabulate the returns so received from the various counties and publish the same for the information of the public.

1925, May 13, P.L. 663, § 2.

¹ 25 P.S. § 261.

Library References

Elections ⇨109.
WESTLAW Topic No. 144.

C.J.S. Elections § 47.
P.L.E. Elections § 25.

§ 263. Form for returns

The returns of the registration shall be made to the county commissioners in the following form:

County of

Statistical report of registration of voters in

(Specify township, city, or borough, with ward and election precinct)

REGISTRATION BY SEX, COLOR, AND WHETHER

NATIVE OR FOREIGN BORN

	MEN	WOMEN	TOTAL
Native born
Foreign born
Colored

POLITICAL AFFILIATIONS

	MEN	WOMEN	TOTAL
Republican
Democratic
Labor
Socialist
Prohibition
Non-Partisan
Miscellaneous

.....
.....

(Assessor, Registry Assessor, or Registrar)

1925, May 13, P.L. 663, § 3.

PERSONS IN ARMED FORCES

§ 271. Expired

Historical and Statutory Notes

This section, derived from act of 1943, May 6, P.L. 180, § 1, related to the striking of names or cancellation of registration during the continuance of the war and until after the first general, municipal or primary election that should occur

six months or more after the cessation of hostilities. By proclamation of the President, hostilities were declared to have terminated effective Dec. 31, 1946, and this section accordingly expired following the election of Nov. 4, 1947.

ENROLLMENT ACCORDING TO PARTY AFFILIATIONS

§ 291. Party enrollment required; non-partisan primaries; right to vote

At each and every registration of voters held under any of the election and registration laws of this State, whether it is a personal registration or otherwise, and in all cities, counties, boroughs, townships, and all other districts, there shall be a registration and enrollment of the voters according to their respective party preferences and affiliations: Provided, however, That if at any time the laws of this Commonwealth shall provide for the nomination of a candidate or candidates for any office or offices at non-partisan primaries, then, and in that case, every enrolled, registered or qualified elector shall be entitled to receive and vote such non-partisan primary ballot, in accordance with the provisions of the law authorizing and establishing such primary.

1913, July 25, P.L. 1043, § 1.

Repealed in Part

Non-partisan provisions as to cities of the second class and judges were repealed. See note to chapter 5 of this title, entitled "Nomination of Candidates, Conventions and Primary Elections."

This section was repealed absolutely insofar as it affects personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44. It was also repealed insofar as it applies in or relates to the registration or enrollment of voters in cities of the first class by act of 1937, March 30, P.L. 115, § 47(b).

Library References

Elections ⇨ 106, 126(4).
WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46, 115, 130.
P.L.E. Elections §§ 24, 48.

Notes of Decisions

Actions 2
Mandamus 3
Validity 1

is constitutionally qualified to vote, he may, nevertheless, by a legislative enactment, be deprived of the right to vote if not registered in compliance with such enactment. *Com. v. Richards*, 22 Dist. 622, 1913.

1. Validity

The right of the legislature to enact laws requiring and regulating the registration of voters has constitutional authority for its exercise, and when a voter

The enforcement of this section will not impose any undue burden or inconvenience upon the voters, nor will its enforcement defeat the right of a voter, who

Note 1

is qualified under the Constitution, to vote or interfere with any of his other constitutional rights, nor will it destroy the equality of elections. *Com. v. Richards*, 22 Dist. 622, 1913.

The fact that there has been a registration of voters partially or wholly completed in accordance with prior acts does not affect the legislative right to pass an act requiring an additional or new registration and this does not conflict with the electors' constitutional qualifications. *Com. v. Richards*, 22 Dist. 622, 1913.

2. Actions

Election statutes provide adequate, complete and appropriate statutory remedy for challenging voter registrations; thus, challenge to validity of student registrations was not cause of action cognizable in equity. *Starkey v. Smith*, 283 A.2d 700, 445 Pa. 118, 1971.

3. Mandamus

Mandamus will lie to compel registry assessor to enroll elector under election law. *Com. v. Blaker*, 23 Del. 524, 19 D. & C. 514, 1933.

§ 292. Enrollment in cities; challenges; designation or change of affiliation; counting presidential electors; exclusive use of party name

In all election districts in cities of the first, second, and third classes, where personal registration is required, any elector desiring to participate in the primaries of any party shall, at the time of registration, state under oath to the registering officers the name of the party of which he is a member, and whose ballot he desires to vote at the primaries; and it shall then be the duty of the proper registering officers to write the name of such party opposite the name of the elector on the registration list, in a column which it is hereby made the duty of the Registration Commissioners to provide in the registration books for that purpose. If any elector about to register and enroll as a member of a party is challenged, he shall not be registered as a member of that party unless he makes oath before the said registrars that, at the last preceding November election at which he voted, he voted for a majority of the candidates of that party: Provided, however, That the group of Presidential electors, shall be counted as two candidates: And provided further, That any qualified voter may enroll as a member of any party which has secured, by order of the court, the exclusive use of a party name or political appellation for the ensuing primary. If a voter does not desire to vote at a primary election he shall not be required to answer as to his party affiliation or membership, and such party affiliation or membership shall not be recorded.

When an elector in cities of the first, second, and third classes registers his political party at the fall registration, he may vote the ballot of that party at the succeeding fall and spring primary. Should he change his political affiliation by voting for a majority of candidates of some other party at the November election, and desire to change his party vote at the spring primary, he may appear before the registrars of his division at the spring registration, and upon taking oath that at the preceding November election he voted for a

majority of candidates of some other party, it shall be the duty of the registrars to change his political designation on the register, and if otherwise qualified he may vote the ballot of the said party at the spring primary. Any elector who has registered at the fall registration, but did not designate his political party, may appear before the registrars of his division at the spring registration, and, under oath, designate the party of which he is a member and for whom he desires to vote at the ensuing spring primary; provided he takes oath, if challenged, that, at the last preceding November election at which he voted, he voted for a majority of the candidates of that party, and if otherwise qualified he may vote the ballot of said party at the spring primary: Provided, however, That the group of Presidential electors shall be counted as two candidates: And provided further, That any qualified elector may enroll as a member of any party which has secured, by order of the court, the exclusive use of a party name or political appellation for the ensuing primary.

1913, July 25, P.L. 1043, § 2. Affected 1978, April 28, P.L. 202, No. 53, § 2(a) [978], effective June 27, 1978.

Repealed in Part

This section was repealed absolutely insofar as it affects personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44, and in cities of the first class by act of 1937, March 30, P.L. 115, § 47(b).

Historical and Statutory Notes

Section 2(a)[978] of Act 1978, April 28, P.L. 202, No. 53 [42 P.S. § 20002(a)[978]], provides, in part: "The reference to the 'court' in section 2 of the act [this section] shall be deemed a reference to a court of competent jurisdiction."

Library References

Elections ⇨ 126(4).	C.J.S. Elections §§ 115, 130.
United States ⇨ 25.	C.J.S. United States § 28.
WESTLAW Topic Nos. 144, 393.	P.L.E. Elections § 48.

§ 293. Enrollment by assessors or registry assessors; certificate

In all election districts (other than in cities of the first, second, and third classes) the assessor or registry assessor shall, within forty-five days after the approval of this act, make an enrollment of each voter residing within the district in which he is authorized to make an assessment and registration of voters; and thereafter, at the time of making the annual assessment, in addition to the duties now authorized and required by law, make an enrollment of all the voters in his

district. Said assessor or registry assessor shall leave at the residence of each and every voter in his district, found to be absent when his residence is visited by the assessor or registry assessor, at the time of making the annual assessment, a certificate of enrollment, which shall be in the following form:—

Certificate of Enrollment.

Date, 191..

I, a duly qualified voter residing in election district, hereby declare that I desire to be enrolled as a member of the party, and express my desire to vote the ticket of the party at the primary election next ensuing, and request that my name be enrolled on the assessor's list as a member of said party for the purpose of participating in said primary or primaries.

.....
(Signature of Elector.)

Witness,

.....
(Address.)

The above certificate of enrollment shall be furnished to each assessor or registry assessor by the county commissioners of the various counties, at the time of the delivery of said assessors' books by the county commissioners.

1913, July 25, P.L. 1043, § 3.

Repealed in Part

This section was repealed absolutely insofar as it affects personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44, in boroughs, towns, and townships, by act of 1937, April 29, P.L. 487, § 46(a), and in cities of the first class by act of 1937, March 30, P.L. 115, § 47(b).

Library References

Elections ⇨109.
WESTLAW Topic No. 144.

C.J.S. Elections § 47.
P.L.E. Elections § 24.

§ 294. Inquiry by assessor; absent electors; time for return of certificate

The assessor or registry assessor making the enrollment, in districts other than in cities of the first, second and third classes, shall ascertain, if possible, at the time of making the annual assessment, by personal inquiry of the elector, the party politics, preferences or

affiliations of the elector, and note and record the same, with the residence and other particulars required in making the assessment; and in case the elector is not at his residence at the time the said assessor or registry assessor visits the residence of the elector, he shall leave a certificate of enrollment which the elector may fill out and give to the assessor or registry assessor at some time prior to or on the sixty-second day preceding each primary, at which time said assessor or registry assessor shall sit at the polling place and receive said certificate; at which time the same shall be recorded by the assessor or registry assessor in the register.

1913, July 25, P.L. 1043, § 4. Amended 1933, April 7, P.L. 25, § 1.

Repealed in Part

This section was repealed absolutely insofar as it affects personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44. It was also repealed absolutely, insofar as it affects the personal registration and enrollment of voters in boroughs, towns, and townships, by act of 1937, April 29, P.L. 487, § 46(a). See section 951-46 of this title.

This section was repealed insofar as it applies in or relates to the registration or enrollment of voters in cities of the first class by act of 1937, March 30, P.L. 115, § 47(b).

Library References

Elections ⇨106.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46.
P.L.E. Elections § 26.

§ 295. Preparation of register; inserting enrollment; continuance or change; necessity of enrolling

The county commissioners shall have the register so prepared as to permit the assessor or registry assessor to insert the party enrollment of each elector. Upon the receipt of the certificate of enrollment from the elector, the assessor or registry assessor shall insert in the register, after said elector's name, his party enrollment: Provided, however, If an elector has at any time received party enrollment under the provisions of this act, it shall be the duty of the assessor or registry assessor to insert in the said registry, from year to year, at the time of making the annual assessment, said party enrollment, after the name of the said elector, until such time as a certificate of enrollment is presented to or filed with him by the said elector to a contrary effect. Each elector, not already enrolled, desiring to participate in the primaries, must file with the assessor or registry assessor his enrollment certificate. If an elector does not desire to

vote at a primary election, he shall not be required to sign or execute the above certificate as to his party affiliation or membership, and such party affiliation shall not be recorded.

1913, July 25, P.L. 1043, § 5.

Repealed in Part

This section was repealed absolutely insofar as it affects personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44. It was also repealed absolutely, insofar as it affects the personal registration and enrollment of voters in boroughs, towns, and townships, by act of 1937, April 29, P.L. 487, § 46(a). See section 951-46 of this title.

This section was repealed insofar as it applies in or relates to the registration or enrollment of voters in cities of the first class by act of 1937, March 30, P.L. 115, § 47(b).

Library References

Elections ⇐97.
WESTLAW Topic No. 144.

C.J.S. Elections § 38.
P.L.E. Elections § 24.

Notes of Decisions

Personal appearance by elector 1

1. Personal appearance by elector

Registry assessor of election district not in city of first, second, or third class may accept elector's certificate of enrollment in political party, although latter does not appear before him in person, if he is satisfied after reasonable investigation that elector signed certificate and authorized its delivery to him. Com. ex rel. Dick v. Blaker, 19 D. & C. 514, 1933.

Registry assessor may and should refuse to accept certificate of enrollment in political party not delivered to him personally by elector, unless and until he is satisfied by reasonable inquiry, made in good faith within reasonable time after presentation of certificate, that it is signed by elector or by his authority and that its presentation has been authorized by him. Com. ex rel. Dick v. Blaker, 19 D. & C. 514, 1933.

§ 296. Challenges; oath; counting presidential electors

If an elector in districts other than in cities of the first, second, and third classes, enrolled as a member of a party, is challenged at the primaries as to his party enrollment, he shall make oath before the election officers, that at the last preceding November election at which he voted, he voted for a majority of the candidates of that party: Provided, however, That the group of Presidential electors shall be counted as two candidates.

1913, July 25, P.L. 1043, § 6.

Repealed in Part

This section was repealed absolutely insofar as it affects personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44. It was also repealed absolutely, insofar as it affects the personal registration and enrollment of voters in boroughs, towns, and townships, by act of 1937, April 29, P.L. 487, § 46(a). See section 951-46 of this title.

This section was repealed insofar as it applies in or relates to the registration or enrollment of voters in cities of the first class by act of 1937, March 30, P.L. 115, § 47(b).

Library References

Elections ☞126(4).
 United States ☞25.
 WESTLAW Topic Nos. 144, 393.

C.J.S. Elections §§ 115, 130.
 C.J.S. United States § 28.
 P.L.E. Elections § 48.

§ 297. Compensation of assessors

The assessor or registry assessors shall be entitled to the same per diem compensation for sitting at the polling places on the sixty-second day preceding each primary as is now allowed by law for the making of the original annual assessment, which shall be paid in the manner now authorized by law.

1913, July 25, P.L. 1043, § 7. Amended 1933, April 7, P.L. 25, § 2.

Repealed in Part

This section is repealed except insofar as it relates to counties of first and second class by act of 1933, May 22, P.L. 910, § 3. It is also repealed in so far as it applies in or relates to the registration or enrollment of voters in cities of the first class by act of 1937, March 30, P.L. 115, § 47(b).

This section is repealed absolutely insofar as it affects personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44. It is also repealed absolutely, insofar as it affects the personal registration and enrollment of voters in boroughs, towns, and townships, by act of 1937, April 29, P.L. 487, § 46(a). See section 951-46 of this title.

Library References

Elections ☞102.
 WESTLAW Topic No. 144.

C.J.S. Elections § 44.
 P.L.E. Elections § 25.

§ 298. Correction of mistakes

Should the registrars, assessors, or registry assessors make a mistake in recording an elector's party, the said elector may have the registry corrected, amended, or altered, so as to secure a correct registration, in the same manner and by the same processes as are provided by law for the correction and amendment of the registry in other particulars: Provided, That such amendments shall not be made later than ten days before any primary election at which the voter desires or intends to vote.

1913, July 25, P.L. 1043, § 8.

Repealed in Part

This section was repealed absolutely insofar as it affects personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44. It was also repealed absolutely, insofar as it affects the personal registration and enrollment of voters in boroughs, towns, and townships, by act of 1937, April 29, P.L. 487, § 46(a). See section 951-46 of this title.

This section was repealed insofar as it applies in or relates to the registration or enrollment of voters in cities of the first class by act of 1937, March 30, P.L. 115, § 47(b).

Library References

Elections ⇨108.
WESTLAW Topic No. 44.

C.J.S. Elections § 48.
P.L.E. Elections § 27.

§ 299. Right to vote at primary

An elector duly registered and enrolled as a member of a political party, if otherwise qualified, may vote the ballot of said party at a primary, subject to the provisions of this act. No elector enrolled and registered as a member of any one particular party shall be allowed to receive or vote the ballot of any other political party at a primary election, and no elector who is not enrolled and registered as a member of some political party shall be permitted to vote at any primary election.

1913, July 25, P.L. 1043, § 9.

Repealed in Part

This section was repealed absolutely insofar as it affects personal registration and enrollment of voters in cities of

second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44.

This section was repealed insofar as it applies in or relates to the registration of enrollment of voters in cities of the first class by act of 1937, March 30, P.L. 115, § 47(b).

Library References

Elections ⇨126(1).
WESTLAW Topic No. 144.

C.J.S. Elections § 111 et seq.
P.L.E. Elections § 42.

United States Supreme Court

Freedom of association, validity of closed primaries when party rule allows participation of unaffiliated voters, see *Tashjian v. Republican Party of Connecticut*, 1986, 107 S.Ct. 544, 479 U.S. 208, 93 L.Ed.2d 514.

Qualifications for voting, party rule allowing nonaffiliated voters to participate in primaries, see *Tashjian v. Republican Party of Connecticut*, 1986, 107 S.Ct. 544, 479 U.S. 208, 93 L.Ed.2d 514.

§ 300. Registration in boroughs and townships before primary election

Persons otherwise qualified to vote at any primary election in any borough or township, except by registration or enrollment, shall be entitled to register and enroll as a member of a political party with the county commissioners at any time at least ten days before such primary election. The county commissioners shall, in such cases, register and enroll any such person as an elector of his or her proper election district in the same manner as electors are registered and enrolled by registry assessors.

1927, May 11, P.L. 972, No. 463, § 1.

Repealed in Part

Repealed absolutely, insofar as it affects the personal registration and enrollment of voters in boroughs, towns, and townships, by act of 1937, April 29, P.L. 487, § 46(a). See section 951-46 of this title.

Library References

Elections ⇨98.
WESTLAW Topic No. 144.

C.J.S. Elections § 40.
P.L.E. Elections § 24.

§ 301. Offenses by officials; wrongful enrollment; excluding from enrollment

Any registrar, assessor or registry assessor wilfully violating any of the provisions of this act, or wilfully registering any false statement of an elector, or registering as the member of a political party one

whom he knows not to be such, or excluding from a party registry or enrollment any voter whom he knows to be entitled thereto, shall be guilty of a misdemeanor; and on conviction thereof shall be punished by imprisonment for not more than one (1) year, and a fine of not more than one thousand dollars (\$1,000), or either or both, in the discretion of the court.

1913, July 25, P.L. 1043, § 10.

Repealed in Part

This section was repealed absolutely insofar as it affects personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44. It was also repealed insofar as it applies in or relates to the registration or enrollment of voters in cities of the first class by act of 1937, March 30, P.L. 115, § 47(b). Effective March 30, 1937.

Library References

Elections ⇨314.
WESTLAW Topic No. 144.

C.J.S. Elections § 327.
P.L.E. Elections § 141.

§ 302. Electors; false affidavits or statements

Any elector who shall wilfully make any false affidavit or statement to any registrar, assessor or registry assessor, with intent to procure the false party enrollment or registration of himself or of any other voter, shall be guilty of a misdemeanor; and on conviction thereof shall be punished by imprisonment for not more than one (1) year, and a fine of not more than one thousand dollars (\$1,000), or either or both, in the discretion of the court.

1913, July 25, P.L. 1043, § 11.

Repealed in Part

This section was repealed absolutely insofar as it affects personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44. It was also repealed insofar as it applies in or relates to the registration or enrollment of voters in cities of the first class by act of 1937, March 30, P.L. 115, § 47(b).

Library References

Elections ⇨312.
WESTLAW Topic No. 144.

C.J.S. Elections § 326.
P.L.E. Elections § 141.

§ 303. Wrongful voting; receiving illegal vote

Any voter or elector of this Commonwealth wilfully voting or attempting to vote at any primary election in violation of the provisions of this act, or any election officer wilfully receiving or conspiring to receive the vote of any elector casting the ballot, as an elector of any political party, not qualified as a member of said party under the provisions of this act, shall be guilty of a misdemeanor; and upon conviction thereof shall be punished by imprisonment for not more than one (1) year, and a fine of not more than one thousand dollars (\$1,000), or either or both, in the discretion of the court.

1913, July 25, P.L. 1043, § 12.

Repealed in Part

This section was repealed absolutely insofar as it affects personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44. It was also repealed insofar as it applies in or relates to the registration or enrollment of voters in cities of the first class by act of 1937, March 30, P.L. 115, § 47(b).

Library References

Elections ⇨313.
WESTLAW Topic No. 144.

C.J.S. Elections § 325.
P.L.E. Elections § 141.

PERSONAL REGISTRATION; FEDERAL AND STATE EMPLOYEES**§ 321. Registration of federal and state employees; certificate; payment of taxes**

Any person employed in the service of this State or in the service of the Federal Government, and required thereby to be absent from the city wherein he resided when entering such employment, his wife or her husband, shall, on petition to the proper registration commissioners, verified by affidavit, and without appearing personally before the commissioners, be registered as of the district wherein he or she shall have resided prior to entering such service. In such case a residence by street and number shall not be required, but the person shall be registered as of the proper district. In the case of persons employed by this Commonwealth, no such petition shall be considered unless it be accompanied by a certificate from the Auditor General, under the seal of his office, setting forth that the proper person, or the husband or wife of the person, is actually employed in the service of this Commonwealth, and also setting forth the nature of such employment and the time when such person first entered

such employment. In the case of persons employed by the Federal Government, no such petition shall be considered unless it be accompanied by a certificate from the head of the proper department or chief of the proper division or bureau, under the seal of his office, setting forth that the proper person, or the husband or wife of the person, is actually employed in the service of the United States, and also setting forth the nature of such employment and the time when such person first entered such employment. No such person shall be registered unless he or she shall produce to the registration commissioners satisfactory proof that he or she is, by payment of taxes and otherwise, entitled to registration. When any such person so registered shall vote, he or she shall be required, by the proper election officers, to sign the ballot check list of the proper district.

1919, July 21, P.L. 1065, § 1. Amended 1923, June 7, P.L. 680, § 1.

Repealed in Part

This section was repealed absolutely insofar as it affects personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44.

Historical and Statutory Notes

Act of 1919, July 21, P.L. 1065 was a supplement to act of 1913, July 24, P.L. 977, providing for personal registration in cities of the first and second classes. The act of 1913, July 24, P.L. 977, was

repealed so far as it related to cities of the first class by act of 1919. July 10, P.L. 857, § 53 (See §§ 341 to 622 of this title, repealed).

Library References

Elections ⇨98.
WESTLAW Topic No. 140.

C.J.S. Elections § 40.
P.L.E. Elections § 24.

§ 322. Forms; preparation; furnishing

The petitions required by this act shall be upon blank form, which shall be prepared by the proper registration commissioners, and shall be by them furnished on written application.

1919, July 21, P.L. 1065, § 2.

Repealed in Part

This section was repealed absolutely insofar as it affects personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44.

Historical and Statutory Notes

Section 3 of this act repeals the act of 1913, May 20, P.L. 249, and all other acts and parts of acts inconsistent therewith.

Library References

Elections ⇨106.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46.
P.L.E. Elections § 24.

IN CITIES OF THE FIRST CLASS

IN GENERAL

§§ 341 to 622. Repealed. 1937, March 30, P.L. 115, § 47a

Historical and Statutory Notes

These sections, derived from acts of 1919, July 10, P.L. 857, § 1-53; 1921, April 26, P.L. 292, § 1; 1921, May 20, P.L. 994, § 1; 1929, April 11, P.L. 483,

§ 1, related to personal registration in cities of the first class. The subject matter is now covered by § 623-1 et seq. of this title.

PERMANENT REGISTRATION ACT

§ 623-1. Title of act

This act shall be known, and may be cited, as "The First Class City Permanent Registration Act."

1937, March 30, P.L. 115, § 1.

Historical and Statutory Notes

Subdivisions (c) and (d) of § 47 of this act read as follows:

"(c) All other acts or parts of acts of Assembly in conflict or inconsistent with this act, or any part hereof, are hereby repealed so far as they are inconsistent herewith.

"(d) The provisions of this act shall not affect any suit or prosecution, pending or to be instituted, to enforce any right or penalty or to punish any offense under the authority of such acts so repealed respecting any act done or omitted prior to such repeal."

Title of Act:

An Act to provide for the permanent personal registration of electors in cities of the first class as a condition of their right to vote at elections and primaries, and their enrollment as members of political parties as a further condition of their

right to vote at primaries; prescribing certain procedure for the conduct of elections and primaries and the challenge and proof of qualifications of electors; and prescribing the powers and duties of citizens, parties, bodies of electors, registration commissions, commissioners, registrars, inspectors of registration and other appointees of registration commission, election officers, municipal officers, departments and bureaus, police officers, courts, judges, prothonotaries, sheriffs, county commissioners, peace officers, county treasurers, county controllers, registrars of vital statistics, real estate brokers, rental agents, certain public service companies, persons, firms, and corporations operating vehicles for moving furniture and household goods, and boards of school directors; and imposing penalties. 1937, March 30, P.L. 115.

Library References

Elections ⇐95.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 36, 37.
P.L.E. Elections § 24 et seq.

§ 623-2. Definitions

(a) The word "**Commission**" shall mean any registration commission having jurisdiction in any city of the first class.

(b) "**Commissioner**" shall mean a member of a registration commission.

(c) "**Oath**" shall include affirmation, and "**swear**" shall include affirm.

(d) "**Election**" shall mean any general, special, municipal or primary election, unless otherwise specified.

(e) "**General Election**" shall mean the election which the Constitution of this Commonwealth requires to be held in even-numbered years.

(f) "**Municipal Election**" shall mean the election which the Constitution of this Commonwealth requires to be held in odd-numbered years.

(g) "**Primary Election**" shall mean any election for the nomination of candidates.

(h) "**November Election**" shall mean either the general or the municipal election, or both, according to the context.

(i) "**Party**" shall mean any political party or body of electors, one of whose candidates at the general election next preceding the primary polled in each of at least ten counties of the State not less than two per centum of the largest entire vote cast in each of said counties for any elected candidate, and polled a total vote in the State equal to at least two per centum of the largest entire vote cast in the State for any elected candidate; or any political party or body of electors one of whose candidates either at the last general or at the last municipal election shall have polled at least five per centum of the largest entire vote cast for any elected candidate in any county within which is located a city of the first class or with which such city is coextensive; although such percentage of said vote may not have been attained in any particular election district thereof.

(j) "**Body of electors**" shall mean any political body not recognized as a political party which has filed proper nomination papers as required by law.

(k) "**Qualified elector**" shall mean any person who shall possess all of the qualifications for voting now or hereafter prescribed by the

Constitution of this Commonwealth, or who, being otherwise qualified by continued residence in his election district shall obtain such qualifications before the next ensuing election, except that this term shall not include qualified electors as hereinafter defined in section 20.1.¹

(l) "**Register**" shall mean the cards containing, or to contain, all or any part of the registry list of qualified electors prepared, or to be prepared, by the registration commission as hereinafter provided.

(m) "**County**" shall mean any county of this Commonwealth within which is located a city of the first class, or with which such city is coextensive.

(n) "**City**" shall mean only a city of the first class.

(o) All references to mayors, police officers, clerks, secretaries, courts, judges, prothonotaries, county treasurers, county controllers, county commissioners, sheriffs, peace officers, registrars of vital statistics, boards of school directors, and other officials of counties, cities, and school districts where not otherwise specified, shall refer only to those of any city of the first class, or to those of any county within which such city of the first class is located, or with which it is coextensive, or of any school district with which it is coextensive.

(p) "**Public Office**" shall mean and include any National, State, judicial, county, city, school district, poor district, ward, or election office or employment requiring any person elected or appointed thereto to render any public service for a fixed fee or compensation, except the office of notary public or commissioner of deeds.

(q) Whenever a term in the masculine form is used in this act it shall refer alike to men and women.

(r) "**District**" shall mean any election district of any city of the first class.

Subsec. (s) added by act of 1941, July 31, P.L. 710, § 1.

(s) In determining or reckoning any period of time mentioned in this act, the day upon which the act is done, paper filed or notice given shall be excluded from, and the date of the primary election, hearing or other subsequent event, as the case may be, shall be included in the calculation or reckoning: Provided, however, That if the last day upon which any act may be done, paper filed or notice given shall fall on a Sunday or a legal holiday the next following ordinary business day shall be considered as the last day for said purpose.

Subsec. (s) added by act of 1941, Aug. 1, P.L. 702, § 1.

(s) "**Persons in military service**" shall mean qualified electors of this Commonwealth who are or may be by enlistment, enrollment or draft in actual military or naval service of the United States, or any branch or unit thereof, or in the military service of the Commonwealth.

(t) Blank.

(u) Blank.

(v) The words "**members of the Merchant Marine of the United States**" means persons (other than persons in military service) employed as officers or members of crews of vessels documented under the law of the United States or of vessels owned by the United States or of vessels of foreign-flag registry under charter to or control of the United States, and persons (other than persons in military service) enrolled with the United States for employment or for training for employment or maintained by the United States for emergency relief service as officers or members of crews of any such vessels, but does not include persons so employed or enrolled for such employment or for training for employment or maintained for such emergency relief on the Great Lakes or the Inland waterways.

(w) The word "**dependent**" means any person who is in fact a dependent.

(x) The words "**person authorized to administer oaths**" shall mean any person who is a commissioned officer in military service or any member of the Merchant Marine of the United States designated for this purpose by the Secretary of Commerce or any civilian official empowered by any State or Federal law to administer oaths.

(y) The words "**in military service**" shall mean the uniformed services as defined in section 102 of the Career Compensation Act of 1949 (63 Stat. 804, U.S. Code Title 37, Par. 231).²

1937, March 30, P.L. 115, § 2. Amended 1941, July 31, P.L. 710, § 1; 1941, Aug. 1, P.L. 702, § 1; 1945, March 2, P.L. 22, §§ 1-3; 1963, Aug. 14, P.L. 900, §§ 1, 2, effective Jan. 1, 1964.

¹ 25 P.S. § 623-20.2.

² 37 U.S.C.A. § 101.

United States Supreme Court

Convicted felons, disenfranchisement, equal protection, see *Richardson v. Ramirez*, U.S. Cal. 1974, 94 S.Ct. 2655, 418 U.S. 24, 41 L.Ed.2d 551.

Notes of Decisions

In general 1

are measured by the test that statutory classifications will be set aside only if no grounds can be conceived to justify them. *Goosby v. Osser*, 452 F.2d 39, C.A.1971, reversed on other grounds 93 S.Ct. 854, 409 U.S. 512, 35 L.Ed.2d 36.

1. In general

Regulations which set forth mechanics of controlling the exercise of franchise

§ 623-3. Registration commission; membership, bipartisan; term of office; compensation; action by vote of majority of members; record of proceedings; annual report

(a) There shall be a registration commission in and for each city of the first class, which commission shall have jurisdiction over the registration of electors of such city under the provisions of this act.

(b) The registration commission shall consist of the three elected city commissioners of a city of the first class, who shall be elected for a term of four years, in the year that the mayor is elected and a vacancy in the office shall be filled in the manner provided by city ordinance, in the same manner that a vacancy in the office of city commissioner is filled.

(c) and (d) Deleted by amendment. 1976, July 1, P.L. 476, No. 122, § 1, effective in 30 days.

(e) The registration commissioner shall receive the salary set for the city commissioner by city ordinance, and shall receive no additional salary for service as the registration commissioner.

(f) Deleted by amendment. 1976, July 1, P.L. 476, No. 122, § 1, effective in 30 days.

(g) All actions of a commission shall be decided by a majority vote of all members, except as may be otherwise provided herein.

(h) Each commission shall keep a record, in permanent form, of all its proceedings, and shall make an annual written report to the city.

1937, March 30, P.L. 115, § 3. Amended 1956, Feb. 28, P.L. (1955) 1179, § 1; 1961, July 26, P.L. 917, No. 397, § 1; 1976, July 1, P.L. 476, No. 122, § 1, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment rewrote the section, which formerly read:

“(a) There shall be a registration commission in and for each city of the first class, which commission shall have jurisdiction over the registration of electors of such city under the provisions of this act.

“(b) The registration commission shall consist of five commissioners, who shall be qualified electors of the city, not more than three of whom shall be enrolled members of the same political party, who shall be appointed by the Governor, with the advice and consent of the Senate, and

shall hold office for terms of four years, or until their successors qualify, unless sooner removed or otherwise disqualified: Provided, however, That the terms of office of the commissioners, first appointed by the Governor under this act, shall commence upon the date of their appointment, and shall expire on the first Monday of January, one thousand nine hundred and forty-one. Upon the appointment by the Governor of the registration commission for any such city, the terms of office of the existing registration commission or commissioners of any such city shall terminate.

“(c) The Governor shall fill any vacancy in any such commission within ten days after the vacancy shall occur by appointing a qualified elector of the city to hold office during the remainder of the term of the commissioner whose place shall have become vacant.

“(d) The Governor may, at any time, remove any commissioner for cause, and may appoint a duly qualified elector of

the city as his successor for the remainder of his term.

“(e) Each commissioner shall receive compensation at the rate of twelve thousand dollars per annum, except the chairman who shall receive twelve thousand five hundred dollars per annum.

“(f) As soon after their appointment as may be, the members of each commission shall take the oath of office required by the Constitution of this Commonwealth, and shall organize by selecting from their number a chairman and a secretary, who shall not be members of the same political party.

“(g) All actions of a commission shall be decided by a majority vote of all members, except as may be otherwise provided herein.

“(h) Each commission shall keep a record, in permanent form, of all its proceedings, and shall make an annual written report to the Governor.”

Cross References

Term of registration commissioners in case of consolidation of cities, see 25 P.S. § 662.

Library References

Elections ⇄ 100.
WESTLAW Topic No. 144.

C.J.S. Elections § 42.
P.L.E. Elections §§ 25 to 27.

Notes of Decisions

In general 1 Jurisdiction 2

1. In general

Provision of Home Rule Act, paragraph (a)(7) of § 3421.18 of Title 53, Municipal and Quasi-Municipal Corporations, that city is forbidden to exercise powers contrary to, or in limitation or enlargement of, powers granted by acts of the General Assembly, on the subject of providing for the personal registration of electors, merely prevents the city from amending or nullifying general laws of the state regarding qualifications which entitle elector to be registered, or laws concerning, not the personnel of the office of the Registration Commission, but the functions or duties they perform, and such provision was not indicative that such Commission was not a city agency. *Len-*

nox v. Clark, 93 A.2d 834, 372 Pa. 355, 1953.

The Registration Commission in Philadelphia is a city agency, the members and employees of which are city officers and employees, and therefore such officers and employees are bound by provisions of Philadelphia Home Rule Charter. *Lennox v. Clark*, 93 A.2d 834, 372 Pa. 355, 1953.

2. Jurisdiction

For purposes of determining whether motion for temporary injunction should be heard by three-judge court state voter registration statute which was applicable to all cities with population large enough to qualify as first-class cities had statewide application even though there was only one city meeting classification. *Williams v. Osser*, 326 F.Supp. 1139, D.C.1971.

For purposes of determining whether motion for temporary injunction should be heard by three-judge court, where upcoming election included statewide seats on state Supreme Court as well as local offices, local voting registration commissioners were performing state functions in determining eligibility of persons to

vote. *Williams v. Osser*, 326 F.Supp. 1139, D.C.1971.

Action seeking injunction with respect to two-year nonvote purge of registrants and 50-day registration cutoff was properly one for three-judge court. *Williams v. Osser*, 326 F.Supp. 1139, D.C.1971.

§ 623-4. Powers of commissions; regulations; enforcement; correction of errors or irregularities; cancellation of registration; powers of commissioners

(a) The commission may make regulations, not inconsistent with this act or the laws of this Commonwealth—(1) to govern the public sessions of such commission, (2) to carry into effect the provisions of this act and to permit the efficient administration thereof (including the designation of the duties to be performed and functions to be exercised hereunder at its respective offices), and (3) for the performance of the duties imposed hereunder, and may enforce such regulations and all its orders and subpoenas to witnesses as herein provided, and, if necessary, shall have the assistance of the court of common pleas of the county, and of all public officers subservient thereto, in enforcing the same, which assistance said officers, as well as the judges of said court, shall render when requested to do so, subject, however, to the right of certain persons to appeal from the orders of the commission as herein provided.

(b) The commission shall have power to correct, direct or permit the correction of any error or any irregularity in registration, to change or permit the change on the registration affidavits and its records of the name of any registered elector changed by order of a court of competent jurisdiction or by reason of her marriage or divorce, and to cancel the registration of any person whom it may find to be improperly registered, and to cancel the party enrollment of any registered elector whom it may find to be improperly enrolled as a member of a party, subject only to the provisions of this act, and provided that notice in writing shall be given to, or left at the address of, each person whose registration or enrollment is cancelled. Notice in writing of the cancellation of the registration or party enrollment of any elector, as well as notice of the serving of any paper upon or left at the address of any elector with respect to his right to be registered or enrolled as a member of the party designated by him and an official application registration card, shall be sent promptly to the city chairman of the party of which such person was or may be registered as a member, if such party has headquarters within the city known to the commission.

(c) The commission, and any commissioner, shall have power on its or his own motion—(1) to summon and interrogate any person concerning the registration of electors or any matter related thereto, (2) to investigate any irregularities in registration, (3) to summon and examine witnesses, and (4) to require the production of any relevant books and papers.

(d) Each commissioner, the chief clerk, and inspectors of registration shall have power to administer oaths and affirmations. Each person testifying before the commission shall be first duly sworn or affirmed.

1937, March 30, P.L. 115, § 4. Amended 1941, July 31, P.L. 710, § 2; 1976, July 1, P.L.476, No. 122, § 2, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment in subsec. (b) inserted "and an official application registration card".

Library References

Elections ⇄ 103.
WESTLAW Topic No. 144.

C.J.S. Elections § 43.
P.L.E. Elections §§ 25 to 27.

Notes of Decisions

In general 1

1. **In general**
Members of Registration Commission of City of Philadelphia could not be

charged with wrongful default allegedly occurring prior to the time the members took office. In re Philadelphia County Grand Jury, April 1943, 32 A.2d 199, 347 Pa. 316, 1943.

§ 623-5. Employes, registrars, inspectors of registration; duties; appointment

(a) The commission shall have power to appoint such assistants, clerks and employes (including inspectors) as, from time to time, it may deem necessary to carry out the provisions of this act. The commission shall also have power to assign such of its assistants, employes or clerks to act as registrars, who shall not receive any additional compensation therefor, at its office or offices as it may, from time to time, deem necessary, and when so acting, such assistants, employes or clerks shall have and may exercise the powers, and shall perform the duties and obligations conferred by, or in accordance with, the law upon registrars.

(b) The commission in each year shall designate the place or places in each or any ward to be used as registration places, and shall appoint two or more registrars for each such registration place as it may deem necessary. Not more than one-half of the number of

registrars appointed for each registration place in each year shall be members of the same political party. All registrars appointed shall be qualified electors of the election district or ward for which they have been appointed, shall be of good moral character, shall not have been convicted of any crime, shall be able to read English in an intelligent manner, and to write legibly, and shall be familiar with qualifications of electors and duties of the registrars. Such registrars shall be empowered to register the qualified electors of such election districts or wards, and in so doing, to administer oaths and affirmations, and shall perform all other duties imposed on registrars by this act and by the registration commission. Nothing in this section shall prevent any registrar from serving as a registrar in any ward or any division of the city, nor shall it prevent the commission from assigning any registrar to register voters in any ward or division of the city.

Each registrar shall receive such compensation as is set by the commission for each day during which he is engaged in the active performance of his duties as registrar. The commission shall designate the duties to be performed by each such registrar appointed by it. The said registrars shall be appointed in the manner as hereinafter provided in subsection (c) of this section.

(c) In each year, at such time as shall be determined by the commission, of which at least fifteen days' notice shall be publicly given, the city chairman of the party having polled the highest vote in the State at the last preceding election in which the Governor was elected and the city chairman of the party having polled the second highest vote in the State at such election may file with the commission a written list of names of members of said party whom such chairman recommends for appointment as registrars at the said registration places. Such lists shall contain the name, address, qualifications and occupation of each person so recommended and shall be open to public inspection in the office of the commission. The commission shall appoint persons whose names appear on such list as the registrars representing such parties. If more candidates are recommended by the chairman of any such party than it is entitled to have appointed, the commission shall appoint those candidates from the names appearing on such list whom the commission finds to be qualified in accordance with the provisions of clause (b) of this section, and if there are not sufficient candidates qualified to serve recommended by any city chairman, the commission may appoint such other persons whom the commission believes qualified.

(d) Should any vacancy occur in the office of registrar of any registration place in any year, by reason of death, resignation, removal from the district or ward, or other cause, the commission shall fill

said vacancy by appointing an elector of the district or ward, as the case may be, who is qualified according to subsection (b) of this section, and who is a registered and enrolled member of the same political party as the registrar or registrars whose office was vacated. The appointment shall be made in like manner as the annual appointments of registrars, as provided by this act.

(e) No registrar or inspector of registration shall exercise any power of his office, nor shall any employe assigned by the commission to act as registrar at any office of the commission so act, until he shall have taken an oath of office, which the commission shall prescribe, and shall have received from the commission a certificate of appointment, setting forth his name and address, the date of his appointment, and the length of time for which he shall have been appointed.

(f) Each commission may appoint such employes as they deem necessary to perform the functions of the office, and to register the voters of the city, and each employe shall be paid compensation as set by the commission.

(g) The registration commission shall have the power to remove any employe, inspector, registrar or other officer appointed or employed by it, but no registrar appointed by the commission under the provisions of clause (c) of this section shall be removed, except for cause.

(h) Any inspector of registration, on his own motion or on complaint of any person to him, may and when directed by the commission, shall—

1. Investigate all questions relating to the registration of electors in such city, and, for that purpose, shall have power to enter and inspect any house, dwelling, building, inn, lodging-house or hotel within such city, and to interrogate any inmate, householder, lodger, lessee, keeper, caretaker, owner, proprietor, or agent thereof or therein, regarding any person or persons residing or claiming to reside thereat or therein without being required to show any warrant for so doing except his certificate of appointment.

2. Inspect and copy any register of lodgers in any lodging-house, inn or hotel relating to or affecting the rights of any persons to vote or to be registered in any such city.

3. Arrest any person without warrant, except any herein privileged from such arrest, who, in the presence of the inspector or registration, violates, or attempts to violate, any of the provisions of this act, when such violation is punishable as a crime.

4. Call on any police or peace officer of such city to assist the inspector of registration in the maintenance of peace at any place of registration, or in making any arrest, or in the performance of any of his duties.

5. Distribute official registration application cards to potential electors.

1937, March 30, P.L. 115, § 5. Amended 1941, July, 31, P.L. 710, § 3; 1976, July 1, P.L. 476, No. 122, § 2, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment in subsec. (b) added the last sentence in the first paragraph and in the second paragraph substituted "such compensation as is set by the commission" for "as compensation ten dollars (\$10.00)"; in subsec. (c) substituted "State at the last preceding election in which the Governor was elected" for "city at the last preceding November election" and substituted "State" for "city"; rewrote subsec. (f); and added subsec. (h)(5). Prior to amendment subsec. (f) read:

"Each commission may appoint a chief clerk, at a compensation not exceeding four thousand dollars (\$4,000) per annum, who shall have authority to administer oaths, sign vouchers, and register persons who are qualified and who appear at the office of the commission, as herein provided; two (2) assistant clerks, each at a salary of not over two thousand dollars (\$2,000) per annum; a chief record clerk at a salary of not over twenty-

four hundred dollars (\$2,400) per annum; a stenographer (who may act as clerk) at a salary of not over eighteen hundred dollars (\$1,800) per annum; a chief inspector at a salary of not over twenty-two hundred dollars (\$2,200) per annum; two custodians of the records, to guard the same while they are open to public inspection, each of whom shall receive not more than fifteen hundred dollars (\$1,500) per annum; a messenger who shall receive not more than twelve hundred dollars (\$1,200) per annum; such stenographers, as they may deem necessary, competent to take notes of testimony, at a compensation not to exceed ten dollars (\$10.00) per diem for the time actually employed at hearings before the commission; and as many clerks, stenographers, and inspectors as they may deem necessary, from time to time, at a compensation not exceeding six dollars (\$6.00) per diem for the time actually employed."

Library References

Elections ⇌100.
WESTLAW Topic No. 144.

C.J.S. Elections § 42 et seq.
P.L.E. Elections §§ 25 to 27.

§ 623-6. Removal of registrars; voter registration in each ward

(a) Any qualified elector of the city may appear before the commission and show wherein any person appointed as a registrar under the provisions of clauses (b) and (c) of section five of this act ¹ does not possess the qualifications requisite for the performance of the duties of his office, or has violated the provisions of this act. If, after public hearing, the commission shall find the charges brought by such elector to be true, the commission shall decline to appoint such person, or remove such registrar.

(b) The commission shall provide for voter registration in each ward of the city during the periods and times provided for in section 17.²

1937, March 30, P.L. 115, § 6. Amended 1941, July 31, P.L. 710, § 4; 1976, July 1, P.L. 476, No. 122, § 2, effective in 30 days.

¹ 25 P.S. § 623-5.

² 25 P.S. § 623-17.

Historical and Statutory Notes

The 1976 amendment rewrote subsec. (b), which formerly read:

"The commissioners shall provide a board of registrars for each ward or district place of registration so appointed not more than one-half of whom shall be of the same party. If it appears at any time that by reason of a change in political affiliation or because of error in appointment a board is not so divided, any ten registered electors of such ward or district may file a petition with the commissioners, setting forth the facts, and

praying that one or more of the appointments may be revoked, and that other appointments may be made. Upon presentation of such a petition, one of the commissioners shall fix a time, not less than five days thereafter, and at least three days' notice shall be given by mail to all the registrars of such board, who are alleged to be of the same party, when a public hearing shall be given all concerned, and if the facts are them found to be as represented, the commissioners shall grant the relief prayed for."

Library References

Elections ⇨100.

WESTLAW Topic No. 144.

C.J.S. Elections § 42.

P.L.E. Elections § 27.

§ 623-7. Counsel; compensation; duties

The commission may employ counsel at a compensation not exceeding fifteen thousand dollars per annum. Such counsel shall advise the commission from time to time regarding its powers and duties and the rights of electors, and concerning the best methods of legal procedure for carrying out the various provisions of this act, and shall appear for and represent the commission on all appeals taken from its decisions or orders to a court of common pleas, as herein provided.

1937, March 30, P.L. 115, § 7. Amended 1976, July 1, P.L. 476, No. 122, § 3, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment in the first sentence deleted "special" preceding "coun-

sel" and raised the maximum compensation from \$3,000 to \$15,000.

Library References

Elections ⇨102.

WESTLAW Topic No. 144.

C.J.S. Elections § 44.

P.L.E. Elections § 25.

§ 623-8. Appropriations; unexpended balances of appropriations

(a) The appropriating authorities of the city shall appropriate annually, and from time to time, the funds that shall be necessary for the maintenance and operation of the commission and the carrying out of the provisions of this act, therein including the payment of the compensation of the commissioners, counsel, and a sufficient number of registrars, inspectors of registration and other assistants and employes, and the fees of witnesses, as herein provided, and likewise for preparing, in accordance with the direction of the commission, securing and distributing, or receiving and preserving, all street lists, registration cards, official nonpersonal voter registration application cards, affidavits, vouchers, notices, account books, stationery and other supplies which the commission shall consider necessary for the purpose of this act, and for all other necessary expenses.

(b) The appropriating authorities of the city shall provide the commission thereof with suitable and adequate main offices, properly furnished, for keeping its records, holding its public sessions, and otherwise performing its duties, and such other offices which it may from time to time deem it advisable to establish for the convenience of the electors in exercising their rights, powers and functions and performing their duties hereunder, and upon failure to do so, the commission may lease such office space for its main office as is reasonably required for the performance of the functions and duties under this act.

(c) Any unexpended balances of any appropriations heretofore made by the appropriating authorities of the city for the purpose of carrying out any provision of any existing registration act, or the amendments thereto, shall be transferred to and made available for the commission hereby created or constituted, for the expense of carrying out the provisions of this act, and all moneys required in addition to any original appropriation in the current year, or any other year, if it shall appear that extra sums are needed.

(d) The commission may accept and use in the performance of their duties funds received from the Federal Government, the Commonwealth, or any other source.

1937, March 30, P.L. 115, § 8. Amended 1941, July 31, P.L. 710, § 5; 1976, July 1, P.L. 476, No. 122, § 4, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment in subsec. (a) inserted "official, nonpersonal voter registration application cards,"; in subsec. (b) following "time to time" deleted "during the period of ninety days preceding any election"; and added subsec. (d).

Library References

Municipal Corporations ☞889.
WESTLAW Topic No. 268.

C.J.S. Municipal Corporations §§ 1885,
1886.
P.L.E. Municipal Corporations § 664.

§ 623-9. Acts and omissions of employes, registrars and inspectors

Any insertion or removal of names or other information in registers, or the amending of any records, done by any employe, registrar or inspector, by order of the commission, shall be construed to have been done by the commission itself, and it shall be the duty of the commission to correct any error in the doing thereof.

1937, March 30, P.L. 115, § 9.

Library References

Elections ☞108.
WESTLAW Topic No. 144.

C.J.S. Elections § 48.
P.L.E. Elections § 27.

§ 623-10. Commissioners may act as registrars and inspectors

A commissioner may act at any time as registrar or inspector of registration and, when so acting, shall have and may exercise the powers, and shall perform the duties and obligations, conferred by or in accordance with law upon registrars and inspectors of registration, respectively.

1937, March 30, P.L. 115, § 10.

Library References

Elections ☞100.
WESTLAW Topic No. 144.

C.J.S. Elections § 42.
P.L.E. Elections § 25.

§ 623-11. Immunity from arrest

Employes or clerks of the commission while acting as registrars,¹ commissioners and inspectors of registration shall be privileged from arrest while performing their duties as such, except upon warrant of a court of record, or judge thereof, for felony, for wanton breach of the peace, or for a criminal violation of this act.

1937, March 30, P.L. 115, § 11. Amended 1941, July 31, P.L. 710, § 6.

¹ "Registrars" is duplicated in enrolled bill.

Library References

Arrest ☞60.
WESTLAW Topic No. 35.

C.J.S. Arrest §§ 6, 10, 11.
P.L.E. Arrest § 36.

§ 623-12. Acts to be done on legal holidays and Sundays

No part of any day fixed for the performance of any duties by any person or official under this act shall be deemed a Sunday or a legal holiday so as to affect ¹ the legality of any work done for the purpose of carrying out the provisions hereof, or the right of any person to any compensation herein provided for rendering any services required hereby, or so as to relieve any person from doing on such day whatever is necessary for such purposes, and such services are hereby declared to be necessary public services.

1937, March 30, P.L. 115, § 12.

¹ Enrolled bill reads "effect".

Library References

Time ⇄ 10(1).
WESTLAW Topic No. 378.

C.J.S. Time § 14(1) et seq.
P.L.E. Time § 24.

§ 623-13. Records and documents to be open to public inspection

The records of the commission, and all district registers, street lists, voting check lists, voters' certificates, affidavits, official nonpersonal voter registration application cards, petitions, appeals, witness lists, accounts, contracts, reports, and other documents in its custody, except the general registers, shall be open to public inspection, except as herein provided, and may be inspected and copied by any qualified elector of the city during ordinary business hours, except when they are necessarily being used by the commission or its employes having duties to perform in reference thereto, or when such inspection or copying shall unreasonably interfere with the proper and efficient performance of the duties and exercise of the functions of the commission or its employes in administering this act. Such public inspection thereof shall only be in the presence of a commissioner or an authorized employe of the commission, and shall be subject to proper regulation for safekeeping of the records and documents and subject to the further provisions of this act. The records and documents of the commission open to inspection by the public shall not be used for commercial or improper purposes. Upon request of a qualified elector, a photocopy of the record shall be provided at cost.

1937, March 30, P.L. 115, § 13. Amended 1941, July 31, P.L. 710, § 7; 1976, July 1, P.L. 476, No. 122, § 4, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment in the first sentence inserted "official nonpersonal voter registration application cards," and add-

ed the provisions relating to commercial or improper use of commission records and to photocopies of records.

Library References

P.L.E. Records § 5.

§ 623-14. Watchers at places of registration; privileges

(a) Any party or body of electors which now is, or hereafter may be, entitled to have watchers at any election, may recommend not more than three electors to act as watchers, without expense to the county, at any place of registration or any office of the commission during the time when it shall remain open for the registration of electors. The commission shall appoint such persons as watchers, and provide them with proper certificates, stating their names and the party which they represent respectively, unless any be shown to have previously been convicted of any crime.

(b) Any watcher shall be entitled to remain at any place of registration or any office of the commission during the time when it shall remain open for the registration of electors, and to keep a list or other memorandum of or concerning the persons applying for registration, and to challenge any person regarding his right to be registered and to inspect any papers produced by such person. The registrars, clerks or employes of the commission acting as registrars, commission, and commissioners shall give every watcher ample opportunity and afford him every convenience for the discharge of his duties: Provided, however, That a registrar, clerk or employe of the commission acting as registrar, inspector, commissioner or the commission may, at any time, require any watcher to show his certificate of appointment: And provided, That not more than one watcher for each party or body of electors represented shall be allowed in a place of registration or an office of the commission at any one time, unless the commission by regulation shall provide otherwise.

1937, March 30, P.L. 115, § 14. Amended 1941, July 31, P.L. 710, § 8.

Cross References

Watchers at elections, see 25 P.S. § 2687.

Library References

Elections ⇐101.
WESTLAW Topic No. 144.

C.J.S. Elections § 42.
P.L.E. Elections § 25.

§ 623-15. Watchers or attorneys at sessions of commission

(a) Any party shall be entitled to appoint watchers, who are qualified electors of the city, or attorneys to represent such party at any public session or sessions of the commission.

(b) Any party or body of electors which now is, or hereafter may be, entitled to have watchers at any place of registration or at any election, may recommend not more than three (3) qualified electors of the city, or attorneys to serve as watchers or to represent such party or body of electors at any public session or sessions of the commission. The commission shall appoint such electors or attorneys to serve as watchers or to represent such parties or bodies at such sessions of the commission.

(c) All watchers or attorneys appointed or selected, in the manner provided by subsections (a) and (b) of this section, may exercise the same rights under the same conditions at any public session or sessions of the commission as watchers at places of registration or offices of the commission open for the registration of electors.

1937, March 30, P.L. 115, § 15. Amended 1941, July 31, P.L. 710, § 9.

Library References

Elections ¶209.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 192, 200.
P.L.E. Elections § 8.

§ 623-16. Candidates may be present at proceedings

Every candidate for nomination or election to any office shall be entitled to be present in person or by attorney in fact duly authorized, to participate in any proceeding before any commission whenever any matters which may affect his candidacy are being heard.

1937, March 30, P.L. 115, § 16.

§ 623-17. Day and hours of registration; places of registration; use of polling places; payments of rentals; use of school buildings; public notice

(a) The commission, or any commissioner, employe or clerk assigned for that purpose shall at the main office of the commission, during ordinary business hours, and during such additional hours as the commission shall from time to time prescribe, on each day, and on such days and during such hours as the commission may from time to time designate at other offices in the city which the commission shall from time to time have power to establish and discontinue, the days hereinafter provided for the registration of electors in the districts or wards, the day of each election and each primary, the thirty days next preceding each general, municipal and primary

election, receive personal applications from persons who claim that they are entitled to be registered as electors of the city and who appear for registration: Provided, however, That in case of a special election within a certain district (congressional, senatorial or representative), held on a day other than the day of a primary, general or municipal election, the registration of electors shall be discontinued in the wards comprising such district for the period of thirty days prior to such special election. In each year the commission may also, when it considers it necessary for the convenience of the electors, provide one or more places of registration in each or any ward of the city, at which two or more registrars, as the commission may deem necessary, shall be present to receive personal applications from qualified electors of the city who claim that they are entitled to be registered, which registrars shall be present thereat during the hours specified by the commission and on such days as may be selected by the commission, which shall be not less than thirty days, prior to any general, municipal or primary election: Provided further, however, That with respect to any person who shall become a citizen of the United States on a day subsequent to the sixtieth day prior to any election or primary, but at least one month prior to the day of such election or primary, the commission or any commissioner, employe or clerk assigned for that purpose shall receive personal applications from such person if he or she is otherwise qualified at the office of the registration commission until the thirtieth day prior to such election or primary during ordinary business hours on the days hereinbefore provided for the registration of electors in the districts or wards.

(b) The commissioners in charge of elections shall cause any polling place to be open, in proper order for use, as a place of registration, on each day when such polling place may be desired by the registration commission for use as a place of registration; and the appropriating authorities of the county shall provide for the payment of all rentals for such polling places and other places of registration.

(c) The board of public education or school directors of each school district shall furnish suitable space, room or rooms in any public school building under its jurisdiction or control, and shall cause such space, room or rooms to be open and in proper order for use as a place of registration on each day when such room or rooms may be desired by the registration commission for use as a place of registration: Provided, That such use shall not interfere with instruction for the conduct of which such board of public education or school directors shall be responsible.

(d) The proper city or county authorities shall furnish suitable space, room or rooms in the city hall or any of its annexes or other municipal or county building under their jurisdiction or control, and shall cause such space, room or rooms to be open on each day when such space, room or rooms may be desired by the commission for use as a place of registration or as an office of the commission: Provided, That such use shall not interfere with the use for which such room or rooms is primarily designed.

(e) The commission shall in reasonable time publicly announce the address of each place of registration, each office of the commission established for the registration of electors other than its main office, and the days and hours when the place or office shall be open for the registration of electors, by posting thereat and at its main office a notice thereof and by such other means as it shall deem advisable. 1937, March 30, P.L. 115, § 17. Amended 1941, July 31, P.L. 710, § 10; 1945, May 23, P.L. 898, § 1; 1947, March 5, P.L. 21, § 1; 1951, May 16, P.L. 305, § 1; 1956, May 25, P.L. (1955) 1746, § 1; 1972, July 12, P.L. 776, No. 183, § 1, imd. effective; 1973, March 26, P.L. 9, No. 3, § 1, imd. effective; 1976, July 1, P.L. 476, No. 122, § 5, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment rewrote subsec. (a), and in subsec. (e) preceding "by such other means" deleted "at least five placards or notices thereof in conspicuous places in the neighborhood of such place of registration or office, and".

Prior to amendment, subsec. (a) read: "The commission, or any commissioner, employe or clerk assigned for that purpose shall at the main office of the commission, during ordinary business hours, and during such additional hours as the commission shall from time to time prescribe, on each day, and on such days and during such hours as the commission may from time to time designate at other offices in the city which the commission shall from time to time have power to establish and discontinue, except Sundays, holidays, the days hereinafter provided for the registration of electors in the districts or wards, the day of each election and each primary, the thirty days next preceding each general, municipal and primary election, and the thirty days next following each election and the five days next following each primary, receive personal applications from persons who claim that they are entitled to be registered as electors of the city and who appear for registration: Provided, however, That in case of a special election with-

in a certain district (congressional, senatorial or representative), held on a day other than the day of a primary, general or municipal election, the registration of electors shall be discontinued in the wards comprising such district for the period of thirty-five days prior to and the five days next following such special election. In each year the commission may also, when it considers it necessary for the convenience of the electors, provide one or more places of registration in each or any ward of the city, at which two or more registrars, as the commission may deem necessary, shall be present to receive personal applications from qualified electors of the city who claim that they are entitled to be registered, which registrars shall be present thereat between the hours of seven antemeridian and one postmeridian, and between the hours of four and ten postmeridian on such days as may be selected by the commission, which shall be not more than sixty days, and not less than thirty days, prior to any general, municipal or primary election: Provided, further, however, That with respect to any person who shall become a citizen of the United States on a day subsequent to the sixtieth day prior to any election or primary, but at least one month prior to the day of such election or primary, the commission or any commis-

sioner, employe or clerk assigned for that purpose shall receive personal applications from such person if he or she is otherwise qualified at the office of the registration commission until the thirtieth

day prior to such election or primary during ordinary business hours except Sundays, holidays and the days hereinbefore provided for the registration of electors in the districts or wards."

Cross References

Thirty day durational residence requirement, see 25 P.S. §§ 623-17, 623-25, 951-16, § 951-19.

Library References

Elections ¶97, 105.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 38, 39.
P.L.E. Elections § 26.

Notes of Decisions

Place of registration 1
Students 2

1. Place of registration

All places of voter registration must be open to the public at large. *Devlin v. Osser*, 254 A.2d 303, 434 Pa. 408, 1969.

Requirement that all places of voter registration be open to the public at large was not observed in instant case, a suit brought to enjoin city commissioners from conducting proposed in-plant field registration officers, including those within specified plant, where the registration for employees of the specified plant was to take place in the cafeteria, admittedly closed to the general public, and where the registration facilities concomitantly

set up in the plant lobby, which facilities apparently were open to the public, were inherently inadequate and unequal to the cafeteria facilities. *Devlin v. Osser*, 254 A.2d 303, 434 Pa. 408, 1969.

System in which right to register at particular place is denied to all but a select few is at least as constitutionally faulty as one in which weight of a person's vote is diluted because of his place of residence. *Devlin v. Osser*, 254 A.2d 303, 434 Pa. 408, 1969.

2. Students

Local voter registration officials shall keep open voter registration offices to permit students to register to vote for a reasonable time beyond September 13, 1971. 1971 Op.Atty.Gen. No. 66.

§ 623-18. Repealed. 1976, July 1, P.L. 476, No. 122, § 6, effective in 30 days

Historical and Statutory Notes

The repealed section related to disposition of old registration lists effective un-

der prior laws and was derived from act 1937, March 30, P.L. 115, § 18.

§ 623-19. Registration cards; preparation and distribution

(a) For the purpose of registering the qualified electors of the city, the commission shall prepare registration cards, serially numbered, in duplicate or triplicate, as the commission may determine, and containing spaces for entering the information required by section twenty and twenty and one-tenth of this act,¹ and either the following affidavit or the affidavit prescribed in section twenty and one-tenth, as the case may be:

REGISTRATION AFFIDAVIT

State of Pennsylvania)
) ss:
County of)

I hereby swear, or affirm, that I am a citizen of the United States, that on the day of the next election I shall be at least eighteen years of age, and shall have resided in the State of Pennsylvania thirty days and in the election district thirty days, that I am legally qualified to vote, that I have read (or have had read to me) the foregoing statements made in connection with my registration and that they are true and correct.

Subscribed and sworn to before me this
day of

.....
(Signature of Registrar or Person Authorized to act as Registrar)

.....
Signature of Voter

(b) Subject to the foregoing provisions of this section, the Secretary of the Commonwealth shall prescribe the form of such registration cards.

(c) Each card shall be printed on stock of good quality, shall be of suitable uniform size, and shall be filled out in duplicate or triplicate, as the commission may determine, for such applicant for registration. The commission shall provide suitable binders and cabinets for filing and indexing the original and duplicate registration cards, which binders and cabinets can be locked. The keys of all such binders and cabinets shall at all times be retained by the commission.

(d) The commission shall keep a record of the serial numbers of the registration cards issued from time to time to each registrar or person authorized to act as registrar, and may, if and when the commission deems it advisable, keep a record by serial number of each registration card prepared by or for it showing the name, ward and district of the elector, if any, registered upon such card and whether such registration or card has been cancelled, voided, lost, destroyed or otherwise removed from the district registers.

(e) Before ten o'clock antemeridian on the day following the last day for registration before an election or primary, and at such other times as the commission may prescribe, each registrar shall return to the commission, at its office, all registration cards used or unused in his possession, and shall account fully in writing for each missing card.

(f) Unused registration cards may be reissued by the commission, but the commission shall reserve all other papers, records and memoranda as a part of its record.

1937, March 30, P.L. 115, § 19. Amended 1941, July 31, P.L. 710, §§ 2, 11; 1941, Aug. 1, P.L. 702, § 2; 1976, July 1, P.L. 476, No. 122, § 7, effective in 30 days.

¹ 25 P.S. §§ 623-20 and 623-20.2.

Historical and Statutory Notes

The 1976 amend rewrote the first paragraph of the affidavit which formerly read:

"I hereby swear, or affirm, that I am a citizen of the United States, that on the day of the next election I shall be at least twenty-one years of age, and shall have resided in the State of Pennsylvania for one year (or, having previously been a

qualified elector or a native born citizen of the State, and having removed and returned, then six months) next preceding said election, and in the election district two months, that I am legally qualified to vote, that I have read (or have had read to me) the foregoing statements made in connection with my registration and that they are true and correct."

Library References

Elections ⇨ 106.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46.

P.L.E. Elections §§ 24, 26.

§ 623-19.1. Official nonpersonal voter registration application cards; preparations and distribution

(a) For the purpose of enabling qualified electors of each city of the first class to register to vote, the Secretary of the Commonwealth shall cause to be prepared and printed at the expense of the Commonwealth, nonpersonal voter registration application cards containing spaces for entering the information required by sections 20, 20.1 and 20.2 of this act.¹ The form shall be a bifold self mailer so designed as to preserve the confidentiality of the information required to be submitted by the registrant. The form shall also be designed in order to require the applicant to affix two signatures, one signature to be affixed under the declaration of the applicant and the other signature on a removable label or other device to be affixed under the information required of the applicant. In addition, the form shall include a detachable portion on which the registrant shall print his name, present residential address, postal designation and zip code. Such portion shall include on the reverse side, printed notification to the registrant that his application form has been received and is being processed by the county registration commission. Such notification shall be sent within three days from receipt thereof, by first class non-forwardable mail, return postage guaranteed, with all postage costs to be paid by the State.

The Secretary of the Commonwealth may also cause to be printed bilingual forms for use of applicants in those jurisdictions wherein

there is a single language minority and shall cause such bilingual forms to be printed in those jurisdictions wherein a single language minority exceeds five percent and in such jurisdiction shall cause a public educational program to be conducted among that language group alerting both organizations and individuals of that group of the availability of such forms and encouraging unregistered voters to register.

The form shall contain the following information:

(1) Notice that those currently registered do not need to re-register unless they have moved or failed to vote at least once during the immediately preceding two calendar years.

(2) Notice of a registrant's right to also register in person.

(3) Instructions on how to fill out and submit the application card and that the card must be received by the appropriate county registration commission at least thirty days prior to the ensuing primary or election at which the applicant may offer to vote.

(4) Notice that the registrant must be a citizen of the United States for at least one month, a resident of Pennsylvania, the county and the election district for at least thirty days, and must be eighteen years old on or before the day following the ensuing primary or election at which the registrant offers to vote.

(5) Notice that political party enrollment is mandatory to vote in a primary election of a political party.

(6) Notice that the voter notification stub from the application card form will be mailed non-forwardable and advising the registrant to contact the county registration commission in the event such notification stub is not received within ten days from the date the application is sent to the county board of elections.

(7) Information designating the name of each county seat together with its post office mailing address and zip code and telephone number.

(8) Notice that registration or enrollment is not complete until the application card is processed, and accepted by the commission.

(9) A warning to the registrant that the State penalty for making a false registration or furnishing false information shall be perjury punishable by fine of one thousand dollars (\$1,000) and/or five years imprisonment, plus loss of suffrage for ten years.

(10) Instructions to Federal or State employes who wish to retain voting residence in the county of last residence to so indicate on the application form.

(11) A notice that the telephone number of the registrant may be inserted in a place provided therefore.

(b) The Secretary of the Commonwealth shall supply such official registration application forms to all county registration commissions, who shall supply forms when requested to any person, and to all Federal, State, county, local governmental and school district offices, to all political parties, political bodies, candidates, organized bodies of citizens, community service organizations, leagues of women voters, postmasters of all post offices and to any civic, religious, educational, fraternal, labor, news-media, charitable or business organizations interested therein. In addition, the Secretary of the Commonwealth shall request the proper governmental agency to make an official registration application card available to all persons applying for or changing address for driver's license, library cards, senior citizen transportation passes, entry to all schools and institutions of higher education. Furthermore, the Secretary of the Commonwealth may provide technical assistance to county registration commissions upon request and shall contract with the United States Postal Service for the payment of all postage costs for the transmittal of said official registration application cards to the registration commission by the registrant and the transmittal of the notification receipt form to the registrant by the registration commission.

1937, March 30, P.L. 115, § 19.1, added 1976, July 1, P.L. 476, No. 122, § 8, effective in 30 days.

¹ 25 P.S. §§ 623-20 to 623-20.3.

§ 623-19.2. Change of registration by mail

(a) Any registered elector may change his registration in the same manner as section 19.1¹ provides for registration by mail.

(b) The Secretary of the Commonwealth shall cause to be prepared and printed at the expense of the Commonwealth forms upon which a registered elector may change his registration by mail in a similar fashion as provided for in section 19.1.

1937, March 30, P.L. 115, § 19.2, added 1982, Feb. 16, P.L. 36, No. 22, § 1, imd. effective.

¹ 25 P.S. § 625-19.1.

Library References

Elections ⇨108.
WESTLAW Topic No. 144.
C.J.S. Elections § 48.

§ 623-20. Manner of registration

(a) Every person claiming the right to be registered as an elector may appear in person before the commission, a commissioner, a clerk or employe of the commission acting as registrar or a registrar

at the main office of the commission, or at such other office or place as the commission shall have designated, and answer the questions required to be asked in accordance with this act or may register in any other manner provided by this act.

(b) When registering in person, he shall first be sworn or affirmed to the truth of the statements which he is about to make, and informed that any wilful false statement will constitute perjury and will be punishable as such. He then shall be asked to state the facts required herein, and his answers, together with the other information herein required, shall be recorded in his presence by the registrar or by the person authorized to act as a registrar or commission, in permanent writing or typewriting, in triplicate or duplicate, as the commission may determine, in the proper spaces on the registration cards, as follows:

(c)(1) The surname of the applicant; (2) his Christian name or names; (3) his occupation; (4) the street and number of his residence; (5) if his residence is a portion only of the house, the location or number of the room, apartment, flat or floor which he occupies; (6) the length of his residence in the State and district, respectively; (7) such information relating to the applicant's prior registration and voting record as the commission shall by regulation deem it necessary or advisable to require; (8) the sex of the applicant; (9) the color of the applicant; (10) the state or territory of the United States, or the foreign country, where he was born; (11) the date when, place where, and the court by which naturalized, and number of the naturalization certificate; (12) if not naturalized personally, the name of father, mother or spouse through whom naturalized; (13) whether he is entitled to receive assistance in voting because by reason of illiteracy he is unable to read the names on the ballot or on the voting machine labels, or because he has a physical disability which renders him unable to see or mark the ballot or operate the voting machine or to enter the voting compartment or voting machine booth without assistance, and, if so, his declaration of that fact and his statement of the exact nature of such disability; (14) the designation of the political party of the elector, for the purpose of voting at primaries; (15) the affidavit of registration, which shall be signed by the elector, attested by the signature of the registrar, commissioner, clerk or employe and dated by him; (16) his height, in feet and inches; (17) the color of his hair; (18) the color of his eyes; and (19) the date of his birth or, unless he claims to have been naturalized through either his father or mother, or unless such date is otherwise material in the determination of citizenship, a statement that he has attained his majority; (20) if an applicant claims naturalization through his marriage to a citizen, the date and place of marriage. Each registration card shall also have a sufficient number

of spaces thereon for the insertion of (21) the ward and election district in which the elector resides and to which he may from time to time remove, together with his street address in each such district, and the other data required to be given upon such removal; (22) the date of each election and primary at which the elector votes, and the number of stub of ballot issued or number of admission to voting machine, and party at primary; (23) the signature or initials of the election officer who enters the record of voting on the card: Provided, however, That the commission may to more effectually carry out the provisions of this act from time to time alter or change the form of registration cards, the order in which the information shall be recorded thereon and provide additional spaces for the recording of such other information concerning the identity of the applicant or naturalization data of foreign born applicants as it may deem necessary.

(d) The applicant shall subscribe, by oath or affirmation, to the registration affidavit on all copies of the registration card. This card will hereafter be referred to in this act as the registration card or registration affidavit. When filed for the whole city, the registration affidavits will be known as the General Registers; when filed by election districts, as the District Registers.

(e) If the applicant shall allege inability to sign his name, the registrar or clerk shall require him to present the affidavits, subscribed in person before a registrar, commissioner, or clerk, of two electors who are personally acquainted with the applicant and who know his qualifications as an elector. Each of said two electors shall state in his affidavit the applicant's residence, his own residence, his knowledge of the statements made by the applicant under oath or affirmation in applying for registration, and his belief that they are true. Upon the filing thereof, the applicant shall be permitted to subscribe to his oath or affirmation by making his mark, except that if the applicant's inability to sign his name is not due to some apparent physical infirmity, he shall first also be required to make and file with the registrar or clerk an affidavit of his inability to sign his name. Every affidavit required because of an applicant's inability to sign his name shall be filed with a copy of the registration affidavit of the person whose registration it affects, and shall be returned therewith to the office of the registration commission.

(f) Any person employed in the service of this Commonwealth or in the service of the Federal Government, and required thereby to be absent from the city wherein he resided when entering such employment, his wife, or her husband, unless actually separated and living apart, shall be registered as of the district wherein he or she shall have resided immediately prior to entering such service, and be

enrolled as a member of the political party he or she designates without declaring a residence by street and number. All persons employed by this Commonwealth who register in this manner, shall produce a certificate from the head of the proper department, board, commission or office, under the seal of his office setting forth that said person, or the husband or wife of said person, is actually employed in the service of this Commonwealth, and also setting forth the nature of such employment and the time when such person first entered such employment.

All persons employed by the Federal Government who register in this manner, shall produce a certificate from the head of the proper department or chief of the proper department or chief of the proper division or bureau, under the seal of his office, setting forth that said person, or the husband or wife of said person is actually employed in the service of the United States, and also setting forth the nature of such employment and the time when such person first entered such employment.

The commission shall retain such certificates and shall cause to be noted on the registration card of each person so registered the fact that such person is an employe of this Commonwealth or of the Federal Government as the case may be.

(g) At least once every two years the commission shall verify the employment of all persons thus registered, at either the office of the head of the proper department, board, commission or office, of the State Government in whose employ such person is alleged to be, or at the office of the department, division or bureau of the Federal Government in whose employ such person is alleged to be. If any such person is found to be no longer an employe of this Commonwealth or of the Federal Government, his registration card shall be removed from the district register until such time as said person appears at the office of the commission and declares the street and number of his residence in the city.

1937, March 30, P.L. 115, § 20. Amended 1941, July 31, P.L. 710, § 12; 1943, May 27, P.L. 707, §§ 1, 2; 1961, Sept. 19, P.L. 1493, § 1; 1976, July 1, P.L. 476, No. 122, § 9, effective in 30 days; 1978, Oct. 4, P.L. 934, No. 179, § 1, effective in 60 days.

·Historical and Statutory Notes

The 1976 amendment rewrote subsec. (a), and in subsec. (b) inserted "When registering in person". Prior to amendment, subsec. (a) read:

"Every person claiming the right to be registered as an elector must appear in person before the commission, a commissioner, a clerk or employe of the commis-

sion acting as registrar or a registrar at the main office of the commission, or at such other office or place as the commission shall have designated, and answer the questions required to be asked in accordance with this act.

"Every person claiming the right to be registered as an elector who is physically

disabled so that he cannot appear in person to be registered may request, in writing, that the registration commission send a registrar to the residence of such person for the purpose of registering such person in the same manner as required by law of other persons appearing for registration. The letter requesting such registration shall be accompanied by a statement of the physician attending such person, stating that such person is physically disabled to the extent that such person is unable to appear at any of the

established places for registration. Upon receipt by the registration commission of such a letter duly accompanied by the required physician's statement, the registration commission shall direct one of its registrars to go to the residence of such disabled person and register him or her, as the case may be."

The 1978 amendment substituted "spouse" for "husband" in subsec. (c)(12) and substituted "his" for "her" in subsec. (c)(20).

Library References

Elections ⇐106.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46.
P.L.E. Elections § 26.

Notes of Decisions

Name 3
Personal registration 2
Validity 1

1. Validity

Pennsylvania voter identification provisions of §§ 623-20.2 and 951-18 to 951-18.2 of this title and this section, requiring registrant to record his race are reasonably related to legitimate state interest of preventing voter fraud and do not violate privileges and immunities and equal protection clauses (U.S.C.A. Const. Amends. 14, 15). *Kemp v. Tucker*, 396 F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

Provisions of §§ 623-20.2 and 951-18 to 951-18.2 of this title and this section, permitting voter registration officials to reject registration application on ground that "color" entry on registration card has not been completed were not shown to violate Fifteenth Amendment (U.S.C.A. Const. Amend. 15). *Kemp v. Tucker*, 396 F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

Provisions of §§ 623-20.2 and 951-18 to 951-18.2 of this title and this section, authorizing registration officials to require completion of color portion of registration card as precondition to registration were not shown to violate Fourteenth Amendment prohibition against arbitrary state action (U.S.C.A. Const. Amend. 14). *Kemp v. Tucker*, 396 F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

Pennsylvania voter identification provisions of §§ 623-20.2 and 951-18 to 951-18.2 of this title and this section, requiring that registrant record his race do not violate federal voting statute prohibiting distinction of race or color, 42 U.S.C.A. § 1971(a)(1), or Const. Art. 7, § 1 provisions specifying qualifications of electors. *Kemp v. Tucker*, 396 F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

2. Personal registration

Superior Court was required to assume that registrar, in registering voter, used the statutory tests prescribed for purpose of identification and was satisfied that voter answered description. *Com. v. Middleton*, 4 A.2d 533, 134 Pa.Super. 573, 1939.

System of original annual registration of voters in election districts in which personal registration is not required, is inapplicable to Philadelphia, where personal registration is required. *Duane v. Clark*, 20 D. & C. 602, 1934.

3. Name

A married woman may register to vote under her birth name, revert to her birth name from her married name on her registration, or retain her married name on her registration if she chooses, as long as she consistently utilizes that name for purposes of identification. 1973 Op.Atty. Gen. No. 72.

Surname means either the last name assigned at birth, the last name of a husband if so selected by a married woman,

the last name as changed by court order, or the last name by which the person is and has been known as demonstrated by

reasonable evidence. 1973 Op.Atty.Gen. No. 72.

§ 623-20.1. Renumbered as § 623-20.1A in 1976**§ 623-20.1A. Voter's identification card; registration statements**

(a) When the nonpersonal registration of an elector has been fully processed and accepted, the commission shall transmit to such registered elector by first class non-forwardable mail a wallet sized voter's identification card setting forth the same information required in subsection (b).

(b) When the personal registration of an elector has been completed, the registrar, commissioner, employe or clerk shall deliver to such registered elector a wallet sized voter's identification card setting forth the name and address of the elector, his ward and district, the fact of registration, designation of party enrollment, the date thereof, the serial number of the elector's registration card, space wherein the elector shall affix his signature or mark, and such other information as the commission may deem advisable. Each such statement shall contain a warning to the effect that the said statement relates only to the time of the issuance thereof and is not of itself evidence or proof of the elector's qualifications to vote at any election or primary. Upon request made at the office of the commission by any registered elector who has been registered prior thereto, the commission, if satisfied that such elector is a qualified elector of the district in which he is registered, shall mail or deliver such a statement of his registration to such elector.

1937, March 30, P.L. 115, § 20.1, added 1941, July 31, P.L. 710, § 13. Amended 1947, June 28, P.L. 1030, § 1; 1976, July 1, P.L. 476, No. 122, § 11, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment renumbered the section as § 20.1A of the original act and rewrote the section, which formerly read:

"When the registration of an elector registered thereafter has been completed, the registrar, commissioner, employe or clerk shall deliver to such registered elector a written or printed statement signed by such registrar, commissioner, employe or clerk, setting forth the name and address of the elector, his ward and district, the fact of registration, designation of party enrollment, the date thereof, the serial number of the elector's regis-

tration card, space wherein the elector shall affix his signature or mark, and such other information as the commission may deem advisable. Each such statement shall contain a warning to the effect that the said statement relates only to the time of the issuance thereof and is not of itself evidence or proof of the elector's qualifications to vote at any election or primary. Upon request made at the office of the commission by any registered elector who has been registered prior thereto, the commission, if satisfied that such elector is a qualified elector of

the district in which he is registered, shall mail or deliver such a statement of his registration to such elector."

Library References

Elections ☞106.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46.

P.L.E. Elections § 26.

§ 623-20.2. Manner of registration by persons in military service, persons in the Merchant Marine, persons in religious and welfare groups officially attached to and serving with the Armed Forces and civilian federal personnel overseas and their spouses and dependents

In addition to any other method herein provided, the following persons may also be registered in the manner hereinafter set forth under this section: (1) any person in military service, his spouse and dependents; or (2) any person in the Merchant Marine, his spouse and dependents; or (3) any person in religious and welfare groups officially attached to and serving with the Armed Forces, his spouse and dependents or (4) any person who is a civilian employe of the United States outside the territorial limits of the several states of the United States and the District of Columbia, whether or not such person is subject to the civil service laws and the Classification Act of 1949¹ and whether or not paid from funds appropriated by the Congress, his spouse and dependents.

(a) He may submit to the commission an official registration application card, the form of which shall be determined and prescribed by the Secretary of the Commonwealth. The commission is hereby authorized to consider a request for an absentee ballot from any person enumerated in this section as a request for an official registration application card and to cause to be forwarded to any such person, together with his absentee ballot and balloting material, an official registration application card, to be completed and the declaration signed prior to or concurrently with the time of voting the absentee ballot: Provided, however, That the envelope containing such executed official registration application card shall be received at the office of the commission no later than the last date provided by law for the return of absentee ballots.

(b) The official registration application card shall require the statement of, and shall provide sufficient space for the following information: (1) The surname of the applicant, (2) his Christian name or names, [(3) deleted], (4) the street or road and number, if any, of his home residence and the date of leaving same, provided that in the event that there is no street address, the applicant must list the

nearest cross street or road, (5) if his residence was a portion only of a house, the location or number of the room or rooms, apartment, flat or floor which he occupied, (6) the date his residence began at the place which is his home residence, (7) his home residence address when he last registered and the year of such registration, including any former registration under any other surname, (8) the sex of the applicant, (9) the color of the applicant, (10) the state or territory of the United States or the foreign country where he was born, [(11), (12) deleted], (13) whether he is unable by reason of illiteracy to read the names on the ballot or voting machine labels, (14) whether he has a physical disability which will render him unable to see or mark the ballot or operate the voting machine or to enter the voting compartment or voting machine booth without assistance, and, if so, his declaration of that fact and his statement of the exact nature of such disability, (15) the designation of the political party of the elector for the purpose of voting at primaries, (16) the declaration of registration, as hereinafter prescribed, which shall be signed by the elector, (17) the height of the applicant in feet and inches, (18) the color of his hair, (19) the color of his eyes, (20) the date of his birth, (20.1) the designation by the applicant that the official registration application card is intended by the applicant for use as new registration, change of address or change of name. Each registration card for registration by persons registering under this section shall also have (21) a sufficient number of spaces thereon for the insertion by the commission, but not by the applicant, of the ward and election district, if any, in which the applicant resided on the date of leaving home residence and to which he may from time to time remove after returning to his home residence, together with his street address in each such ward and district and the other data required to be given upon such removal, (22) the date of each election and primary at which the applicant votes after registration, the number and letter, if any, of the stub of the ballot issued to him, or his number in the order of admission to the voting machines, and (23) the signature or initials of the election officer, commissioner, registrar or clerk, who enters the record of voting on the card. Immediately following the spaces for inserting the required information, the applicant shall affix his signature exactly as it appears in clauses (1) and (2).

(c) In addition, the foregoing registration card shall contain the following affidavit:

REGISTRATION DECLARATION

I hereby declare that I am a citizen of the United States, that on the day of the next ensuing primary or election I shall be at least eighteen years of age, and shall have resided in the Commonwealth

of Pennsylvania and in the election district thirty days, that I affirm that the information provided herein is true and correct, that I am legally qualified to vote and that I fully understand that this application will be accepted for all purposes as the equivalent of an affidavit, and if it contains a material false statement, shall be subject to the same penalties for perjury as if I had been duly sworn.

.....
Printed name of applicant.

.....
Signature of applicant for registration.

PENALTY FOR FALSIFYING DECLARATION

If any person shall sign an official registration application card knowing any statement declared therein to be false, he shall be guilty of perjury, and upon conviction, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), or be imprisoned for a term not exceeding five years, or both, at the discretion of the court. In addition, sentence shall include loss of the right of suffrage absolutely for a term of ten years.

(d) Any person registering to vote under this section who is unable to sign his official registration application card shall make his mark and acknowledge same before an officer qualified to take acknowledgments of deeds.

(e) Registration in the manner prescribed for by persons registering under this section may be made at any time.

(f) The status of any person qualified to register under this section with respect to residence shall remain as the same home residence from which he is qualified to register: Provided, however, That if at the time of leaving such home address any person shall not have resided in Pennsylvania or in a particular election district thereof for a sufficient time to have been entitled to be registered, but by continued residence would have become so entitled, he shall be entitled to be registered at such time as he would have been so entitled had he not left such home address and had continued to reside where he then resided.

(g) Official registration application cards returned by persons qualified to register under this section to any registration commission shall be examined by a member of the commission or any clerk or registrar upon being received. The right of such person to be registered shall be subject to challenge for any reason for which a personal registration may be challenged and for the failure to have mailed the commission a properly completed official registration

application card. If the commission finds the official registration application card not properly completed it shall reject it in the manner hereinafter provided.

1937, March 30, P.L. 115, § 20.1, added 1941, Aug. 1, P.L. 702, § 3. Amended 1963, Aug. 14, P.L. 900, § 3, effective Jan. 1, 1964; 1976, July 1, P.L. 476, No. 122, § 10, effective in 30 days.

¹ 5 U.S.C.A. § 5101 et seq.

Historical and Statutory Notes

The 1976 amendment rewrote the subsecs. (a), (b), (c), (d) and (g), which formerly read:

"(a) He may make application to the commission for a registration card. The commission is hereby authorized to consider a request for an absentee ballot from any person enumerated in this section as an application for a registration card and to cause to be forwarded to any such person, together with his absentee ballot and balloting material, a registration card, in duplicate, to be completed and sworn to or affirmed prior to or concurrently with the time of voting the absentee ballot: Provided, however, That the envelope containing such executed duplicate registration cards shall bear a postmark no later than the day of the primary or election for which the absentee ballot is being voted and shall be received at the office of the commission no later than the date as provided by law for the canvassing of absentee ballots.

"(b) The registration card shall require the statement of, and shall provide sufficient space for the following information: (1) The surname of the applicant, (2) his Christian name or names, (3) his civilian occupation, if any [on the date of entering military service], (4) the street or road and number, if any, of his home residence [on] and the date of [entering military service] leaving same, (5) if his residence was a portion only of a house, the location or number of the room or rooms, apartment, flat or floor which he occupied, (6) the date his residence began at the place which is his home residence, (7) his home residence address when he last registered and the year of such registration, including any former registration under any other surname, (8) the sex of the applicant, (9) the color of the applicant, (10) the state or territory of the United States or the foreign country where he was born, (11) the date when,

place where, and the court by which naturalized, and the number of the naturalization certificate, (12) if not naturalized personally, the name of father, mother or husband through whom naturalized, (13) whether he is unable by reason of illiteracy to read the names on the ballot or voting machine labels, (14) whether he has a physical disability which will render him unable to see or mark the ballot or operate the voting machine or to enter the voting compartment or voting machine booth without assistance, and, if so, his declaration of that fact and his statement of the exact nature of such disability, (15) the designation of the political party of the elector for the purpose of voting at primaries, (16) the affidavit of registration, as hereinafter prescribed, which shall be signed by the elector, attested by the signature of any person authorized to administer oaths, (17) the height of the applicant in feet and inches, (18) the color of his hair, (19) the color of his eyes, (20) the date of his birth. Each registration card for registration by persons registering under this section shall also have (21) a sufficient number of spaces thereon for the insertion by the commission, but not by the applicant, of the ward and election district, if any, in which the applicant resided on the date of leaving home residence and to which he may from time to time remove after returning to his home residence, together with his street address in each such ward and district and the other data required to be given upon such removal, (22) the date of each election and primary at which the applicant votes after registration, the number and letter, if any, of the stub of the ballot issued to him, or his number in the order of admission to the voting machines, and (23) the signature or initials of the election officer, commissioner, registrar or clerk, who enters the record of voting on the card: Provided,

however, That the applicant may state (24) his social security number.

“(c) In addition, the foregoing registration card shall contain the following affidavit:

“REGISTRATION AFFIDAVIT

“I hereby swear or affirm that I am a citizen of the United States, that on the day of the next election I shall be at least twenty-one years of age, and shall have resided in the Commonwealth of Pennsylvania for one year (or having previously been a qualified elector or a native born citizen of the Commonwealth and having removed and returned, then six months) and in the election district sixty days, that I have read (or have had read to me) the foregoing statements made in connection with my registration and that they are true and correct and that I am legally qualified to vote.

.....
“Signature of applicant
for registration.

“Sworn to and subscribed before me this
..... day of
19....

.....
“Signature of any person authorized to
administer oaths.”

“(d) Upon written application by any person who may register under the provisions of this section to the registration commission having jurisdiction in the city in which the applicant resided on the date of leaving his home residence, a registration card, in the form herein prescribed, in duplicate, shall be mailed to the applicant at the address given in such application. Such person shall thereupon supply the information required on the registration card, in duplicate, and shall take the affidavit thereto, in duplicate, in the presence of any person authorized to administer oaths, and shall mail the same, in duplicate, to the registration commission from which it was procured.

“(g) Registration cards returned by persons qualified to register under this section to any registration commission shall be examined by a member of the commission or any clerk or registrar upon being received. The right of such person to be registered shall not be subject to challenge for any reason other than failure to have mailed the commission a properly completed registration card. If the commission finds the registration card not properly completed it shall reject it in the manner hereinafter provided.”

Library References

Elections ⇐106.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46.
P.L.E. Elections § 26.

Notes of Decisions

Validity 1

1. Validity

Pennsylvania voter identification provisions of §§ 623-20 and 951-18 to 951-18.2 of this title and this section, requiring that registrant record his race do not violate federal voting statute prohibiting distinction of race or color, 42 U.S.C.A. § 1971(a)(1), or Const. Art. 7 § 1 provisions specifying qualifications of electors. Kemp v. Tucker, 396 F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

Provisions of §§ 623-20 and 951-18 to 951-18.2 of this title and this section, authorizing registration officials to require completion of color portion of registration card as precondition to registra-

tion were not shown to violate Fourteenth Amendment prohibition against arbitrary state action (U.S. Const. Amend. 14). Kemp v. Tucker, 396 F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

Provisions of §§ 623-20 and 951-18 to 951-18.2 of this title and this section, permitting voter registration officials to reject registration application on ground that “color” entry on registration card has not been completed were not shown to violate Fifteenth Amendment (U.S.C.A. Const. Amend. 15). Kemp v. Tucker, 396 F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

Pennsylvania voter identification provisions of §§ 623-20 and 951-18 to 951-18.2 of this title and this section, requiring registrant to record his race are

reasonably related to legitimate state interest of preventing voter fraud and do not violate privileges and immunities and equal protection clauses (U.S.C.A. Const.

Amends. 14, 15). *Kemp v. Tucker*, 396 F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

§ 623-20.3. Manner of registration by certain electors

Any elector may, in addition to any other method herein provided, also be registered in the manner set forth in this section:

(a) He may submit, either by mail, in person or by authorized representative, to the commission an official registration application card, the form of which shall be determined and prescribed by the Secretary of the Commonwealth.

(b) The official registration application card shall require the statement of, and shall provide sufficient space for the following information: (1) The surname of the applicant, (2) his Christian name or names, [(3) deleted], (4) the street or road and number of his residence providing that in the event there is no street address, the applicant must list the nearest cross street or road, (5) if his residence is a portion only of a house, the location or number of the room or rooms, apartment, flat or floor which he occupies, (6) the date his residence began at the place at which he resides, (7) his residence address when he last registered and the year of such registration, including any former registration under any other surname, (8) the sex of the applicant, (9) the color of the applicant, (10) the state or territory of the United States or the foreign country where he was born, [(11), (12) deleted], (13) whether he is unable by reason of illiteracy to read the names on the ballot or on voting machine labels, (14) whether he has a physical disability which will render him unable to see or mark the ballot or operate the voting machine or to enter the voting compartment or voting machine booth without assistance and, if so, his declaration of that fact and his statement of the exact nature of such disability, (15) the designation of the political party of the elector for the purpose of voting at primaries, (16) the declaration of registration as hereinafter prescribed which shall be signed by the elector, (17) the height of the applicant in feet and inches, (18) the color of his hair, (19) the color of his eyes, (20) the date of his birth, (20.1) the designation by the applicant that the official registration application card is intended by the applicant for use as registration change of address or change of name. Each official registration application card for electors registering in the manner prescribed by this section shall also have a sufficient number of spaces thereon for the insertion of (21) the ward and election district, if any, in which the applicant resides and to which he may, from time to time, remove together with his street address in each such ward and district and the other data required to

be given upon such removal, (22) the date of each election and primary at which the applicant votes after registration, the number and letter, if any, of the stub of the ballot issued to him or his number in the order of admission to the voting machines, and (23) the signature or initials of the election officer, commissioner, registrar or clerk, who enters the record of voting on the card. Immediately following the spaces for inserting the required information, the applicant shall affix his signature exactly as it appears in clauses (1) and (2).

(c) In addition, the foregoing official registration application card shall contain the following registration declaration and penalty for falsifying such declaration:

REGISTRATION DECLARATION

I hereby declare that I am a citizen of the United States, that on the day of the next ensuing primary or election I shall be at least eighteen years of age, and shall have resided in the Commonwealth of Pennsylvania, and in the election district thirty days, that I am legally qualified to vote, that I affirm that the information provided herein is true and correct and that I fully understand that this application will be accepted for all purposes as the equivalent of an affidavit, and if it contains a material false statement, shall be subject to the same penalties for perjury as if I had been duly sworn.

.....
Date of Signature

.....
Printed name of applicant

.....
Signature of applicant for registration.

PENALTY FOR FALSIFYING DECLARATION

If any person shall sign an official registration application card knowing any statement declared therein to be false, he shall be guilty of perjury, and upon conviction, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), or be imprisoned for a term not exceeding five years, or both, at the discretion of the court. In addition, sentence shall include loss of the right of suffrage absolutely for a term of ten years.

(d) Any person registering under this section who is unable to sign his official registration application card shall make his mark and acknowledged¹ before an official who is qualified to take acknowledgment of deeds.

(e) Registration in the manner prescribed by this section may be made at any time. If any registration card is received by any registration commission from any elector so registering any time when registration by personal appearance in the manner provided in section 20 of this act² could not be made under the provisions of section 17 of this act,³ such application shall be retained by the commission until the beginning of the next period during which such registration by personal appearance could be made and at such time the applicant, if otherwise entitled, shall be duly registered.

(f) Official registration application cards returned by electors qualified to register under this section to any registration commission shall be examined by a member of the commission or any clerk or registrar upon being received. The right of such elector to be registered shall be subject to challenge in like manner and for the same causes as set forth in section 22 of this act⁴ and for failure to have mailed the commission a properly completed official registration application card. If the commission finds the registration card not properly completed, it shall reject it in the manner hereinafter provided.

1937, March 30, P.L. 115, § 20.2, added 1963, Aug. 14, P.L. 900, § 4, effective Jan. 1, 1964. Amended 1976, July 1, P.L. 476, No. 122, § 12, effective in 30 days.

¹ So in original; probably should read "acknowledge same".

² 25 P.S. § 623-20.

³ 25 P.S. § 623-17.

⁴ 25 P.S. § 623-22.

Historical and Statutory Notes

The 1976 amendment rewrote the section which formerly read:

"Manner of Absentee Registration by Certain Ill or Disabled Electors.—Any elector who is unable to appear in person to register because of illness or physical disability may, in addition to any other method herein provided, also be registered in the following manner:

"(a) He may make application to the commission for a registration card.

"(b) The registration card shall require the statement of, and shall provide sufficient space for the following information: (1) The surname of the applicant, (2) his Christian name or names, (3) his occupation, if any, (4) the street or road and number of his residence, (5) if his residence is a portion only of a house, the location or number of the room or rooms, apartment, flat or floor which he occupies, (6) the date his residence began at

the place at which he resides, (7) his residence address when he last registered and the year of such registration, including any former registration under any other surname, (8) the sex of the applicant, (9) the color of the applicant, (10) the state or territory of the United States or the foreign country where he was born, (11) the date when, place where, and the court by which naturalized, and the number of the naturalization certificate, (12) if not naturalized personally the name of father, mother or husband through whom naturalized, (13) whether he is unable by reason of illiteracy to read the names on the ballot or on voting machine labels, (14) whether he has a physical disability which will render him unable to see or mark the ballot or operate the voting machine or to enter the voting compartment or voting machine booth without assistance and, if so, his declaration of that fact and his statement

of the exact nature of such disability, (15) the designation of the political party of the elector for the purpose of voting at primaries, (16) the affidavit of registration as hereinafter prescribed which shall be signed by the elector attested by the signature of any person authorized to administer oaths or affirmations, (17) the height of the applicant in feet and inches, (18) the color of his hair, (19) the color of his eyes, (20) the date of his birth. Each registration card for electors registering in the manner prescribed by this section shall also have a sufficient number of spaces thereon for the insertion of (21) the ward and election district, if any, in which the applicant resides and to which he may, from time to time, remove together with his street address in each such ward and district and the other data required to be given upon such removal, (22) the date of each election and primary at which the applicant votes after registration, the number and letter, if any, of the stub of the ballot issued to him or his number in the order of admission to the voting machines, and (23) the signature or initials of the election officer, commissioner, registrar or clerk, who enters the record of voting on the card: Provided, however, That the applicant may state (24) his social security number.

“(c) In addition, the foregoing registration card shall contain the following affidavit:

“REGISTRATION AFFIDAVIT

“I hereby swear or affirm that I am a citizen of the United States, that on the day of the next election I shall be at least twenty-one years of age, and shall have resided in the Commonwealth of Pennsylvania for one year (or having previously been a qualified elector or a native born citizen of the Commonwealth and having removed and returned, then six months), and in the election district sixty days, that I am now legally entitled to register under this section by virtue of being ill or disabled, that I am legally qualified to vote, that I have read (or have had read to me) the foregoing statements made in connection with my registration, and that they are true and correct.

.....
“Signature of applicant for registration.

“Sworn to and subscribed before me this day of 19....

.....
“Signature of any person authorized to administer oaths or affirmations.

“(d) Upon written application by an elector in the manner prescribed by this section to the registration commission having jurisdiction in the city in which the applicant resides, a registration card in the form herein prescribed, in duplicate, shall be mailed, postage prepaid, to the applicant at the address given in such application. Such elector shall thereupon supply the information required on the registration card, in duplicate, and shall take the affidavit thereto, in duplicate, in the presence of any person authorized to administer oaths or affirmations and shall have delivered or mail the same, in duplicate, to the registration commission from which it was procured.

“(e) Registration in the manner prescribed by this section may be made at any time. If any registration card is received by any registration commission from any elector so registering any time when registration by personal appearance in the manner provided in section 20 of this act could not be made under the provisions of section 17 of this act, such application shall be retained by the commission until the beginning of the next period during which such registration by personal appearance could be made and at such time the applicant, if otherwise entitled, shall be duly registered.

“(f) Registration cards returned by electors registering in the manner prescribed by this section to any registration commission shall be examined by a member of the commission or any clerk or registrar at a time and place when personal registrations are being received and such member of the commission, clerk or registrar shall announce in the hearing of all present the name and address of the elector who has thus offered to register. The right of such elector to be registered shall be subject to challenge in like manner and for the same causes as set forth in section 22 of this act. If the commission finds the registration card not properly completed, it shall reject it in the manner hereinafter provided.”

Library References

Elections ⇄106.
WESTLAW Topic No. 144.
C.J.S. Elections §§ 39, 46.

§ 623-20.4. Approval of official registration application cards

(a) The commission, upon receipt of an official registration application card, shall make an entry of the date received on each application and on the corresponding notification of receipt stub. In the event the applicant does not reside within the city, but resides elsewhere in Pennsylvania, the commission shall forthwith forward such application card to the proper county registration commission. In all other cases, the commission shall forthwith detach the notification stub as provided for in subsection (a) of section 19.1 of this act,¹ and send the same to the applicant by first class non-forwardable mail, return postage guaranteed, with such postage costs to be paid by the State.

(b) If the official registration application card shall contain the required information indicating that the applicant is legally qualified to register as stated in his application, the commission shall transfer all information on such application card to a registration card, serially numbered in duplicate as provided in section 17 of this act,² provided that the official registration application card may serve as the registration card of the applicant in the general file. The commission shall detach the signature portion from the application form and affix it in the proper space on the original registration card to be inserted in the district register.

(c) If the official registration application card is one for transfer of registration and shall contain the required information, and the applicant is legally qualified to transfer his registration as stated in his application, the commission shall thereupon make such transfer.

(d) If the official registration application card is not in compliance with this act the commission shall mark "REJECTED" on the application form together with the reason for rejection and return same to the applicant by first class non-forwardable mail, return postage guaranteed: Provided, however, That an application shall not be rejected because the color of the applicant is not indicated on the application.

(e) Upon the return by the post office of an applicant's notification stub which the post office is unable to deliver at the given address, the commission shall cause an investigation to be made. In the event the commission finds the applicant is not qualified from such an address, the commission shall reject the application and notify the applicant by first class mail of such action.

(f) The commission shall undertake such street canvasses by inspectors to verify residence of those registered and to determine if there are unregistered eligible voters residing at these addresses. When the inspectors find or believe that there are unregistered voters at a residency or voters who have changed addresses they shall leave sufficient official registration application cards for all potentially eligible voters who are unregistered or need to change their registrations.

(g) If the registration commission suspects that for any reason the applicant is not entitled to registration, change of address or change of name, the commission may cause an investigation to be made in reference thereto. If the commission shall find that the applicant is not qualified to register, change address or change name, the application shall be rejected and the applicant notified of such rejection with the reason therefor, provided that such rejection must be made no later than ten (10) days before the ensuing primary or election succeeding the filing of the official registration application card. 1937, March 30, P.L. 115, § 20.3, added 1976, July 1, P.L. 476, No. 122, § 13, effective in 30 days. Amended 1982, Feb. 16, P.L. 36, No. 22, § 2, imd. effective.

¹ 25 P.S. § 623-19.1(a).

² 25 P.S. § 623-17.

Historical and Statutory Notes

The 1982 amendment, in subsec. (d), added the proviso.

§ 623-21. Who may register; who may vote; electors need register only once; exception

Every person who shall possess all the qualifications of an elector as provided in the Constitution and laws of this Commonwealth, and has been a citizen of the United States for at least one month and who has resided in this Commonwealth and the election district where he shall offer to vote for at least thirty days prior to the next ensuing general, municipal or primary election, shall be entitled to be registered as herein provided, and no person shall be permitted to vote at any election or primary held in such city unless he shall have been so registered, and no elector so registered shall be required to register again for any election or primary while he continues to reside at the same address, or has removed his residence to another address in the same district and has filed a removal notice as provided by this act, unless his registration is cancelled by the commission by reason of his failure to vote during the certain period

as hereinafter provided, or for any other reason under the provisions of this act.

1937, March 30, P.L. 115, § 21. Amended 1941, July 31, P.L. 710, § 14; 1943, June 3, P.L. 855, § 1; 1972, July 12, P.L. 776, No. 183, § 2, imd. effective.

Cross References

Qualifications of an elector, see 25 P.S. § 2811 et seq.

Thirty day durational residence requirement, see 25 P.S. §§ 623-17, 623-25, 951-16, 951-19.

Library References

Elections ¶98.

WESTLAW Topic No. 144.

C.J.S. Elections § 40.

P.L.E. Elections § 24.

§ 623-22. Applicants to register may be challenged; procedure; challenge affidavit

(a) Any person claiming the right to register may be challenged by a registrar or by any commissioner or by a qualified elector of the city. Any person so challenged shall answer the questions of the challenge affidavit, as herein specified, and, after his answers have been recorded, he shall subscribe to them his signature or mark, and swear to their truth.

(b) The affidavits of all persons so registered shall be filed with a copy of the registration affidavit of such person, and shall be returned together therewith to the office of the registration commission.

(c) The challenge affidavit shall be, in form, prescribed by the Secretary of the Commonwealth, and shall contain spaces for the following information: (1) Serial number; (2) place and date of execution; (3) full name of challenged applicant; (4) whether he is married or single; (5) if married, where his family resides; (6) if single, where his parents reside; (7) where applicant actually resided immediately before he took up his present residence; (8) his residence for the four months immediately preceding date of execution; (9) the name of his present employer; (10) the street and number of his employer's place of business; (11) if unemployed, the name of his last employer, and the city, street and number of said last employer's place of business; (12) sex of the applicant; (13) his color; (14) the date of his birth; and (15) such distinguishing marks, peculiarities, and further information for identification as the commission shall prescribe.

(d) The challenged applicant shall produce such other evidence as may be required to satisfy the registrar or commission as to his

qualifications as an elector. If such challenged applicant shall establish his right to be registered, as required by this act, he shall be permitted to be registered.

(e) Any person making application to be enrolled as a member of a political party for the purpose of voting at primaries may be challenged by any qualified elector of the city. Any person so challenged shall be enrolled as member of such party if he shall make and subscribe to an affidavit that, at the last election at which he voted, he voted for a majority of the candidates of such party, all of the candidates of a party for presidential elector being counted as two candidates; but if he is unable or unwilling to make such affidavit, he shall be denied enrollment as a member of such party, but he shall not be deemed to be guilty of any violation or attempted violation of any law by reason thereof.

1937, March 30, P.L. 115, § 22.

Library References

Elections ⇨ 106.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46.
P.L.E. Elections § 26.

§ 623-23. Repealed. 1976, July 1, P.L. 476, No. 122, § 14, effective in 30 days

Historical and Statutory Notes

The repealed section related to naturalized applicants and to spouses and offspring of naturalized applicants and was derived from:

1937, March 30, P.L. 115, § 23.
1941, July 31, P.L. 710, § 15.
1961, June 7, P.L. 273, § 1.

§ 623-24. Incomplete or rejected application to be recorded

The registrar, clerk or commissioner shall record on registration cards the surname, Christian name or names, and street and number of residence of each person who applies for registration, whether or not the application is accepted. Whenever the applicant is rejected after a portion of the record has been filled in, the registration card or cards shall be marked "Applicant Rejected," and the registrar, clerk or commissioner shall note thereon the reason for the rejection and shall sign his name thereto. The registrar, clerk or commissioner shall forthwith personally notify the applicant if his application for registration is rejected: Provided, however, That if an official registration application card was received by mail or from the personal representative of the elector, notice of rejection shall be by mail. All such cards shall be returned to the commission and shall be preserved for a period of two years.

1937, March 30, P.L. 115, § 24. Amended 1941, Aug. 1, P.L. 702, § 4; 1976, July 1, P.L. 476, No. 122, § 15, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment in the proviso substituted "an official registration application card was received by mail or from the personal representative of the

elector" for "the registration card was received by mail from a person in military service".

Library References

Elections ☞106.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46.
P.L.E. Elections § 26.

§ 623-25. Appeal of rejected applicant

Any person whose application to be registered has been denied by a registrar, clerk or by a commissioner, may file a petition with the commission, not later than the fifteenth day thereafter, setting forth the ground of his complaint under oath, and praying to be registered. The commission shall fix a time for a public hearing thereon at his office not later than the tenth day after the filing of the petition. At the time so fixed, the commission shall hear and dispose of the petition, having first given at least forty-eight hours' notice of the hearing to the registrar, clerk or commissioner, who rejected the petitioner's application for registration. In the taking of testimony, the commission shall not be bound by technical rules of evidence. The commission, if satisfied, upon competent evidence, that the petitioner is entitled to be registered, shall direct a registrar, employe, clerk or commissioner to register him in the usual manner, and shall amend accordingly the records affected, but any registrar or inspector of registration or qualified elector of the city may appear and show cause why the petitioner should not be registered.

1937, March 30, P.L. 115, § 25. Amended 1941, July 31, P.L. 710, § 16.

Library References

Elections ☞106.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46.
P.L.E. Elections §§ 26 to 28.

§ 623-26. General register

A copy of the registration affidavits for the entire city shall be placed in cabinets in exact alphabetical order and indexed as to name, and shall be kept at the office of the commission in a place and in such manner as to be properly safeguarded. These affidavits shall constitute the general register of such city, and shall not be removed from the office of the commission, nor open to public inspection, except upon order of the court of common pleas of the county wherein such city is located, upon sufficient cause having been shown. The official registration application card of an elector

who has registered by using a nonpersonal voter registration application card may qualify as a duplicate registration card.

1937, March 30, P.L. 115, § 26. Amended 1941, July 31, P.L. 710, § 17; 1976, July 1, P.L. 476, No. 122, § 16, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment added the provision relating to duplicate registration cards.

Library References

Elections ⇨ 110.
WESTLAW Topic No. 144.

C.J.S. Elections § 47.
P.L.E. Elections § 27.

§ 623-27. District registers; registration cards

(a) The original registration affidavits shall be filed by election districts, and within each election district, in exact alphabetical order, or in the order in which their residences appear upon the streets of the election district and in exact alphabetical order for each residence, as the commission may determine, and shall be visibly indexed as to name and voting record. The affidavits so filed for each election district shall constitute the district register for such district. The district register shall be kept at the office of the commission, except as herein provided and shall be open to public inspection, subject to reasonable safeguards, rules and regulations and to the provisions of this act.

(b) The commission shall safely retain all registration affidavits or cards now in its custody, and such as it may under the provisions of this act hereafter require to be used in the registration of electors, for the same period of time as the commission is required to retain all other registration affidavits or cards and in such order or manner as it may by regulation direct. Any such registration affidavit or card may be substituted for a lost, destroyed or mislaid original or duplicate affidavit or card of the same elector on order of the commission endorsed thereon and signed by a commissioner, and such affidavit or card when so substituted shall be deemed and considered for all purposes as though it shall be the original or duplicate affidavit or card, as the case may be.

(c) All official registration application cards shall be deemed original registration affidavits for the purposes of this section.

1937, March 30, P.L. 115, § 27. Amended 1941, July 31, P.L. 710, § 18; 1976, July 1, P.L. 476, No. 122, § 17, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment eliminated provisions relating to triplicate registration cards and affidavits.

Library References

Elections ⇄ 110.
WESTLAW Topic No. 144.

C.J.S. Elections § 47.
P.L.E. Elections § 27.

§ 623-28. Removal notices

The commission shall provide forms of removal notices, which it shall cause to be made available for the convenient use of registered electors. These notices shall be printed upon cards suitable for mailing, addressed to the office of the registration commission and shall contain spaces wherein the elector shall write—(1) the street and number of his present residence and the specific location thereof, including the number of the room, apartment, flat or floor in his residence, if a portion only of a house; (2) the street and number of the address from which he was last registered; (3) the date of his removal to his present address; (4) the serial number of his registration card; (5) space wherein the elector shall sign his name and insert the date of signing; (6) space wherein two registered electors of the district to which he has removed shall sign their names and addresses, certifying to the truth of the statement on said notice as to his present place of residence. The removal notice shall contain a statement that the elector may, by filling out properly and signing a removal notice, having it witnessed as aforesaid and returning it to the office of the commission, have his change of residence entered on the registers. Each removal notice shall contain a warning to the elector that the notice will not be accepted unless the signature thereon can be identified by the commission with the elector's signature in the general and district register, and that if he notifies the commission of a change of his residence address knowing or having reason to know that he is not entitled to have his residence address changed, he shall be guilty of a misdemeanor and subject to the penalties as provided by this act. Each removal notice, to be effective, must be received either through the mail or by delivery at the office of the commission, postmarked or delivered, as the case may be, not later than thirty days prior to any primary or election, and must have been signed by the elector within ten days prior to the date of mailing or delivery. Warning of these provisions shall also appear on each removal notice form. An official registration application card of any elector who has registered by mail may qualify as a removal notice.

1937, March 30, P.L. 115, § 28. Amended 1941, July 31, P.L. 710, § 19; 1943, June 3, P.L. 855, § 2; 1976, July 1, P.L. 476, No. 122, § 18, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment substituted "thirty days" for "the tenth day" and added the provision qualifying an official registration application card of any elector who registered by mail as a removal notice.

Library References

Elections ⇄106.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46.
P.L.E. Elections § 27.

§ 623-29. Recording change of residence

(a) Upon receipt of a removal notice properly filled out, and executed on the form prescribed by the commission within the time and in the manner provided by this act, containing the required information and setting forth a removal of residence to another location in the same district, the commission shall cause the signature thereon to be compared with the signature on the registration affidavit of the elector from whom the removal notice purports to come, and, if the signature shall appear authentic, shall enter the change of residence in the registers. In any case, the commission shall advise the elector promptly in writing of its action.

(b) Deleted by amendment. June 3, 1943, P.L. 855, § 3.

(c) If the commission shall doubt that the request is authentic, it shall, without entering the change of residence, promptly notify the elector that it will be necessary for him to apply in person at any office of the commission to have the change of residence entered in the registers.

(d) Any elector may also appear in person at any office of the commission or any place of registration on any of the said days and apply for the recording of his change of residence within the same district, in which case the signatures of two registered electors of the district shall not be required, if such elector shall establish his identity, and, after stating under oath or affirmation the information required in a removal notice, shall sign the same in the presence of a registrar, clerk or commissioner, who shall affix his own signature thereto as a witness.

(e) Immediately upon the receipt of a removal notice by the commission, it shall note thereon the date of receipt and number the same in the order of its receipt, and shall forthwith mail to the elector an acknowledgment of the receipt of such notice, stating the date of receipt and the number assigned to it and that the elector will be advised by the commission of the action taken thereon. Each acknowledgment so mailed shall contain on the outside a request to the postmaster to return it to the commission within five days if it cannot be delivered to the addressee at the address given thereon and

not to forward the same to any other address. In the event that any such removal notice shall be filed or application made for the recording of his change of residence as provided in clause (d) of this section by an elector at any place of registration or at any office of the commission, a similar acknowledgment shall be delivered to him by the registrar, clerk or employes receiving the same, signed by him: Provided, however, That such removal notices and applications shall be numbered by the registrar, clerk or employe in the order of their receipt at the respective registration places or offices. The commission may cause blank forms of acknowledgments to be physically attached to the removal notices and applications and may require the elector to insert his name and new address thereon before filing the same.

1937, March 30, P.L. 115, § 29. Amended 1941, July 31, P.L. 710, § 20; 1943, June 3, P.L. 855, § 3; 1976, July 1, P.L. 476, No. 122, § 18, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment in subsec. (d) able to write their names to apply in deleted a provision requiring electors un- person.

Library References

Elections ⇨119.
WESTLAW Topic No. 144.

C.J.S. Elections § 52.
P.L.E. Elections § 27.

§ 623-30. Change of party enrollment; notice of change of enrollment of political party; cancellation of party enrollment; persons suffering disability after registration to have fact recorded; cancellation

(a) The commission shall provide change of party enrollment notices, which it shall cause to be available for the convenient use of registered electors. Those notices shall be printed upon cards and shall contain spaces wherein shall be recorded under oath—(1) the street and number of the elector's residence; (2) his ward and election district; (3) the political party in which he is enrolled; (4) the political party in which he desires to be enrolled; (5) the signature of the elector; (6) the serial number of his registration card. Any person who is duly registered and is a member of any of the categories enumerated in sections 20.1 and 20.2¹ herein who desires to change his party enrollment shall be permitted to do so by addressing to the commission a signed written application under oath taken and subscribed to before any person authorized to administer oaths or by submitting an official registration application card designated as a change of party enrollment. The application may be sent by the applicant by mail, or by any other means. If, upon

examination, the signature appears authentic and the application conforms to the provisions of this section, the enrollment shall be changed in accordance with the application. In the event a registered elector changes his party enrollment between any primary and the following November or municipal election, such party enrollment change shall become effective no later than the next ensuing primary.

(b) At any time except the thirty days next preceding the primary election any person who desires to change his party enrollment, or who, although registered, has not hitherto enrolled as member of a party, shall appear at any office of the commission or before the registrars in his ward or district, and sign the change of party enrollment notice, containing the information required by subsection (a) of this section, stating the designation of the political party in which he desires to be enrolled. The commission shall cause the signature thereon to be compared with the signature on the general and district registers, and, if the signatures appear authentic, shall enter the change of enrollment of political party in the registers, unless such elector is prohibited from changing his party enrollment as aforesaid. In the event a registered elector changes his party enrollment between any primary and the following November or municipal election, such party enrollment change shall become effective no later than the next ensuing primary.

(c) Any elector who is unable to write his name shall, in addition, establish his identity, and shall affix his mark, in lieu of his signature, in the presence of a registrar, clerk or commissioner, who shall affix his own signature thereto as a witness to the information required in the change of party enrollment notice.

(d) At any time not later than the thirtieth day preceding any primary, any qualified elector of the city, including any watcher, may petition the commission to cancel the party enrollment of any registered elector of such city who has previously enrolled as a member of a party for the purpose of voting at primary elections, setting forth, under oath, that he believes that such elector is not a member of the party with which he has been enrolled, and also setting forth that due notice of the time and place when said petition would be presented had been given to the person so registered, at least forty-eight hours prior to presentation of the same, by delivering a copy of the said petition to him personally or by leaving it with an adult member of the family with which he resides. If, at or before the hearing of any such petition, the elector against whom the petition is filed files an affidavit with the commission in which he swears or affirms that, at the last election at which he voted, he voted for a majority of the candidates of the party as a member of which he desires to be enrolled, all of the candidates of a party for presidential elector being

counted as two candidates, the petition shall be refused, otherwise, the party enrollment of such elector shall be forthwith cancelled.

(e) Any elector who has, since the time of registration, suffered a physical disability which renders him unable to see or mark the ballot or prepare the voting machine, or to enter the voting compartment or voting machine booth, without assistance shall, at least seven days prior to the next succeeding primary or election, personally make application, under oath, to the commission or registrars to have such fact entered on his registration affidavit, together with the exact nature of his physical disability, which entry shall be made accordingly.

(f) When the commission shall ascertain that any elector who has declared his need for assistance is no longer illiterate, or no longer suffers from the disability stated by him, it shall cancel on his registration affidavit the entry relating to illiteracy or physical disability which authorized him to have assistance, and shall forthwith notify such elector by mail of this action.

1937, March 30, P.L. 115, § 30. Amended 1941, July 31, P.L. 710, § 21; 1941, Aug. 1, P.L. 702, § 5; 1947, June 5, P.L. 413, § 1; 1963, Aug. 14, P.L. 900, § 5, effective Jan. 1, 1964; 1973, March 26, P.L. 10, No. 3, § 2, imd. effective; 1976, July 1, P.L. 476, No. 122, § 19, effective in 30 days.

¹ 25 P.S. §§ 623-20.1, 623-20.2, 623-20.3.

Historical and Statutory Notes

The 1976 amendment rewrote subsecs. (a) and (b) which formerly read:

“(a) The commission shall provide change of party enrollment notices, which it shall cause to be available for the convenient use of registered electors. Those notices shall be printed upon cards and shall contain spaces wherein shall be recorded under oath—(1) the street and number of the elector’s residence; (2) his ward and election district; (3) the political party in which he is enrolled; (4) the political party in which he desires to be enrolled; (5) the signature of the elector; (6) the serial number of his registration card. Any person who is duly registered and is a member of any of the categories enumerated in sections 20.1 and 20.2 herein who desires to change his party enrollment shall be permitted to do so by addressing to the commission a signed written application under oath taken and subscribed to before any person authorized to administer oaths. The application shall be sent by the applicant, if outside the continental limits of the United States by registered mail, return re-

ceipt required, otherwise by certified mail, return receipt required, and shall also contain a statement that such person is at the time of making the application absent from his residence or is ill or disabled. If, upon examination, the signature appears authentic and the application conforms to the provisions of this section, the enrollment shall be changed in accordance with the application.

“(b) At any time except the thirty days next preceding the primary election and except the thirty days next following an election, any person who desires to change his party enrollment, or who, although registered, has not hitherto enrolled as member of a party, shall appear at any office of the commission or before the registrars in his ward or district, and sign the change of party enrollment notice, containing the information required by subsection (a) of this section, stating the designation of the political party in which he desires to be enrolled: Provided, however, That no registered elector shall be permitted to change his party enrollment between any primary and the

following general or municipal election, nor more than once between any November election and the following primary election. The commission shall cause the signature thereon to be compared with the signature on the general and district

registers, and, if the signatures appear authentic, shall enter the change of enrollment of political party in the registers, unless such elector is prohibited from changing his party enrollment as aforesaid."

Library References

Elections ⇨ 108.
WESTLAW Topic No. 144.

C.J.S. Elections § 48.
P.L.E. Elections § 27.

§ 623-31. Report of deaths from Department of Health; canceling registration; correction if person is falsely reported deceased; reports of removals from certain public service companies, real estate brokers, rental agents, and persons, firms, and corporations operating vehicles for moving furniture and household goods

(a) The commission shall cancel the registration of each registered elector reported dead by the Department of Health.

(b) Any person falsely reported deceased by the Department of Health may appear in person before a registrar, clerk or commissioner, at the office of the commission, and prove his identity, and the commission thereupon shall correct its records accordingly.

(c) All public service companies furnishing electricity or gas to householders in any city, shall report, in writing, from time to time, to the registration commission, upon the request of the commission, all cases of discontinuance of their service to residences, together with the names of¹ the persons who contracted for such service and the addresses to which such persons have removed, if known to them. All real estate brokers and rental agents shall report², in writing, from time to time, to the commission, upon the request of the commission, all cases of residence property managed by them which have been vacated by the tenants thereof, together with the names of such tenants³ and the addresses to which they have removed, if known to them. All persons, firms, and corporations operating vehicles for moving furniture and household goods in any city of the first class, shall report, in writing, from time to time, to the registration commission, upon the request of the commission, all cases of removals of furniture and household goods, together with the names of such persons whose furniture or household goods have been removed and the addresses to which they have removed, if known to them.

(d) The mayor of each city of the first class or other officer of such city charged with the duty of examination and licensing hotels and

lodging houses under the provisions of the act, approved the second day of July, one thousand eight hundred and ninety-five (Pamphlet Laws, four hundred twenty-eight), entitled, "An act to regulate and license public lodging houses in the different cities in this Commonwealth",⁴ shall, from time to time, at the request of the commission, furnish to the registration commission the names and addresses of persons, partnerships, firms or corporations licensed under the provisions of that act, together with the names or designations and addresses of hotels and lodging houses for which licenses have been issued. The registration commission may require each licensee of a hotel or lodging house to report, from time to time, the names of all persons who have resided in any hotel or lodging house owned or operated by such licensee for a period of two calendar months or more, during the period of one year preceding the date of such request and to designate in such report whether or not such persons have removed and the addresses to which they have removed, if known to the licensee.

(e) The registration commission shall cause the information received under this section to be placed on file and retained for at least one year. For this purpose the commission may in its discretion cause to be printed file cards of uniform size on which such information may be entered and from time to time corrected on the basis of new reports received by the commission.

(f) Upon receipt of any report provided for in this section, the commission shall forthwith cause to be sent by mail to each person so reported as having removed, and to each member of his family and household who is registered under the provisions of this act, a notice warning each such person that it will be necessary for him to execute and file a removal notice in order for him to be eligible to vote at ensuing elections if he continues to live in the same district. Where the report lists the residence address to which any such person shall have removed and such residence address is located in the same district, the notice, together with a removal notice form, shall be sent to the new residence address of such person. Where the report does not list the residence address to which such person has removed, it shall be sent to the last residence listed on the registration affidavit of the person reported or to the address listed on the report, if they differ, or to both addresses. For the purposes of this subsection the commission shall cause to be printed postcards of suitable size in such manner that a removal notice in the form provided for by subsection (a) of section twenty-nine of this act⁵ shall be physically attached thereto. The notice shall contain a direction to the postmaster that he is to forward the postcard, or, if not⁶

forwarding address is known, to return the card within five days to the office of the commission.

1937, March 30, P.L. 115, § 31. Amended 1939, June 9, P.L. 283, § 1; 1941, July 31, P.L. 710, § 22; 1943, June 3, P.L. 855, § 4; 1961, Sept. 2, P.L. 1154, § 1.

¹ Followed by "port in writing from time to time to the commission" in enrolled bill.

² Enrolled bill omitted "port, in writing, from time to time, to the commission."

³ Enrolled bill omitted "thereof, together with the names of such tenants".

⁴ 37 P.S. § 121 et seq. (repealed).

⁵ 25 P.S. § 623-29.

⁶ Probably should read "no".

Library References

Elections ⇨ 108.

WESTLAW Topic No. 144.

C.J.S. Elections § 48.

P.L.E. Elections § 27.

§ 623-32. Mail check-up of register

(a) At any time prior to the thirtieth day next preceding an election or primary, the commission may send, by mail, to any elector whose name appears in any district register, a notice, setting forth the elector's name and address as it shall appear in the register, and requesting him in case of any error to present the notice, on or before the tenth day next ensuing, at the office of the commission and secure the correction of the error, and warning the elector that any discrepancy between his actual name and address and his name and address as recorded in the original register will constitute ground for challenging his vote. Such notice shall contain on the outside a request to the postmaster to return it within five days if it cannot be delivered to the addressee at the address given thereon.

(b) At any time prior to the thirtieth day next preceding an election or primary, the commission may cause a check-up to be made by postmen of the United States Post Office of any elector whose name appears in any district register.

(c) At least once in each four years, the commission may conduct a check-up of each registered elector in the city by either of the methods provided for in subsections (a) and (b) of this section.

(d) Upon the return by the post office of any such notice which it has been unable to deliver at the given address because the addressee cannot be found there, or upon report by the post office that any registered elector does not reside at the address given on his registration card, the commission shall direct an authorized employe to visit in person the address of the elector, and if he shall find that the elector does not reside at the address, he shall leave at such address the notice prescribed by section thirty-three of this act,¹ and the commission shall, at the expiration of the time specified in such

notice, cancel the registration of such person unless his qualifications as an elector are proved: Provided, however, That the registration of any person in military service shall not be cancelled by reason of the failure of such person to reside at the address appearing upon the district register, if such person did reside at such address on the date of entering military service.

(e) For new registrants or for persons changing their registration and using the official registration application card, the notification stub may serve as the mail check-up of register.

1937, March 30, P.L. 115, § 32. Amended 1941, Aug. 1, P.L. 702, § 6; 1941, July 31, P.L. 710, § 23; 1945, May 18, P.L. 642, § 1; 1976, July 1, P.L. 476, No. 122, § 20, effective in 30 days.

¹ 25 P.S. § 623-33.

Historical and Statutory Notes

The 1976 amendment added subsec. (e).

Library References

Elections ⇨106.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46.

P.L.E. Elections § 27.

§ 623-33. Canvass of registered voters

(a) The commission may at any time, by individual commissioners or by inspectors of registration, verify the registration in any election district of such city by visiting each building from which an elector is registered, and such other buildings as the commission may deem necessary, and shall make a record of the name and address of each person registered who shall not be found to reside at the address from which he is registered, or who, for any other reason, shall appear to be not qualified to vote in the election district from which he is registered, and shall leave at the address of each such person a notice requiring him to appear personally at the office of the commission, on or before a day and hour not less than four days thereafter, which the notice shall appoint, and which shall be not later than the fifteenth day preceding the election or primary next ensuing, and satisfy the commission of his qualifications as an elector, and the commission shall cause a confirmation of each such notice to be sent by mail promptly to such person at the address from which he is registered. The envelope containing such information is to be plainly marked that it is not to be forwarded.

(b) At the expiration of the time specified in the notice, the commission shall cancel the registration of each such person who has not personally appeared and proved his qualifications as an elector.

(c) For the purpose of facilitating any such canvass, the commission may, when necessary, appoint special inspectors of registration, in number not exceeding double the number of election districts which the commission shall determine to canvass. Police officers may be so appointed with the consent of the head of the police department of the city.

(d) Such special inspectors shall have and may exercise the powers conferred by this act upon inspectors of registration. They shall be qualified electors of the city, and shall be appointed without reference to residence in election districts or to their political affiliations or beliefs.

(e) The commission shall instruct each special inspector of registration in his duties.

1937, March 30, P.L. 115, § 33.

§ 623-34. Comparison and correction of registers, street lists

(a) Commencing thirty days prior to each primary and each general and municipal election, the commission shall compare and correct the general and district registers.

(b) After the last day preceding each primary, municipal and general election when electors may be registered, the commission shall prepare for each election district a street list of the names and addresses of all registered electors resident in the district, arranged by streets and house numbers, and shall cause to be made at least a hundred exact copies of such list, and, not later than fifteen days preceding each primary and each general and municipal election, shall distribute copies of such lists among the inspectors and special inspectors of registration and the official concerned with the conduct of primaries and elections and among the parties, bodies of electors, candidates, and organized bodies of citizens interested therein, giving at least ten copies of each street list to the city committee of each political party or body of electors, upon the written application of the chairman thereof, and at least ten copies of each street list to the executive or governing board or committee of each organized body of citizens having as its purposes the investigation and prosecution of election frauds, upon the written application of the presiding officer of such body of citizens, and at least one copy of each street list with which his candidacy is concerned to each candidate, upon his written request, and keeping two complete sets of such street lists on file at the office of the commission convenient for public inspection during all the hours when the other records of the commission are open to public inspection as herein provided. Not later than the seventh day preceding each election and primary, the commission shall post or cause to be posted at each polling place in such city, at a point

accessible to the public, one of the said street lists to be maintained at such place until the closing of the polls on the succeeding election day.

1937, March 30, P.L. 115, § 34. Amended 1941, July 31, P.L. 710, § 24; 1945, May 23, P.L. 898, § 1; 1947, March 5, P.L. 21, § 1; 1951, May 16, P.L. 305, § 1; 1973, March 26, P.L. 10, No. 3, § 3, imd. effective.

Library References

Elections ⇨108.

WESTLAW Topic No. 144.

C.J.S. Elections § 48.

P.L.E. Elections § 27.

§ 623-35. Petitions to strike off names; filing and notice

At any time, not later than the twenty-fifth day preceding any election or primary, any qualified elector of the city, including any watcher, registrar or inspector of registration, may petition the commission to cancel the registration of any registered elector of the city, setting forth under oath, supported by the affidavits of at least two qualified electors of the city, sufficient grounds for each cancellation. One of the commissioners shall fix a time and place for a hearing thereon, not later than fifteen (15) days before any primary or election, and the petitioners shall cause forty-eight (48) hours notice of the proceeding to be given to the person so registered by service by an adult person of known responsibility of a copy of the said petition, with the time and place fixed for the hearing endorsed thereon, either personally or by leaving a copy of the petition so endorsed with an adult person at his place of residence as given by him and recorded in the registers, if he cannot be found at the place given in the district register as his residence, and upon the filing by such person of an affidavit that the copy so endorsed has been so served by him, or that there is no adult person residing at the address given, the commission or commissioners assigned by the commission for that purpose shall proceed with a public hearing on the petition. 1937, March 30, P.L. 115, § 35. Amended 1941, July 31, P.L. 710, § 25.

Library References

Elections ⇨108.

WESTLAW Topic No. 144.

C.J.S. Elections § 48.

P.L.E. Elections § 27.

Notes of Decisions

Service of petition 2
Sufficiency of petition 1

1. Sufficiency of petition

Evidence established that petitions for cancellation of voter registration were

properly endorsed with notice of time and place of hearing. *Kessenich v. City of Philadelphia*, 591 A.2d 765, 140 Pa. Cmwlth. 80, 1991.

Even if affidavits of service of petition for cancellation of voter registration had to state that petitions were properly en-

Note 1

dorsed with notice of time and date of hearing on petition, absence in servers' affidavits regarding whether petitions served by them contained notice of time and place of hearing was a nonfatal defect, if a defect at all, where petitions were served on current residents because individual sought no longer resided at address listed for him on voter registration rolls so that the individuals would not have received notice anyway. *Kessenich v. City of Philadelphia*, 591 A.2d 765, Cmwlth.1991.

2. Service of petition

Voter, who simply registers by giving street address of his building with no apartment number and, then, cannot be found to reside in any of apartments

within that building, can be served with petition for cancellation of voter registration by handing copy of petition to adult front desk clerk or apartment manager. *Kessenich v. City of Philadelphia*, 591 A.2d 765, 140 Pa.Cmwlth. 80, 1991.

Remand was required of action challenging city commissioners' denial of petition for cancellation of voter registration because of improper service where city commissioners issued blanket rulings regarding service of petition on all persons plaintiff sought to strike from registration rolls, even though petition was served in several different manners and by several different people. *Kessenich v. City of Philadelphia*, 591 A.2d 765, 140 Pa.Cmwlth. 80, 1991.

§ 623-36. Hearing on petition to strike off names

At the time so fixed, the commission, or any two commissioners not being enrolled as members of the same political party, assigned by the commission for that purpose, shall hear testimony, not being bound by technical rules of evidence, and, if satisfied upon competent evidence, that any such person is not legally entitled to be registered, shall cancel the registration of such person and amend accordingly the registers and any other records affected thereby: Provided, however, That the commission or any commissioner assigned for that purpose may, without hearing, cancel the registration of any such person and amend accordingly the registers and the other records affected, if the petitioners shall have filed with the commission an affidavit by an adult person of known responsibility of the service of a copy of the petition as provided in section thirty-five of this act,¹ and, if the person so registered was not served personally, that he could not be found at the place given in the district register as his residence, and that the person in charge thereof or some other person having knowledge of the names of all persons residing at the address given as such residence, to be mentioned by name, had declared that he or she was well acquainted with the names of all persons residing at the address given as such residence and that the person so registered had never been or was no longer one of them or that no such person is residing at the address given, or an affidavit that there is no adult person residing at the address given and, although due inquiry has been made, no information can be obtained as to the whereabouts of the person so registered, unless he shall appear and show cause why the same should not be done. 1937, March 30, P.L. 115, § 36. Amended 1941, July 31, P.L. 710, § 26.

¹ 25 P.S. § 623-35.

Library References

Elections ☞108.
WESTLAW Topic No. 144.

C.J.S. Elections § 48.
P.L.E. Elections § 27.

§ 623-37. Delivery of district registers to commissioners in charge of elections

(a) Not later than noon of the Friday preceding an election or primary, the commission shall deliver to the commissioners in charge of the election or primary the district registers for that district, accurately corrected to date, together with other election materials for use on election day, in the manner in which such commissioners now are or hereafter may be required to deliver the same: Provided, however, That the registration commission shall not deliver to the commissioners in charge of elections the registration card, for use at the polls on election day, for any person who has removed from one election district to another within thirty days of any general, municipal, primary or special election.

(b) District registers, when so delivered to the commissioners in charge of elections, shall be contained in suitable binders so constructed and locked that the name, address, voting record, and other data on each card may be visible, and that entries may be made on each card, but that the cards cannot be removed by the election officers. Said binders shall be enclosed within a case or container and shall be locked and sealed by the commission before delivery to the commissioners in charge of elections.

Said binders shall have printed or written thereon the words "District Register of Voters" and the number of the district and ward.

(c) In the event that any of said district registers when so delivered shall contain the names of registered electors not contained in the street list posted in the district as required by section thirty-four (b), or shall omit names of registered electors contained in said street list, then the said registers shall be accompanied by a list showing such names as were added and such names as were omitted with a brief explanation or key showing the cause for such addition or omission. Such list shall remain in the polling place on election day open to public inspection. One copy of such list shall be posted at the office of the commission at the time of the delivery of the binders and shall remain posted until after the next succeeding election, and one copy of such list shall be furnished to the chairman of the city committee of each party entitled to a ballot at the preceding primary.

1937, March 30, P.L. 115, § 37. Amended 1941, July 31, P.L. 710, § 27; 1976, July 1, P.L. 476, No. 122, § 21, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment in subsec. (a) substituted "thirty days" for "two months".

Library References

Elections ⇨ 106.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46.
P.L.E. Elections § 27.

§ 623-38. Persons registered are entitled to vote at general or municipal elections if identified by signature, proviso; evidence of registration discrepancies; persons registered and enrolled may vote at primaries if identified by signature, proviso; persons not registered are not entitled to vote; challenging of persons; registered voter's certificates; voting check list, elections and primaries; counting, et cetera, of names checked as having voted; sealing of registers and voting check lists; return of lists of voters and registers

(a) Any person whose registration affidavit appears in the district register of any election district in the city, and who, upon applying to vote, shall have signed his name to a voter's certificate, in the form hereinafter provided, as a means of identification, and whose signature thereon shall have been compared by the election officers in the presence and view of the watchers, with the signature of the applicant as recorded in the district register and shall have been deemed authentic by said election officers, shall be entitled to vote in such district at any general, municipal or special election, unless it be shown to the satisfaction of the election officers that he has become disqualified by removal from the district since registration, or that he has violated any law of this Commonwealth prohibiting bribery at elections. If, however, the signature on the voter's certificate, as compared with the signature as recorded in the district register, shall not be deemed authentic by any of the election officers, such elector shall nevertheless not be denied the right to vote for that reason, but shall be considered challenged as to identity, and required to make the affidavit and produce the evidence, as provided in clause (e) of this section: Provided, however, That any person applying to vote who claims that he is a duly registered and qualified elector of the election district shall be permitted to vote, subject to all other requirements and provisions of this section, although his registration affidavit does not appear in the district register, if it shall appear by the street list posted in the district and the list accompanying the district register as hereinbefore provided that he is a registered

elector of the district and that his registration affidavit should have appeared in the district register, both inspectors of election agreeing as to his identity, or, if upon application, the proper court of common pleas shall have ordered the election officers to accept such elector's vote: Provided further, That any such person shall be considered challenged as to identity and residence and be required to produce the evidence as provided in clause (e) of this section and shall also be required to swear or affirm to a special affidavit on forms prepared and furnished by the commissioners in charge of elections stating his name, address, the date when, and place where, he was registered, that since having registered he has resided continuously at the same address, or, if he has since changed his residence¹ to another address in the city, that he had in all respects complied with the provisions of this act then effective, to secure the transfer of his registration to his present address, stating the time when, and the manner in which, he complied with such provisions, that his registration has not been cancelled for any reason, that he is in all respects entitled to vote as a qualified and registered elector of the district, and that the absence of his registration affidavit from the district register of the district is not due to any fault or omission on his part. All such affidavits shall be numbered in the order in which they are executed, and the election officer in charge of the voter's certificates shall note on the voter's certificate of any such person being so permitted to vote that fact, the reason therefor as hereinbefore provided, and the number of the special affidavit executed by him. After the closing of the polls all such affidavits shall be arranged in numerical order by the election officers and, together with such orders of the court or certified copies thereof received by them as aforesaid, shall be sealed in an envelope to be furnished them by the commissioners in charge of elections and returned to the commission with the voting check list.

(b) No elector shall be required to sign a voter's certificate as a means of identification if he shall have been unable to sign his name when registered, or if, having been able to sign his name when registered, he subsequently shall have lost his sight or lost his hand with which he was accustomed to sign his name or shall have been otherwise rendered by disease or accident unable to sign his name when he applies to vote, but each such elector shall establish his identity to the satisfaction of the election officers, and, in such case, a voter's certificate shall be prepared for him by one of the election officers upon which the facts as to such disability shall be noted and attested by the signature of such election officer.

(c) No person who applies to vote shall be permitted by any election officer or clerk or other person to see the signature recorded

as his in the district register until after he shall have signed his name to the voter's certificate.

(d) Any person who is registered and also enrolled as a member of a political party, and who, upon applying to vote, shall have established his identity by signing his name, or otherwise, as herein required at elections, and is otherwise qualified, may vote as a member of said party at any primary succeeding such registration without being subject to any challenge regarding his party membership. No elector registered and enrolled as a member of any particular party shall be allowed to receive or vote the ballot of any other political party at any primary election, and any qualified elector registered, although not enrolled as aforesaid, shall be permitted to vote a nonpartisan ballot according to any law providing for the same at any primary election.

(e) No one, except a qualified elector who is in actual military or naval service under a requisition of the President of the United States or by the authority of this Commonwealth, shall be entitled to vote at any election or primary in such city without being personally registered as an elector in the election district in which he offers to vote, except by order of the court of common pleas as herein provided regarding appealed cases. Any person, although personally registered, may be challenged by any qualified elector, watcher, overseer or election officer, at any election or primary, as to his identity; as to his continued residence in the election district, or as to any alleged violation of the laws of this Commonwealth prohibiting bribery at elections; and if challenged as to identity² or residence, he shall produce at least one qualified elector of the election district as a witness, who shall make affidavit of his identity or continued residence in the election district, and shall produce such other evidence as may be required to satisfy the election officers of his identity or continued residence in the election district; and if challenged as to bribery, he shall be required to swear or affirm that the matter of the challenge is untrue, before his vote shall be received.

(f) The commissioners in charge of elections shall cause to be printed for each election district a suitable number of Voter's Certificates, which shall be, in form, approved by the Secretary of the Commonwealth substantially as follows:

VOTER'S CERTIFICATE

Number (serially numbered) (Primary) (Election)
, 19... I hereby certify that I am qualified to vote at this
 (primary) (election)
 Signature,
 Address, Pennsylvania

If voter's registration card is not in register
insert the number of his special affidavit here
and check reason for permitting him to vote.

Court order
It appears by street list posted and list accompanying District Register that
he is a registered elector of this district, both inspectors of election having
agreed as to his identity
Approved
Refused
Number of stub of ballot issued (or number of admission to voting machine)
.....
(and party at primary)

The voter's certificates shall be so prepared as to be capable of being inserted by the election officers in a suitable file or binder, to be furnished by the commissioners conducting the election. After a voter's certificate has been presented by an elector and has been compared with his signature in the district register and approved, or, in the case of an elector who is unable to write, the notations hereinbefore required have been made thereon, one of the election officers who made the comparison shall sign his name or initials thereon, and, if the elector's signature is not readily legible, shall print such elector's name over his signature. After the elector has been admitted to vote, the number of the stub of the ballot issued to him, or his number in the order of admission to the voting machines, and at primaries a letter or abbreviation designating the party in whose primary he votes, shall be entered on his voter's certificate and the same shall thereupon be inserted in the file or binder. One such file or binder shall be furnished for each election district for each primary and election, and shall have printed or written thereon the words "Voting Check List" and the name of the district and date of the primary or election. The Voter's Certificates, so bound, shall constitute the voting check list of the district. All voter's certificates prepared by persons applying to vote whose applications to vote are refused by the election officers shall be carefully preserved and returned to the commission with the voting check list.

(g) The district register shall constitute the ballot check list of the district. As each voter is found to be qualified and votes, unless such voter is permitted to vote notwithstanding the absence of his registration affidavit in the register as hereinbefore provided, the election officer in charge of the district register shall write or stamp the date of the election or primary, the number of the stub of the ballot issued to him, or his number in the order of admission to the voting machines, and at the primaries a letter or abbreviation designating the party in whose primary he votes, and sign his name or initials in the proper space on the registration affidavit of such voter contained in the district register. After the polls are closed, the names of all

electors on the district register so marked or stamped as having voted, together with such others whose registration affidavits did not appear in the register who may nevertheless have been permitted to vote as aforesaid, shall be immediately counted and the result compared with the number of persons voting, shown by the voting check list and numbered lists of voters, and announced, and the cause of any difference ascertained, if possible, before the ballot box or voting machine is opened. The district register, the voting check list, the voters' certificates prepared by persons whose applications to vote are refused and the orders of the court or certified copies thereof and the special affidavits, as provided in clause (a) of this section, shall be immediately sealed or locked in envelopes or containers and shall be returned to the custody of the registration commission by the judge of election before noon on the day following the election or primary.

(h) Persons in military service shall be entitled to vote, if duly registered in a manner provided by this act. Persons in military service and by reason thereof absent from their places of residence on the day of any election shall be entitled to vote in such manner as may now or hereafter be provided by law, unaffected by the provisions of this section in so far as they relate to the manner of voting.

1937, March 30, P.L. 115, § 38. Amended 1941, July 31, P.L. 710, § 28; 1941, Aug. 1, P.L. 702, § 7; 1943, June 3, P.L. 855, § 5.

¹ Enrolled bill reads "registration".

² Enrolled bill reads "indentify".

Library References

Elections ☞ 118, 212.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 38, 197.
P.L.E. Elections §§ 27, 81.

§ 623-39. Entry of information in general register following elections and primaries; report of indications of fraud to district attorney

(a) Immediately following each election or primary, the commission shall cause each district register and voting check list to be examined.

(b) In the case of any elector whom the election officers shall have recorded as removed, deceased, or challenged and prevented from voting, the commission shall ascertain the facts and shall correct the general and district registers in accordance therewith and the provisions of this act.

(c) The commission specifically shall cause the signature of each elector on each voter's certificate to be compared with his signature in the district register or on such other records in its custody on which it may appear, and shall report forthwith, in writing, to the

district attorney any evidence or indication of probable fraud, personation, or forgery which may appear to the commission by reason of any comparison of the voter's certificates and registers or other records in its custody.

(d) Whenever the registration affidavits of any registered elector shall have been entirely filled up so that the entries required to be made thereon by this act can no longer be made, the commission shall have prepared and attached to such registration affidavits in each register a supplemental card. Each supplemental card shall be printed in a color different from the registration affidavits. It shall have the same serial number as the registration affidavit, followed by the letter "A," "B," et cetera, according to the number of supplemental cards attached to each registration affidavit. Each supplemental card shall have space thereon for the entry of the surname of the registered elector, his Christian name or names, the street and number of his residence, the ward and election district in which he resides and to which he may from time to time remove, together with his street address in each such district, and the other data required to be given upon such removal, the date¹ of each election and the primary at which the elector votes, and the signature or initials of the election officer who enters the record of voting on the card. Each supplemental card shall be attached to the registration affidavit to which it relates, by permanent fasteners, in such a manner that the contents of the registration affidavit may be examined and the entries required by this act may be made on the supplemental card. Whenever supplemental cards are attached to the registration affidavit of any elector, the registration affidavit shall be stamped with the words "Supplemental cards attached," together with the date thereof.

1937, March 30, P.L. 115, § 39. Amended 1941, July 31, P.L. 710, § 29.

¹ Enrolled bill reads "data".

Library References

Elections Ⓒ232.
WESTLAW Topic No. 144.

C.J.S. Elections § 217.
P.L.E. Elections § 88.

§ 623-40. Cancellation of registration upon failure to vote within certain periods; request for reinstatement; correction of errors of the commission in cancellation of registrations

During each year, the commission shall cause all of the district registers to be examined, and in the case of each registered elector who is not recorded as having voted at any election or primary during the two calendar years immediately preceding, the commission shall send to such elector by mail, at his address appearing upon

his registration affidavit, a notice, setting forth that the records of the commission indicate that he has not voted during the two immediately preceding calendar years, and that his registration will be cancelled if he does not vote in the next primary or election or unless he shall, within ten days of the next primary or election, file with the commission, a written request for reinstatement of his registration, signed by him, setting forth his place of residence. A list of the persons to whom such notices shall have been mailed shall be sent promptly to the city chairman of the political party of which the electors were registered as members. At the expiration of the time specified in the notice, the commission shall cause the registration of such elector to be cancelled unless he has filed with the commission a signed request for reinstatement of his registration as above provided. The official registration application card of an elector who has registered may qualify as a reinstatement of his registration or a removal notice. The cancellation of the registration of any such elector for failure to vote during the two immediately preceding calendar years shall not affect the right of any such elector to subsequently register in the manner provided by this act.

Whenever the registration of an elector has been cancelled through error, such elector may petition the commission for the reinstatement of his registration not later than the tenth day preceding any primary or election, and after a hearing on said application, if error on the part of the commission is proved, the commission shall reinstate the registration of such elector.

1937, March 30, P.L. 115, § 40. Amended 1941, July 31, P.L. 710, § 30; 1945, May 23, P.L. 898, § 1; 1976, July 1, P.L. 476, No. 122, § 22, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment rewrote the first paragraph which formerly read:

"Within three months after the first day of January of each year, the commission shall cause all of the district registers to be examined, and in the case of each registered elector who is not recorded as having voted at any election or primary during the two calendar years immediately preceding, the commission shall send to such elector by mail, at his address appearing upon his registration affidavit, a notice, setting forth that the records of the commission indicate that he has not voted during the two immediately preceding calendar years, and that his registration will be cancelled at the expiration of ten days from the date of mailing such notice unless he shall, within that period, file with the commission, either personal-

ly or by mail, a written request for reinstatement of his registration, signed by him, setting forth his place of residence. A list of the persons to whom such notices shall have been mailed shall be sent promptly to the city chairman of the political party of which the electors were registered as members. At the expiration of the time specified in the notice, the commission shall cause the registration of such elector to be cancelled unless he has filed with the commission a signed request for reinstatement of his registration as above provided. The cancellation of the registration of any such elector for failure to vote during the two immediately preceding calendar years shall not affect the right of any such elector to subsequently register by personal application in the manner provided by this act."

Library References

Elections ¶108.
WESTLAW Topic No. 144.

C.J.S. Elections § 48.
P.L.E. Elections § 28.

Notes of Decisions

Reinstatement 2

Validity 1

1. Validity

Disproportionate impact of Pennsylvania's voter purge law by removing African-American and Latino voters from registration rolls at higher rates than white voters was not per se violation of Voting Rights Act, even when considered in light of racially polarized voting, socio-economic disparities in education, employment, and health, racial appeals in some elections, and failure of city in some instances to address needs of minority citizens; purge law was not shown to interact with social and historical conditions to deny minority voters equal access to political process and election of preferred representatives. *Ortiz v. City of Philadelphia Office of City Com'rs Voter Registration Div.*, E.D.Pa.1993, 824 F.Supp. 514.

Purging voters can produce discriminatory result in violation of Voting Rights Act, if fair procedures are not followed, if need for purge is not shown, or if opportunities for re-registration are unduly limited. *Ortiz v. City of Philadelphia Office of City Com'rs Voter Registration Div.*, E.D.Pa.1993, 824 F.Supp. 514.

Validity of two-year purge provision of this section requiring the removal from voter registration lists of persons who have not voted in any election or primary

during the immediately preceding two years and who after notice have failed to request reinstatement of registration, a statute not shown to be racially discriminatory, would not be subject to the more stringent review standard in determining the constitutionality thereof. *Williams v. Osser*, 350 F.Supp. 646, D.C.1972.

This section requiring the elimination from voter registration lists of all persons who have not voted in any election or primary during the two immediately preceding years and who after notice have failed to request reinstatement of registration bears a rational relationship to legitimate state interest to prevent fraudulent voting which outweighs minimal burden placed on individual's exercise of franchise and is not unconstitutional. *Williams v. Osser*, 350 F.Supp. 646, D.C. 1972.

2. Reinstatement

Where statute providing for purging of voter registration list of voters who have not voted in two years provided for two notices relating to proposed termination and cancellation of registration and also provided for reinstatement, and reinstatement of 79,000 names to registration list would place tremendous strain on commissioner on eve of election and would create high risk of vote fraud, request for preliminary injunction would be denied. *Williams v. Osser*, 326 F.Supp. 1139, D.C. 1971.

§ 623-41. Cancellation, removal, and preservation of registration affidavits

(a) Whenever the registration of an elector is cancelled for any cause, the commission shall cause to be marked on the registration affidavits of the elector the word "Cancelled" and the date and cause of cancellation, and shall remove them from the general and district registers, but each such affidavit shall be kept for five years, after which it may be destroyed upon the approval thereof, in writing by the district attorney.

(b) All records, except registration affidavits and original strike off petitions, which are not essential for maintaining the current status

of any qualified elector, may be destroyed by the commission after two years.

1937, March 30, P.L. 115, § 41. Amended 1945, May 23, P.L. 898, § 2.

Library References

Elections ⇨108.

WESTLAW Topic No. 144.

C.J.S. Elections § 48.

P.L.E. Elections § 28.

§ 623-42. Appeals to court; time of hearing; notice; postponement; hearing decision of court; costs and fees

(a) Any person whose claim for registration has been denied by the commission, or whose name, although previously registered, has been removed and not restored by the commission upon a petition filed for that purpose as herein provided, or any qualified elector of the city whose rights are impaired by any order of the commission, not including registration of particular names by the commission on personal application made to it as aforesaid, or refusals to remove names upon any petition of any kind aforesaid, may file an appeal with the proper court of common pleas not later than the eleventh day preceding any election or primary, setting forth why he feels that an injustice has been done, and praying for such order as will give him relief: Provided, That if the order of the commission appealed from was entered within thirteen days of any election or primary, such appeal shall be filed within two days thereafter. Thereupon any judge of the said court shall fix a time and place for hearing the matter in dispute, of which notice shall be served, with a copy of said appeal, by the appellant upon the commission or upon counsel of the commission, and upon any elector, or his attorney, who opposed the contention of the appellant before the commission, at least forty-eight hours before such matter may be reviewed by the court. Proof of notice or the waiver thereof must be filed therein.

(b) Any judge of said court may enlarge the time of notice or postpone such hearing as may be reasonable with due regard for the time remaining before the succeeding election or primary. At the time so fixed, the court, or any judge thereof assigned for the purpose, shall hear all the witnesses and other evidence that may be offered de novo unless the issue can be decided in some other manner by agreement of the parties concerned.

(c) If, after such public hearing, the said court shall find that an injustice has been done, it may reverse or alter the decision of the commission and modify any order made by it accordingly, and, if necessary, issue its mandate to the election officers of any election district to permit the appellant to vote at any designated election or primary although his name may not have been entered in or restored

to the district register of such district. If the appellant shall not satisfy the court that an injustice has been done, the decision of the commission shall be affirmed.

(d) The said court may compel the appellant, unless his appeal is sustained, or any opposing party, other than the commission, or, in proper cases, the county to pay all the witness fees and other legal costs of such appeal, which may be taxed by the prothonotary in the usual manner.

1937, March 30, P.L. 115, § 42. Amended 1941, July 31, P.L. 710, § 31.

Library References

Elections ¶112.
WESTLAW Topic No. 144.

C.J.S. Elections § 48.
P.L.E. Elections § 28.

Notes of Decisions

Certiorari 6
Jurisdiction 1
Mandamus 4
Orders 3
Prohibition 5
Standing 2

1. Jurisdiction

Election statutes provide adequate, complete and appropriate statutory remedy for challenging voter registrations; thus, challenge to validity of student registrations was not cause of action cognizable in equity. *Starkey v. Smith*, 283 A.2d 700, 445 Pa. 118, 1971.

A court has no jurisdiction, under § 623-1 et seq., of this title, to review the action of the registration commission in refusing to cancel a voter's registration. *Registration of Altshuler*, 65 D. & C. 407, 1949.

2. Standing

The registration commission's appeal from decree of common pleas court directing registration of voter who had been convicted of intentionally interfering with inspector of registration in performance of his duties by quarter sessions court which failed to impose penalty of disfranchisement was dismissible since this act does not give commission any standing to prosecute an appeal to an appellate court by certiorari or otherwise. *In re Moskowitz*, 196 A. 498, 329 Pa. 183, 1938.

3. Orders

The exercise of power of court of Quarter Sessions of Philadelphia County to direct grand jury investigation concerning conduct of Registration Commission of Philadelphia rests in the judicial discretion of the court. *In re Philadelphia County Grand Jury*, April 1943, 32 A.2d 199, 347 Pa. 316, 1943.

A memorial which charged defaults by Registration Commission of City of Philadelphia, in failing to compare voters' signatures on registration affidavits with those on voting certificates, to purge lists by eliminating names of persons no longer qualified to vote and to deal properly with voters claiming assistance, but did not charge willful default with respect to any specified circumstance, was insufficient to authorize a grand jury investigation of conduct of the Commission and action of presiding judge in Quarter Sessions of Philadelphia in ordering investigation was abuse of discretion. *In re Philadelphia County Grand Jury*, April 1943, 32 A.2d 199, 347 Pa. 316, 1943.

4. Mandamus

Where statutes authorizing registration commission to receive applications for registration from electors refused registration by registrars, elector refused registration by registrars who did not apply to commission could not by mandamus compel registrars to enroll him, since statutory remedy had not been followed. *Ermine v. Frankel*, 185 A. 269, 322 Pa. 70, 1936.

Note 5

5. Prohibition

Prohibition would lie to restrain an investigation by grand jury as to conduct of Registration Commission of City of Philadelphia, where the memorial on which investigation was based was insufficient. *In re Philadelphia County Grand Jury*, April 1943, 32 A.2d 199, 347 Pa. 316, 1943.

6. Certiorari

Although this Act provides no appeal to the Supreme Court, that court may review by certiorari the record of proceedings in court of common pleas relating to voters' right to register. *In re Moskowitz*, 196 A. 498, 329 Pa. 183, 1938.

§ 623-43. Production of document, et cetera, at appeals

(a) At the written request of any person taking an appeal from any action or order of the commission as aforesaid, the commission shall produce at the hearing thereof any petition, register, or other record in its custody relevant to the issue involved.

(b) The commission shall be a party appellee to all such appeals, and may itself appeal from any judgment, order or decree made or entered by the court of common pleas to such court of appellate jurisdiction as may have jurisdiction over the subject matter of the controversy, and shall be deemed and considered a proper party appellant and in interest to file and prosecute such appeal.

(c) Deleted. 1941, July 31, P.L. 710, § 32.
1937, March 30, P.L. 115, § 43. Amended 1941, July 31, P.L. 710, § 32.

Rules of Civil Procedure

Under Rules of Civil Procedure, Rule 4023, this section is not deemed suspended by Rules 4001-4020 of the Rules of Civil Procedure governing depositions and discovery.

Library References

Elections ⇄ 112.
WESTLAW Topic No. 144.

C.J.S. Elections § 48.
P.L.E. Elections § 28.

Notes of Decisions

In general 1

1. In general

This section concerning right of registration commission to prosecute appeals in courts of common pleas from commission's own decisions must be strictly construed. *In re Moskowitz*, 196 A. 498, 329 Pa. 183, 1938.

The registration commission's appeal from decree of common pleas court di-

recting registration of voter who had been convicted of intentionally interfering with inspector of registration in performance of his duties by quarter sessions court which failed to impose penalty of disfranchisement, was dismissible since this section does not give commission any standing to prosecute an appeal to an appellate court by certiorari or otherwise. *In re Moskowitz*, 196 A. 498, 329 Pa. 183, 1938.

§ 623-44. Subpoenas and witness fees

(a) Any person filing any petition of any kind aforesaid with the commission, or opposing same, shall have the privilege of having subpoenas issued by the commission to compel the attendance of witnesses, upon condition that all witnesses so subpoenaed shall be paid witness fees, in the manner herein provided.

(b) The commission, on its own motion, may subpoena witnesses, including registrars, each of whom shall also be entitled to daily witness fees, to be paid out of any money to be provided for the purpose to the commission by the appropriating authority of the county in the same manner as other necessary expenses of such commission are to be provided for.

(c) All subpoenas shall be in substantially the same form and shall have the same force and effect as subpoenas now issued by a court of common pleas. The commission shall have the benefit of the process of said courts, if necessary, to enforce any subpoena issued by such commission.

(d) No subpoena shall be issued for the benefit of any person, other than the commission, until he shall have paid the commission a fee of twenty-five cents for issuing the same, and deposited with said commission one day's witness fees for each witness to be summoned thereby, whose names shall be given to the commission and entered by it in such subpoena, and no such subpoena shall be of any virtue to require the further attendance of any witness after the day mentioned therein unless the hearing be postponed or continued by the commission, and unless, before four o'clock postmeridian of said day, the person for whose benefit it be issued shall be deposited with the said commission an additional day's witness fees for each witness whose further attendance is desired. As soon as convenient after any hearing is concluded (or postponed or continued) on any day, the commission shall disburse the fees deposited with it by any person aforesaid among these witnesses who have appeared in response to subpoenas issued as aforesaid, and shall return to the person who deposited the same any fees deposited for others who did not attend, and shall also pay like fees to any summoned by the commission as aforesaid, taking their receipts therefor, as long as there are sufficient funds available for such payments.

(e) The commission shall pay over to the city treasurer all fees received for subpoenas. The accounts of such commission respecting disbursements of witness fees out of appropriation made to such

commission by the appropriating authority of the city shall be subject to audit from time to time by the city controller.

1937, March 30, P.L. 115, § 44. Amended 1976, July 1, P.L. 476, No. 122, § 23, effective in 30 days. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1175], effective June 27, 1978.

Repealed in Part

This section is repealed insofar as it relates to amount of compensation of witnesses, by act of 1941, July 21, P.L. 425, § 11. (See 28 P.S. § 416.1 et seq.)

Historical and Statutory Notes

The 1976 amendment in subsec. (a) increased the daily witness fee from \$2.50 to \$20.

The 1978 amendment in subsec. (a) deleted specification of the amount of the daily witness fee.

Cross References

Compensation of witnesses see 42 Pa.C.S.A. § 5903.

Library References

Witnesses ⇨8, 16.
WESTLAW Topic No. 410.

C.J.S. Witnesses §§ 13, 19 et seq., 25.
P.L.E. Witnesses §§ 3, 4.

§ 623-45. Crimes and penalties

(a) Any person who wilfully disobeys a lawful order of the commission, or refuses to obey his subpoenas duly issued and served under the provisions of this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred (\$500.00) dollars.

(b) Any wilful false statement made under oath or in writing, stating that it is so made, although such oath may not have actually been made, by any person regarding any matter or thing relating to any subject being investigated, heard, or acted upon by any registrar, commissioner, judge, watcher, inspector of registration, or court by virtue of this act, shall be perjury, and any person, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred (\$500.00) dollars, or to undergo an imprisonment of not more than two (2) years, or both, in the discretion of the court.

(c) Any registrar or commissioner who knowingly registers, or permits to be registered, a person not lawfully entitled to be registered, or who, without reasonable cause, refuses to register a person entitled to be registered, or knowingly assists in preventing such person from being registered, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceed-

ing one thousand (\$1,000.00) dollars, or to undergo an imprisonment of not more than five (5) years, or both, in the discretion of the court.

(d) Any person who applies for registration, or who notifies the commission of a change of his residence address, knowing, or having reason to know, that he is not entitled to be registered, or have his residence address changed, or any person who declares as his residence a place or address which he knows or has reason to know is not his legal residence, or who falsely personates another in an application for registration, or who knowingly offers false naturalization information to establish his claim to be registered, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000.00) dollars, or to undergo an imprisonment not exceeding five (5) years, or both. In addition, sentence shall include the loss of the right of suffrage absolutely for a term of ten (10) years.

(e) Any registrar or assistant or employe of the registration commission who inserts, or intentionally permits to be inserted, a name or other entries in any registration card without a proper application in person on the part of the person registered or without requiring the proper evidence of the right of the applicant to be registered, or who materially alters any registration card after the entries have been made, except upon an order of the court of common pleas or of the commission, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000.00) dollars, or to undergo an imprisonment of not more than five (5) years, or both, in the discretion of the court.

(f) Any election officer who knowingly refuses the vote of a duly registered and qualified elector, or who knowingly accepts the vote of persons not registered in accordance with the provisions of this act (except that of a person in actual military or naval service, or a person having an order of court), or who knowingly receives a vote from a person falsely claiming to be a registered voter, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000.00) dollars, or to undergo an imprisonment of not more than five (5) years, or both, in the discretion of the court.

(g) Any commissioner, registrar, inspector of registration, special inspector of registration, or other officer, assistant or employe, or any person, partnership or corporation, upon whom a duty is laid by this act, who shall wilfully neglect or refuse to perform his said duty, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000.00) dollars, or to undergo an imprisonment of not more than two (2) years, or both, in the discretion of the court.

(h) Any person who inserts, or intentionally permits to be inserted, any name or material entry in any registration card, street list, affidavit, petition, subpoena, certificate, report, or other record, authorized or required by this act to be made or prepared for any purpose herein mentioned, except in accordance therewith, or who materially alters or destroys an entry which has been duly made therein, except as herein provided, or who takes and removes any such book, paper, card, or other record from the custody of any person having lawful charge thereof in order to prevent the same from being used or inspected or copied as herein provided, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000.00) dollars, or to undergo an imprisonment of not more than three (3) years, or both, in the discretion of the court.

(i) Any person who neglects or refuses to furnish to the registration commission or commissioner or to any inspector of registration any report or information which they or he are therein authorized to receive or obtain, or to exhibit any record, papers or documents herein authorized to be inspected by them or him, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred (\$500.00) dollars, or to undergo an imprisonment of not more than two (2) years, or both, in the discretion of the court.

(j) Any constable, policeman, sheriff, or other peace or police officer, or deputy or subordinate thereof, who shall fail, upon demand of any commissioner or inspector of registration, to render such aid and assistance to him as he shall demand in the maintenance of peace and in the making of arrests without warrant as herein provided, or who shall willfully hinder or delay, or attempt to hinder or delay, any commissioner or inspector of registration in the performance of any duty, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred (\$500.00) dollars, or to undergo an imprisonment of not more than two (2) years, or both, in the discretion of the court.

(k) Any person who intentionally interferes with, hinders, or delays any other person in the performance of any act or duty authorized or imposed herein shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not to exceed five hundred (\$500.00) dollars.

(l) Any election officer or other person who shall alter or attempt to alter the signature of any elector upon any of the cards required to be kept by the registration commission, its employes, registrars or inspectors, or who shall remove or destroy, or attempt to remove or destroy such cards, except in the performance of the duties of his office or employment, shall be guilty of a misdemeanor, and, upon

conviction thereof, shall be sentenced to pay a fine not exceeding five hundred (\$500.00) dollars, or to undergo imprisonment of not more than two (2) years, or both, in the discretion of the court.

(m) Any election officer or clerk, who shall permit a person to see a signature recorded as his in the district register before he shall have signed his name to the voter's certificate, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred (\$500.00) dollars, or to undergo an imprisonment not more than two (2) years, or both, in the discretion of the court.

(n) Any person who shall intentionally remove, deface or destroy a copy of a street list posted by the commission in accordance with section thirty-four (b) of this act¹ shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one hundred (\$100.00) dollars, or to undergo an imprisonment of not more than six months, or both, in the discretion of the court.

(o) Any person who shall sign his name to the removal notice of any elector, certifying to the truth of the statement therein as to the place of residence of such elector, knowing that the statement is false, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred (\$500.00) dollars, or to undergo an imprisonment of not more than two (2) years, or both, in the discretion of the court.

(p) Any person who shall falsely represent himself to be and falsely assume to act as a registrar, agent or employe of the commission shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine not exceeding two hundred dollars (\$200) or to undergo an imprisonment of not more than six months or both in the discretion of the court.

(q) Any wilful false statement made by a registrant in information set forth by such registrant on the official registration application card shall be perjury, and any registrant convicted thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000.00) dollars, and to undergo an imprisonment not exceeding five (5) years, or both. In addition, sentence shall include the loss of the right of suffrage absolutely for a term of ten (10) years.

(r) It shall be a misdemeanor for an elector's representative under section 20 to deliberately misinstruct or falsify or alter party designation or to fail to deliver a completed and signed registration application.

1937, March 30, P.L. 115, § 45. Amended 1941, July 31, P.L. 710, § 33; 1947, June 10, P.L. 513, § 1; 1976, July 1, P.L. 476, No. 122, § 24, effective in 30 days.

¹ 25 P.S. § 623-34.

Historical and Statutory Notes

The 1976 amendment in subsec. (d) substituted "naturalization information" for "naturalization papers", increased the maximum term of imprisonment from 3

years to 5 years, and added the provision that the sentence shall include the loss of suffrage for a term of 10 years; and added subsecs. (q) and (r).

Library References

Elections ⇨309.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 324, 334.
P.L.E. Elections § 141 et seq.

Notes of Decisions

In general 1
Evidence 3
Grand jury 2

1. In general

Under § 623-1 et seq. of this title, providing that wilful neglect or refusal of Registration Commission to perform its statutory duties shall constitute a misdemeanor, not every default constitutes a "crime", since default may result from mere negligence or from circumstances beyond control of the commissioners or may be wholly accidental. In re Philadelphia County Grand Jury, April 1943, 32 A.2d 199, 347 Pa. 316, 1943.

2. Grand jury

Statement in memorial that petitioner averred on information and belief that registration commissioners of Philadelphia had been and were in default in performance of their statutory duties, and that it was desirable that complete investigation be made in order to ascertain whether crimes had been committed was insufficient to justify grand jury investigation when challenged by petition for writ of prohibition to restrain such investigation. In re Philadelphia County Grand Jury, April 1943, 32 A.2d 199, 347 Pa. 316, 1943.

A memorial which charged defaults by Registration Commission of City of Philadelphia, in failing to compare voters' signatures on registration affidavits with those on voting certificates, to purge lists by eliminating names of persons no long-

er qualified to vote and to deal properly with voters claiming assistance, but did not charge wilful default with respect to any specified circumstance, was insufficient to authorize a grand jury investigation of conduct of the Commission and action of presiding judge in Quarter Sessions of Philadelphia in ordering investigation was abuse of discretion. In re Philadelphia County Grand Jury, April 1943, 32 A.2d 199, 347 Pa. 316, 1943.

3. Evidence

Evidence, identifying accused as same person who applied for registration as a qualified voter in a certain election district, was sufficient to sustain conviction for false registration. Com. v. Middleton, 4 A.2d 533, 134 Pa.Super. 573, 1939.

In prosecution for perjury and false registration, registration card filled out by deputy registrar was properly admitted where deputy testified to having actually administered oath to applicant and another witness testified that card was produced from files of registration commission. Com. v. Middleton, 4 A.2d 533, 134 Pa.Super. 573, 1939.

Under prior law, §§ 612, 613, of this title, repealed, testimony of two witnesses that accused told them he was born in the West Indies without evidence showing falsity of sworn statement made before registrars of election district that accused was born in Louisiana was insufficient to sustain conviction of perjury. Com. v. Haines, 196 A. 621, 130 Pa.Super. 196, 1938.

§ 623-46. Effective date; partial invalidity; legislative intent

(a) Except as otherwise provided herein, this act shall be in force and take effect immediately upon its enactment.

(b) It is the intention of the General Assembly that if this act cannot take effect in its entirety because of the judgment of any court

of competent jurisdiction holding unconstitutional any part or parts thereof, the remaining provisions of the act shall be given full force and effect as completely as if the part or parts held unconstitutional had not been included herein.

1937, March 30, P.L. 115, § 46.

Library References

Statutes ⇨64(2).
WESTLAW Topic No. 361.

C.J.S. Statutes § 96 et seq.
P.L.E. Statutes § 16.

IN CITIES OF THE SECOND CLASS, SECOND CLASS A AND THIRD CLASS, BOROUGHES, TOWNS AND TOWNSHIPS

IN GENERAL

§§ 641 to 661. Repealed. 1919, July 10, P.L. 857, § 53; 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45; 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44

Historical and Statutory Notes

These sections, derived from acts of 1913, July 24, P.L. 977, §§ 1 to 3; 1917, July 19, P.L. 1108, § 1, related to personal registration of electors in cities of the first and second classes. The sections were repealed, so far as they related to cities of the first class, by the act of 1919, July 10, P.L. 857, § 53 (§§ 341 to 622 of this title, repealed), and in so far as they affected personal registration and enrollment of voters in cities of second class A

by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45 (§§ 808-1 to 808-45 of this title, repealed), and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44 (§§ 807-1 to 807-44 of this title, repealed). The subject matter is now covered by §§ 623-1 to 623-46 of this title, relating to cities of the first class, and by §§ 951-1 to 951-46 of this title, relating to cities of the second class.

§ 662. Term of registration commissioners where cities consolidate

In the case of consolidation of two or more cities, under the laws of the commonwealth, the boards of registration commissioners of said cities, provided for and appointed in accordance with an act, entitled "An act to provide for the personal registration of electors in cities of the first and second classes of this commonwealth to make such registration a condition of the right to vote in such cities, and to provide penalties for the violations of its provisions," approved the seventeenth day of February, Anno Domini one thousand nine hundred and six,¹ shall remain in office and continue their functions until the expiration of the term for which they were appointed, each board of registration commissioners remaining in charge of the municipal territory for which it was appointed.

1907, June 3, P.L. 394, § 1.

¹ Act of 1906, Feb. 17, P.L. 49.

Repealed in Part

This section is repealed absolutely insofar as it affects personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45 (§§ 808-1 to 808-45 of this title, repealed), and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44 (§§ 807-1 to 807-44 of this title, repealed).

Historical and Statutory Notes

The act of 1906, Feb. 17, P.L. 49, mentioned in the text was repealed by § 19 of the act of 1913, July 24, P.L. 977 (§§ 663 to 806 of this title, repealed); but § 3 of

the act of 1913, as amended by the act of 1917, July 19, P.L. 1108, § 1, § 661 of this title, repealed, provided for a Board of Registration Commissioners.

Library References

Elections ⇨ 100.

WESTLAW Topic No. 144.

C.J.S. Elections § 42.

P.L.E. Elections § 25.

PERSONAL AND PERMANENT REGISTRATION

§§ 663 to 806. Repealed. 1919, July 10, P.L. 857, § 53; 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45; 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44

Historical and Statutory Notes

These sections, derived from acts of 1913, July 24, P.L. 977, §§ 4 to 18; 1915, May 28, P.L. 576, § 1; 1915, June 18, P.L. 1027, §§ 1, 2; 1921, April 21, P.L. 239, § 1; 1927, April 23, P.L. 370, § 1. They related to personal registration of electors in cities of the first and second classes. The sections were repealed, in so far as they related to cities of the first class, by the act of 1919, July 10, P.L. 857, § 53 (§§ 341 to 622 of this title, repealed), and in so far as they affected

personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45 (§§ 808-1 to 808-45 of this title, repealed), and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44 (§§ 807-1 to 807-44 of this title, repealed). The subject matter is now covered by §§ 623-1 to 623-46 of this title, relating to cities of the first class, and by §§ 951-1 to 951-46, of this title, relating to cities of the second class.

§§ 807-1 to 807-44. Repealed. 1937, May 25, P.L. 814, § 47

Historical and Statutory Notes

These sections, derived from acts of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, §§ 1 to 44; 1935, April 18, P.L. 32, §§ 1, 2, were known and cited as "The Permanent Registration Act in Cities of the Second Class". They were repealed absolutely by act of 1937, May 25, P.L. 814, § 47 (§ 807-147 of this title, repealed), in so far as they affected the personal registration and enrollment of voters in cities

of the second class. This would seem to have effected an absolute repeal.

Section 44 of act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, repealed absolutely in so far as they affected personal registration and enrollment of voters in cities of second class, the following acts:

1839, July 2, P.L. 519, § 59.

1874, Jan. 30, P.L. 31, §§ 1, 2, 3, 15, 19.

1874, Feb. 13, P.L. 44, § 1.

VOTER REGISTRATION

25 P.S. §§ 809-1 to 809-49
Repealed

1891, May 29, P.L. 134.
1891, June 16, P.L. 298.
1893, June 12, P.L. 455.
1895, May 16, P.L. 75.
1907, June 3, P.L. 394.
1913, July 24, P.L. 977.
1913, July 25, P.L. 1043.
1915, May 28, P.L. 576.

1915, June 18, P.L. 1027.
1917, July 19, P.L. 1108.
1919, July 21, P.L. 1065.
1921, April 21, P.L. 239.
1923, June 7, P.L. 680.
1927, April 23, P.L. 370.

The subject matter is now covered by §§ 951-1 to 951-46 of this title.

§§ 807-101 to 807-147. Repealed. 1955, May 31, P.L. 62, § 36

Historical and Statutory Notes

These sections were derived from acts of 1937, May 25, P.L. 814; 1939, June 9, P.L. 284, § 1; 1941, July 21, P.L. 425, § 11; 1941, Aug. 1, P.L. 686, §§ 1 to 7; 1943, May 27, P.L. 701, § 1; 1945, March 2, P.L. 23, §§ 1 to 3; 1945, May 15, P.L. 461, § 1, 2; 1945, May 15, P.L.

473, §§ 1 to 3; 1945, May 18, P.L. 644, § 1; 1947, March 5, P.L. 27, §§ 1, 2; 1947, June 28, P.L. 1052, § 1. The sections related to permanent registration in cities of the second class. The subject matter is now covered by § 951-1 et seq. of this title.

§§ 808-1 to 808-45. Repealed. 1937, June 1, P.L. 1132, § 47

Historical and Statutory Notes

These sections, derived from acts of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, §§ 1 to 45, were known and cited as "The Permanent Registration Act in Cities of the Second Class A". They were repealed absolutely by act of 1937, June 1, P.L. 1132, § 47 (§ 809-47 of this title, repealed), in so far as they affected the personal registration and enrollment of voters in cities of the Second Class A. This would seem to have effected an absolute repeal.

Section 45 of act 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, repealed absolutely in so far as they affected personal registration and enrollment of voters in cities of second class A, the following acts:

1839, July 2, P.L. 519, § 59.

1874, Jan. 30, P.L. 31, §§ 1, 2, 3, 15, 19.

1874, Feb. 13, P.L. 44, § 1.

1891, May 29, P.L. 134.

1891, June 16, P.L. 298.

1893, June 12, P.L. 455.

1895, May 16, P.L. 75.

1907, June 3, P.L. 394.

1913, July 24, P.L. 977.

1913, July 25, P.L. 1043.

1915, May 28, P.L. 576.

1915, June 18, P.L. 1027.

1917, July 19, P.L. 1108.

1919, July 21, P.L. 1065.

1921, April 21, P.L. 239.

1923, June 7, P.L. 680.

1927, April 23, P.L. 370.

The subject matter is now covered by § 951-1 et seq. of this title.

§§ 809-1 to 809-49. Repealed. 1955, May 31, P.L. 62, § 36

Historical and Statutory Notes

These sections were derived from acts of 1937, June 1, P.L. 1132; 1939, June 9, P.L. 286, § 1; 1941, July 21, P.L. 425, § 11; 1941, Aug. 1, P.L. 680, §§ 1 to 7; 1943, May 27, P.L. 703, § 1; 1945, March 2, P.L. 19, §§ 1 to 3; 1945, May 1,

P.L. 364, §§ 1, 2; 1945, May 15, P.L. 477, §§ 1 to 3; 1945, May 18, P.L. 646, § 1; 1947, March 5, P.L. 32, §§ 1, 2; 1947, June 21, P.L. 757, § 1; 1947, June 28, P.L. 1053, § 1. The sections related to permanent registration in cities of the

Repealed

second class A. The subject matter is now covered by § 951-1 et seq. of this title.

§§ 821 to 945. Repealed. Act 1935, July 1, P.L. 478, No. 195, § 41

Historical and Statutory Notes

These sections, derived from acts of 1906, March 5, P.L. 63, §§ 1 to 15; 1907, May 25, P.L. 251, §§ 1 to 5; 1911, June 16, P.L. 1014, §§ 1 to 7; 1917, July 6, P.L. 738, §§ 1 to 6; 1919, May 8, P.L. 117, § 1; 1921, May 20, P.L. 977, § 1; 1923, May 7, P.L. 148, § 1; 1925, May 14, P.L. 693, § 1; 1927, April 23, P.L. 368, § 1; 1927, April 23, P.L. 375, No.

242, § 1; 1929, April 10, P.L. 475, § 1, related to the personal registration of electors in cities of the third class. The sections were repealed by act of 1935, July 1, P.L. 478, No. 195, § 41 (§§ 946-1 to 946-40 of this title, repealed).

The subject matter is now covered by § 951-1 et seq. of this title.

§§ 946-1 to 946-40. Repealed. 1937, May 25, P.L. 849, § 47

Historical and Statutory Notes

These sections, derived from acts of 1935, July 1, P.L. 478, No. 195, §§ 1 to 40, related to the permanent personal registration of electors in cities of the third class. The sections were repealed

by act of 1937, May 25, P.L. 849, § 47 (§ 947-47 of this title, repealed).

The subject matter is now covered by § 951-1 et seq. of this title.

§§ 947-1 to 947-47. Repealed. 1955, May 31, P.L. 62, § 36

Historical and Statutory Notes

These sections were derived from acts of 1937, May 25, P.L. 849; 1939, June 9, P.L. 276, § 1; 1939, June 9, P.L. 279, § 1; 1939, June 9, P.L. 287, § 1; 1939, June 9, P.L. 290, § 1; 1939, June 19, P.L. 443, § 1; 1939, June 21, P.L. 602, § 1; 1941, July 21, P.L. 425, § 11; 1941, Aug. 1, P.L. 659, §§ 1 to 6; 1941, Aug. 1, P.L. 694, §§ 1 to 7; 1943, May 27, P.L. 697, § 1; 1945, March 2, P.L. 27, §§ 1 to 3;

1945, May 1, P.L. 366, §§ 1, 2; 1945, May 15, P.L. 470, §§ 1 to 3; 1945, May 18, P.L. 648, § 1; 1947, March 5, P.L. 30, §§ 1, 2; 1947, June 20, P.L. 692, § 1; 1947, June 28, P.L. 1028, § 1; 1947, July 7, P.L. 1363, § 1; 1951, June 30, P.L. 971, § 1. The sections related to permanent registration in cities of the third class. The subject matter is now covered by § 951-1 et seq. of this title.

§ 951-1. Short title citation

This act shall be known, and may be cited, as "The Permanent Registration Act for Cities of the Second Class, Cities of the Second Class A, Cities of the Third Class, Boroughs, Towns, and Townships". 1937, April 29, P.L. 487, § 1. Amended 1955, May 31, P.L. 62, § 1.

Historical and Statutory Notes

The act of 1955, with other changes, extended §§ 951-1 to 951-44 of this title, to cities of the second, second class A and third classes.

Section 36 of the 1955 Act repeals §§ 807-101 to 807-147, 809-1 to 809-47 and 947-1 to 947-47 of this title, and also provides as follows:

"Any unexpended balances of any appropriations heretofore made by the county commissioners for the purpose of carrying out any provision of the act or its amendments, are transferred to and made available for the commission created by the act amended hereby for the expenses of carrying out the provisions of that act.

"On the effective date of this act the terms of office of the existing registration commission or commissioners of each city of the second class and of each city of the second class A and of each city of the third class, shall terminate. They shall deliver all books, papers, records, furnishings and supplies pertaining to their office to the commission created by the act amended hereby.

"The respective provisions of this act shall preserve the rights of each and every elector, previously registered, under the provisions of any act, and shall not require any further action on the part of such elector to remain validly registered while he continues to reside at the same address, unless his registration is cancelled by reason of his failure to vote during a period of two calendar years, as heretofore required, under the provisions of any act, or as herein provided, nor shall the respective provisions of this act impair or affect any act done, offense

committed, or right accruing, accrued or acquired, or liability, duty, obligation, penalty, judgment or punishment, incurred prior to the time such provisions take effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this act had not been passed."

Title of Act:

An Act to provide for the permanent personal registration of electors in cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, and townships as a condition of their right to vote at elections and primaries, and their enrollment as members of political parties as a further condition of their right to vote at primaries; prescribing certain procedure for the conduct of elections and primaries and the challenge and proof of qualifications of electors; requiring the county commissioners of the various counties to act as a registration commission therefor; and prescribing the powers and duties of citizens, parties, political bodies, registration commissions, commissioners, registrars, inspectors of registration and other appointees of registration commissions, county election boards, election officers, municipal officers, departments and bureaus, police officers, courts, judges, prothonotaries, sheriffs, county commissioners, peace officers, county treasurers, county controllers, registrars of vital statistics, certain public utility corporations, real estate brokers, rental agents, and boards of school directors; and imposing penalties. 1937, April 29, P.L. 487. Amended 1955, May 31, P.L. 62, § 1, eff. June 1, 1955.

Library References

Elections ☞97.
WESTLAW Title No. 144.

C.J.S. Elections § 38.
P.L.E. Elections § 24.

§ 951-2. Definitions

(a) The word "**Commission**" shall mean any registration commission having jurisdiction in cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, and townships.

(b) "**Commissioner**" shall mean a county commissioner acting as a member of the registration commission.

(c) "**Oath**" shall include affirmation, and "**Swear**" shall include affirm.

(d) "**Election**" shall mean any general, special, municipal or primary election, unless otherwise specified.

(e) "**General election**" shall mean the election which the Constitution of this Commonwealth requires to be held in even-numbered years.

(f) "**Municipal election**" shall mean the election which the Constitution of this Commonwealth requires to be held in odd-numbered years.

(g) "**Primary election**" shall mean any election for the nomination of candidates.

(h) "**November election**" shall mean either the general or the municipal election, or both, according to the context.

(i) "**Party**" shall mean any party or political body, one of whose candidates at the general election next preceding the primary polled in each of at least ten counties of the State not less than two per centum of the largest entire vote cast in each of said counties for any elected candidate, and polled a total vote in the State equal to at least two per centum of the largest entire vote cast in the State for any elected candidate; or any party or political body, one of whose candidates at either the general or municipal election preceding the primary polled at least five per centum of the largest entire vote cast for any elected candidate in any county containing therein any city of the second class, city of the ¹ second class A, cities of the third class, borough, town or township.

(j) "**Political body**" shall mean any political body not recognized as a political party which has filed proper nomination papers as required by law.

(k) "**Qualified elector**" shall mean any person who shall possess all of the qualifications for voting now or hereafter prescribed by the Constitution of this Commonwealth, or who, being otherwise qualified by continued residence in his election district shall obtain such qualifications before the next ensuing election, except that this term shall not include qualified electors as hereinafter defined in section 18.1.²

(l) "**Register**" shall mean the cards containing, or to contain, all or any part of the registry list of qualified electors prepared, or to be prepared, by the registration commissions as hereinafter provided.

(m) "**County**" shall mean any county of this Commonwealth.

(n) **“Public office”** shall mean and include any National, State, judicial, county, city, borough, town, township, school district, poor district, ward or election office or employment requiring any person elected or appointed thereto to render any public service for a fixed fee or compensation, except the office of notary public or commissioner of deeds.

(o) Wherever a term in the masculine form is used in this act, it shall refer alike to men and women.

(p) **“District”** shall mean any election district or precinct of a city of the second class, city of the second class A, city³ of the third class, borough, town or township.

(q) All references to police officers, clerks, secretaries, courts, judges, prothonotaries, county treasurers, county controllers, county commissioners, sheriffs, peace officers, registrars of vital statistics, boards of school districts, and other officials of counties, cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships, and school districts where not otherwise specified, shall refer only to those of any city of the second class, city of the second class A, city of the third class, borough, town or township, or to those of any county within which such city of the second class, city of the second class A, city of the third class, borough, town or township, is located or to any school district containing, contained in, or coextensive with, any city of the second class, city of the second class A, city of the third class, borough, town or township.

(r) **“County election board”** or **“county board”** shall mean the county board of elections of any county as now or hereafter provided for by the election laws of this Commonwealth.

(s) In determining or reckoning any period of time mentioned in this act, the day upon which the act is done, paper filed, or notice given, shall be excluded from, and the date of the primary, election, hearing, or other subsequent event, as the case may be, shall be included in the calculation or reckoning: Provided, however, That if the last day upon which any act may be done, paper filed, or notice given shall fall on a Sunday or a legal holiday, the next following ordinary business day shall be considered as the last day for said purpose.

(t) **“Persons in military service”** shall mean qualified electors of this Commonwealth who are or may be by enlistment, enrollment or draft in actual military or naval service of the United States, or any branch or unit thereof, or in the military service of the Commonwealth.

(u) **"Calendar year"** shall mean the period commencing the first day of January and ending the thirty-first day of December next following.

(v) The words **"members of the Merchant Marine of the United States"** means persons (other than persons in military service) employed as officers or members of crews of vessels documented under the law of the United States or of vessels owned by the United States or of vessels of foreign-flag registry under charter to or control of the United States, and persons (other than persons in military service) enrolled with the United States for employment or for training for employment or maintained by the United States for emergency relief service as officers or members of crews of any such vessels, but does not include persons so employed or enrolled for such employment or for training for employment or maintained for such emergency relief on the Great Lakes or the Inland waterways.

(w) The word **"dependent"** means any person who is in fact a dependent.

(x) The words **"Person authorized to administer oaths"** shall mean any person who is a commissioned officer in military service or any member of the Merchant Marine of the United States designated for this purpose by the Secretary of Commerce or any civilian official empowered by any State or Federal law to administer oaths.

(y) The words **"In military service"** shall mean the uniformed services as defined in section 102 of the Career Compensation Act of 1949 (63 Stat. 804, U.S. Code Title 37, Par. 231).⁴

1937, April 29, P.L. 487, § 2. Amended 1941, Aug. 1, P.L. 664, § 1; 1945, March 2, P.L. 25, §§ 1, 2; 1945, May 15, P.L. 463, § 1; 1955, May 31, P.L. 62, § 2; 1963, Aug. 13, P.L. 746, §§ 1, 2, effective Jan. 1, 1964.

¹ Enrolled bill omits "the".

² 25 P.S. § 951-18.1.

³ Enrolled bill reads "cities".

⁴ 37 U.S.C.A. § 101.

Notes of Decisions

Qualified elector 1

1. Qualified elector

Word "elector" is used in the sense of one qualified to vote at the election and therefore one who at the time of signing the petition of the referendum was a registered voter, since otherwise the commissioners have no way of ascertaining whether the requisite number of signers

are electors. *Aukamp v. Diehm*, 8 A.2d 400, 336 Pa. 118, 1939.

The term "qualified elector", as contained in the Election Code and The Permanent Registration Act (§§ 807-101 to 807-147, repealed), meant a person who had actually registered, not merely one who contemplated doing so or who was eligible for registration as a voter. In re Nominating Petition of Smiley, Twenty-Ninth Congressional Dist., 63 Dauph. 275, 84 D. & C. 323, 1953.

§ 951-3. County commissioners to act as registration commission for cities of the second class, cities of the second class A, cities of the third class, boroughs, towns and townships

(a) The county commissioners of each county containing one or more cities of the second class, cities of the second class A, cities of the third class, boroughs, towns or townships shall act as a registration commission in and for such county, which commission shall have jurisdiction over the registration of electors in the cities of the second class, cities of the second class A, cities of the third class, boroughs, towns and townships of such county under the provisions of this act. In counties which have adopted home rule charters or optional plans, the registration commission shall consist of the members of the county body which performs legislative functions unless the county charter or optional plan provides for the appointment of the registration commission. In either case, there shall be minority representation on the registration commission. The county body which performs legislative functions shall in the case where the registration commission does not contain minority representation appoint such representation from a list submitted by the county chairman of the minority party.

(b) The commissioners shall receive no compensation in addition to their compensation as county commissioners.

(c) All actions of a commission shall be decided by a majority vote of all members, except as may be otherwise provided herein.

(d) Each commission shall keep a record in permanent form of its proceedings.

1937, April 29, P.L. 487, § 3. Amended 1955, May 31, P.L. 62, § 3; 1978, June 1, P.L. 458, No. 59, § 1, imd. effective.

Historical and Statutory Notes

The 1978 amendment in subsec. (a) added the provisions relating to counties which have adopted home rule charters or optional plans and to minority party representation.

Library References

Elections ⇨ 100.
WESTLAW Topic No. 144.

C.J.S. Elections § 42.
P.L.E. Elections § 25.

Notes of Decisions

In general 1
Removal 2

1. In general
Provision of Home Rule Act, paragraph (a)(7) of § 3421.18 of Title 53, that city is

Note 1

forbidden to exercise powers contrary to, or in limitation or enlargement of, powers granted by acts of the General Assembly, on the subject of providing for the personal registration of electors, merely prevents the city from amending or nullifying general laws of the state regarding qualifications which entitle elector to be registered, or laws concerning, not the personnel of the office of the Registration Commission, but the functions or duties they perform, and such provision was not indicative that such Commission was not a city agency. *Lennox v. Clark*, 93 A.2d 834, 372 Pa. 355, 1953.

2. Removal

In absence of legislation, court to common pleas had no jurisdiction to decree that county commissioners were disqualified to serve as a city registration commission at a municipal election because they were candidates at such election, for county commissioners were constitutional officers and as such could be removed only by impeachment or by removal by Governor for reasonable cause. In re *Carbondale Registration Com'rs*, 62 D. & C. 151, 49 Lack.Jur. 133, 1948.

§ 951-4. Powers of commission; regulations; enforcement; correction of errors or irregularities; cancellation of registration; powers of commissioners

(a) The commission may make regulations, not inconsistent with this act or the laws of this Commonwealth—(1) to govern the public sessions of such commission, and (2) for the performance of the duties imposed by this act, and may enforce such regulations and all its orders and subpoenas to witnesses as herein provided, and, if necessary, shall have the assistance of the court of common pleas of the county, and of all public officers subservient thereto, in enforcing the same, which assistance said officers, as well as the judges of said court, shall render when requested to do so, subject, however, to the right of certain persons to appeal from the orders of the commission as herein provided.

(b) The commission shall have power to correct any error or any irregularity in registration, and to cancel the registration of any person whom it may find to be improperly registered, subject only to the provisions of this act, and provided that notice in writing shall be given to, or left at the address of, each person whose registration is cancelled.

(c) The commission, and any commissioner, shall have power, on its or his own motion—(1) to summon and interrogate any person concerning the registration of electors or any matter related thereto, (2) to investigate any irregularities in registration, (3) to summon and examine witnesses, (4) to require the production of any relevant books and papers.

(d) Each commissioner shall have power to administer oaths and affirmations. Each person testifying before a commission or commissioner shall be first duly sworn or affirmed.

(e) The commission shall have power to correct its records, without requiring any action of the registered elector, (1) where the

mailing address of the registered elector has been changed by the renaming of a street, the renumbering of a house or the changing of a post office, (2) where the election district of the registered elector has been changed through a change in the boundaries of any election district. Notice of such action shall be mailed promptly to any registered elector whose registration has been so corrected.

1937, April 29, P.L. 487, § 4. Amended 1941, Aug. 1, P.L. 654, § 1; 1955, May 31, P.L. 62, § 4.

Library References

Elections ⇨103, 108.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 43, 48.
P.L.E. Elections § 25.

§ 951-5. Employees, registrars, inspectors of registration; duties; appointment; incompatible offices

(a) The commission shall have power to appoint such assistants and employes as, from time to time, it may deem necessary to carry out the provisions of this act, and may at any time remove the same. The number and compensation of all such assistants and employes shall be fixed by the salary board of the county. The commission may appoint employes of the county to act for the registration commission without any additional compensation as such.

(b) The employes to be appointed by the commission shall include—(1) Registrars or clerks, who shall be empowered to register the qualified electors of such cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, and townships, and in so doing to administer oaths and affirmations; and (2) inspectors of registration, who shall have and may exercise the powers conferred upon them by this act.

(c) Registrars and inspectors of registration shall be qualified electors of the county. No person who holds or is a candidate for public or party office shall be appointed to or hold any office or employment under any commission, except as otherwise provided by this act. Registrars and inspectors of registration shall receive such compensation, either on a per diem basis for time actually employed, or on the basis of work actually done by them, as shall be fixed by the salary board of the county.

(d) No registrar or inspector of registration shall exercise any power of his office until he shall have taken an oath of office, which the commission shall prescribe, and shall have received from the commission a certificate of appointment, setting forth his name and address, the date of his appointment, and the length of time for which he shall have been appointed.

(e) Each commission shall appoint a chief clerk who may be the chief clerk of the county commissioners, and who shall have authority to administer oaths and to sign vouchers.

(f) Any inspector of registration, when directed by the commission shall—(1) investigate all questions relating to the registration of electors in cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, and townships, and, for that purpose, shall have power to enter and inspect any house, dwelling, building, inn, lodging-house or hotel within any city of the second class, city of the second class A, city of the third class, borough, town or township, and to interrogate any inmate, householder, lodger, lessee, keeper, caretaker, owner, proprietor, or agent thereof or therein, regarding any person or persons residing or claiming to reside thereat or therein without being required to show any warrant for so doing except his certificate of appointment, and the commission shall have power to utilize any information so obtained to secure the correction of its records in accordance with the provisions of this act.

(2) Inspect in like manner and copy any register of lodgers in any lodging-house, inn or hotel relating to or affecting the right of any person to vote or to be registered in any city of the second class, city of the second class A, city of the third class, borough, and town or township.

(3) Arrest any person without warrant, except any herein privileged from such arrest, who, in the presence of the inspector of registration, violates, or attempts to violate, any of the provisions of this act, when such violation is punishable as a crime.

(4) Call on any police or peace officer of such city of the second class, city of the second class A, city of the third class, borough, town or township to assist the inspector of registration in the maintenance of peace at any place of registration or in making any arrest. 1937, April 29, P.L. 487, § 5. Amended 1941, Aug. 1, P.L. 654, § 2; 1955, May 31, P.L. 62, § 5.

Library References

Elections ⇨ 100, 103.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 42, 43.
P.L.E. Elections § 25.

Notes of Decisions

Appointment of registrars 1

1. Appointment of registrars

Petition, filed with county commissioners by political party's precinct representative, for appointment of certain person

as precinct registrar, was not mere suggestion or recommendation which commissioners could disregard, though power of appointment was vested in them by statute. Com. ex rel. District Attorney of Mercer County v. Gibson, 175 A. 389, 316 Pa. 429, 1934.

County commissioners' appointment of precinct registrar after presentation of party representative's petition for appointment of another, without giving notice of hearing on two nominees' qualifications, considering them, and allowing

representative to make another nomination after finding his original nominee unfit, was invalid. Com. ex rel. District Attorney of Mercer County v. Gibson, 175 A. 389, 316 Pa. 429, 1934.

§ 951-6. Counsel

The county solicitor shall be counsel for the commission and shall receive no compensation in addition to his compensation as county solicitor. Such counsel shall advise the commission, from time to time, regarding its powers and duties and the rights of electors and concerning the best methods of legal procedure for carrying out the various provisions of this act, and shall appear for and represent the commission on all appeals taken from its decisions or orders to a court of common pleas as herein provided.

1937, April 29, P.L. 487, § 6. Amended 1955, May 31, P.L. 62, § 6.

Library References

District and Prosecuting Attorneys
 ⇨5(4), 7(1).

WESTLAW Topic No. 131.

C.J.S. District and Prosecuting Attorneys §§ 12, 22, 23.

P.L.E. District Attorneys §§ 5, 6.
 P.L.E. Elections § 25.

§ 951-7. Appropriations by county commissioners; unexpended balances of appropriations heretofore made; additional appropriations

(a) The county commissioners shall appropriate annually, and from time to time, the funds that shall be necessary for the maintenance and operation of the commission and the carrying out of the provisions of this act, therein including the payment of the compensation of a sufficient number of registrars, inspectors of registration and other assistants and employes, and the fees of witnesses, as herein provided, and likewise for preparing, in accordance with the direction of the commission, securing and distributing, or receiving and preserving, all street lists, registration cards, affidavits, vouchers, notices, account books, stationery and other supplies which the commission shall consider necessary for the purposes of this act, and for all other necessary expenses.

(b) The county commissioners shall provide the commission with suitable and adequate offices, properly furnished, for keeping its records, holding its public sessions, and otherwise performing its duties.

(c) Any unexpended balances of any appropriations heretofore made by the county commissioners for the purpose of carrying out

any provision of the act to which this is an amendment, shall be transferred to and made available for the commission hereby created or constituted, for the expenses of carrying out the provisions of this act, immediately after the effective date of this act. All moneys required in addition to any original appropriation in the current year, or any other year, shall be appropriated from time to time as soon as it shall appear what extra sums are needed.

1937, April 29, P.L. 487, § 7. Amended 1955, May 31, P.L. 62, § 6.

Library References

Counties ⇨162.
WESTLAW Topic No. 104.

C.J.S. Counties §§ 199 to 201.
P.L.E. Counties § 94.

§ 951-8. Acts of employes

Any insertion or removal of names or other information in registers, or the amending of any records, done by any employe of the commission, by order of the commission, shall be construed to have been done by the commission itself, which shall likewise be responsible for the correction of any errors in the doing thereof.

1937, April 29, P.L. 487, § 8. Amended 1955, May 31, P.L. 62, § 6.

Library References

Records ⇨3.
WESTLAW Topic No. 326.

C.J.S. Records § 3.
P.L.E. Records § 4.

§ 951-9. Commissioners and chief clerk may act as registrars and inspectors

A commissioner or the chief clerk may act at any time as registrar or inspector of registration and, when so acting, shall have and may exercise the powers, and shall perform the duties and obligations conferred by or in accordance with law upon registrars and inspectors of registration, respectively.

1937, April 29, P.L. 487, § 9. Amended 1955, May 31, P.L. 62, § 6.

Library References

Elections ⇨100.
WESTLAW Topic No. 144.

C.J.S. Elections § 42.
P.L.E. Elections § 25.

§ 951-10. Immunity from arrest

Commissioners, registrars, and inspectors of registration shall be privileged from arrest while performing their duties as such, except upon warrant of a court of record, or judge thereof, for felony, for wanton breach of the peace, or for a criminal violation of this act.

1937, April 29, P.L. 487, § 10. Amended 1955, May 31, P.L. 62, § 6.

Library References

Arrest ☞60.
WESTLAW Topic No. 35.

C.J.S. Arrest §§ 6, 10, 11.
P.L.E. Arrest § 36.

§ 951-11. Acts to be done on legal holidays and Sundays

No part of any day fixed for the performance of any duties by any person or official under this act shall be deemed a Sunday or a legal holiday so as to affect the legality of any work done for the purpose of carrying out the provisions hereof, or the right of any person to any compensation herein provided for rendering any service required hereby, or so as to relieve any person from doing on such day whatever is necessary for such purposes, and such services are hereby declared to be necessary public services.

1937, April 29, P.L. 487, § 11. Amended 1955, May 31, P.L. 62, § 6.

Library References

Time ☞10(1).
WESTLAW Topic No. 378.

C.J.S. Time § 14(1) et seq.
P.L.E. Time § 21 et seq.

§ 951-12. Records and documents to be open to public inspection

The records of such commission, and all district registers, street lists, voting check lists, voter's certificates, affidavits, petitions, appeals, witness lists, accounts, contracts, reports, and other documents in its custody, except the general registers, shall be open to public inspection, except as herein provided, and may be inspected and copied by any qualified elector of any city of the second class, city of the second class A, city of the third class, borough, town or township during ordinary business hours at any time when they are not necessarily being used by the commission or its employes having duties to perform in reference thereto. Such public inspection thereof shall only be in the presence of a commissioner or authorized employe of a commission, and shall be subject to proper regulation for safekeeping of the records and documents and subject to the further provisions of this act.

1937, April 29, P.L. 487, § 12. Amended 1955, May 31, P.L. 62, § 6.

Library References

Records ☞14.
WESTLAW Topic No. 326.

C.J.S. Records §§ 7, 17.
P.L.E. Records § 5.

Notes of Decisions**Computerized data** 1

reasonable, convenient manner. *Macurdy v. Staisey*, 120 P.L.J. 51, 1971.

1. Computerized data

In light of the Commonwealth's policy to increasingly broaden access to public records, the defendants are required to make voting registration information on the magnetic discs available in the most

This section is controlling even though the computer was unknown in 1937 because new methods of data management do not derogate the public's right to know but only changes the means by where the right must be vindicated. *Macurdy v. Staisey*, 120 P.L.J. 51, 1971.

§ 951-13. Watchers at places of registration; privileges

(a) Any party or political body, which now is, or hereafter may be, entitled to have watchers at any election, as well as any organized body of citizens having as its purpose or among its purposes the investigation and prosecution of election frauds, may recommend not more than three qualified electors of the county to act as watchers, without expense to the county, at any place of registration during the time when it shall remain open for the registration of electors. The commission shall appoint all such persons as watchers, and shall provide them with proper certificates, stating their names and the party or policy or citizens' organization which they represent respectively, unless any be shown to have previously been convicted of any crime.

(b) Any watcher shall be entitled to remain at any place of registration during the time when it shall remain open for the registration of electors, and to keep a list or other memorandum of or concerning the persons applying for registration, and to interrogate or challenge any person regarding his right to be registered and to inspect any papers produced by such person. The registrars, commission, and commissioners shall give every watcher ample opportunity and afford him every convenience for the discharge of his duties: Provided, That a registrar, commission, or commissioner may, at any time, require any watcher to show his certificate of appointment: And provided, That not more than one watcher for any party or political body or citizens' organization represented shall be allowed in a place of registration at any one time.

1937, April 29, P.L. 487, § 13. Amended 1955, May 31, P.L. 62, § 6.

Cross References

Watchers at elections, see 25 P.S. § 2687.

Library References

Elections ⇄ 209, 210.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 192, 200.
P.L.E. Elections § 8.

§ 951-14. Watchers or attorneys at sessions of commission

Any party or political body or body of citizens which now is, or hereafter may be, entitled to have watchers at any place of registration or at any election, shall also be entitled to appoint any watchers, who are qualified electors of any city of the second class, city of the second class A, city of the third class, borough, town or township, or attorneys, to represent such party or political body or body of citizens at any public session or sessions of the commission. Such watchers or attorneys may exercise the same rights as watchers at places of registration, but the number who may be present at any one time may be limited by the commission to not more than three for any party or political body.

1937, April 29, P.L. 487, § 14. Amended 1955, May 31, P.L. 62, § 6.

Library References

Elections ⇨209, 210.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 192, 200.
P.L.E. Elections §§ 8, 82, 86.

§ 951-15. Candidates may be present at proceedings

Every candidate for nomination or election to any office shall be entitled to be present in person or by attorney in fact duly authorized, and to participate in any proceeding before any commission whenever any matters which may affect his candidacy are being heard.

1937, April 29, P.L. 487, § 15. Amended 1955, May 31, P.L. 62, § 6.

Library References

Elections ⇨210.
WESTLAW Topic No. 144.

C.J.S. Elections § 200.
P.L.E. Elections § 86.

§ 951-16. Days and hours of registration; places of registration; use of polling places; payment of rentals; use of school buildings; public notice

(a) From and after the first day of May, one thousand nine hundred and thirty-seven, each commission, or any commissioner or a registrar or clerk appointed by the commission, shall during ordinary business hours, and during such additional hours as the commission shall from time to time prescribe, on each day, except Sunday, holidays, the day of each election and each primary, the thirty days next preceding each general, municipal and primary election, and the thirty days next following each election and the five days next following each primary, at the office of the commission and at such additional places in the cities of the second class, cities of the second class A, cities of the third class, boroughs, towns and townships as

the commission may from time to time designate, in accordance with the provisions of subsection (b) herein, receive personal applications from persons who claim that they are entitled to be registered as electors of any city of the second class, city of the second class A, city of the third class, borough, town or township and who appear for registration.

(b) The commission by its own action may, or upon the signed petition of at least one hundred qualified electors of any city of the second class, city of the second class A, city of the third class, borough, town or township requesting the same shall cause at least two registrars to sit, not later than thirty days prior to each primary, general and municipal election for the purpose of receiving personal applications for registrations, applications for change of party enrollment, and removal notices from electors of said city of the second class, city of the second class A, city of the third class, borough, town or township at a suitable and conveniently located place in said city of the second class, city of the second class A, city of the third class, borough, town or township for at least one day and not more than three days continuously between such practicable and reasonable hours, not less than two (2) hours each day, as the commission shall prescribe, or if the commission fails to do¹ so prescribe, between the hours of 10 A.M. and 3 P.M. and between the hours of 7 P.M. and 10 P.M. Such petitions to be affected shall be filed with the commission at least sixty-five days prior to any primary, municipal or general election. Immediately upon such motion of the commission or immediately upon the receipt of any such petition, the commission shall notify, in writing, the county chairman of the political parties enrolling the largest and second largest number of voters within the county at the preceding November election of the filing of said petition and of the number of registrars the commission will appoint to serve in said cities of the second class, cities of the second class A, cities of the third class, boroughs, towns and townships. Not later than the third day after receipt of said notice, said chairman shall submit to the commission a list of qualified electors of the county to serve as registrars for said days. Of the registrars appointed by the commission for such registration days, an equal number shall be appointed from the names on each of the lists so submitted: Provided, however, That if either or both of said chairmen shall fail to submit such list within the time herein provided, the commission shall appoint an equal number of persons from the list actually submitted, and an equal number of any qualified electors of the county, or shall appoint as all of such registrars, any qualified electors of the county, as the case may be.

(c) The county election board shall cause any polling place to be open, in proper order for use, as a place of registration, on each day

when such polling place may be desired by the registration commission or required by the provisions of this act for use as a place of registration; and the county commissioners shall provide for the payment of all rentals for such polling places upon proper vouchers by the treasurer of the county.

(d) The board of public education or school directors of each school district shall furnish suitable space in any public school building under its jurisdiction or control, and shall cause the room or space to be open and in proper order for use as a place of registration on each day when such room or space may be desired by the registration commission for use as a place of registration in accordance with the provisions of this act: Provided, That such use shall not interfere with instruction for the conduct of which such board of public education or school directors shall be responsible.

(e) The proper city of the second class, city of the second class A, city of the third class, borough, town and township authorities shall furnish suitable space in any city of the second class, city of the second class A, city of the third class, borough, town or township hall or other municipal building under their jurisdiction or control, and shall cause the room or space to be open and in proper order for use as a place of registration on each day when such room or space may be desired by the commission for use as a place of registration: Provided, That such use shall not interfere with the use of which such room or space is primarily designed.

(f) The commission shall publicly announce the address of each place of registration, other than the office of the commission, and the days and hours when the place shall be open for the registration of electors, by posting a notice thereof at its office and at least ten placards or notices thereof in conspicuous places throughout said city of the second class, city of the second class A, city of the third class, borough, town or township at least three days prior to the date when the place shall be so open, and shall also give notice of such time and place of registration by publication at least once in one newspaper of general circulation published in the county at least three days prior to the date when the place shall be so open, and by such other newspaper publication as it deems desirable.

1937, April 29, P.L. 487, § 16. Amended 1945, May 15, P.L. 466, § 1; 1947, March 5, P.L. 24, § 1; 1951, June 30, P.L. 968, § 1; 1955, May 31, P.L. 62, § 7; 1968, March 21, P.L. 64, No. 21, § 1; 1972, July 12, P.L. 779, No. 184, § 1, imd. effective; 1973, March 26, P.L. 4, No. 2, § 1, imd. effective.

¹ So in enrolled bill.

Library References

Elections \S 105, 106.
WESTLAW Topic No. 144.

C.J.S. Elections $\S\S$ 39, 46.
P.L.E. Elections \S 26.

Notes of Decisions

Hours of registration 3
 Judicial supervision 6
 Late registration 4
 Places of registration 5
 Students 2
 Veterans 1

1. Veterans

Section 947-17 of this title, repealed, was to be liberally interpreted to permit registration, down to the day of election, of veterans who were discharged within 15 days prior to the beginning of the 50-day period. Appeal of Wenner, 54 D. & C. 223, 22 LeH.L.J. 1, 1946.

2. Students

Local voter registration officials shall keep open voter registration offices to permit students to register to vote for a reasonable time beyond September 13, 1971. 1971 Op.Atty.Gen. No. 66.

3. Hours of registration

Electors may continue to register for a special election at the office of their respective registration commissions until the end of ordinary business hours of the fourth day preceding a special election, after which time the registration rolls must be closed. 1973 Op.Atty.Gen. No. 83.

4. Late registration

Court of Common Pleas was not empowered to grant county election officials blanket authorization to register over 4,700 voters who merely failed to present registration applications in timely manner. In re General Election, Nov. 8, 1988, 560 A.2d 260, 126 Pa.Cmwlth. 450, 1989.

5. Places of registration

The county registration commission would be permanently enjoined from holding a special registration at two industrial plants, neither of which was open to the general public. Campbell v. Lytle, 12 D. & C.2d 575, 50 Mun. 31, 1959.

Any public school may be used for voter registration. 1972 Op.Atty.Gen. No. 144.

6. Judicial supervision

If a city registration commission refused to establish special registration sites and dates as required by § 947-17 of this title, repealed, a court could compel it to do so, but where it had established such sites and dates, court had no jurisdiction to interfere with its action on contention that sites picked were not centrally located. In re 1948 Presidential Election, 67 D. & C. 613, 1950.

§ 951-17. Registration cards; preparation and distribution

(a) For the purpose of registering the qualified electors of each city of the second class, city of the second class A, city of the third class, borough, town or township, the commission shall prepare registration cards, serially numbered, in duplicate, and containing spaces for entering the information required by section eighteen¹ and section eighteen and one-tenth of this act,² and either the following affidavit or the affidavit prescribed in section eighteen and one-tenth, as the case may be:

REGISTRATION AFFIDAVIT

State of Pennsylvania)
) ss:
 County of)

I hereby swear, or affirm, that I am a citizen of the United States, that on the day of the next election I shall be at least twenty-one

years of age, and shall have resided in the State of Pennsylvania for one year (or, having previously been a qualified elector or a native born citizen of the State, and having removed and returned, then six months) next preceding said election, and in the election district two months, that I am legally qualified to vote, that I have read (or have had read to me) the foregoing statements made in connection with my registration and that they are true and correct.

..... Signature of Voter

Subscribed and sworn to before me this day of 19.....

..... Signature of Registrar.

(b) Subject to the foregoing provisions of this section, the Secretary of the Commonwealth shall prescribe the form of such registration cards.

(c) Each card shall be printed on stock of good quality, shall be of suitable uniform size, and shall be filled out in duplicate for each applicant for registration. The commission shall provide suitable binders for filing and indexing the registration cards, which binders can be locked. The keys of all such binders shall at all times be retained by the commission.

(d) The commission shall keep a record of the serial numbers of the registration cards issued from time to time to each registrar.

(e) Before ten o'clock antemeridian on the day following the last day for registration before an election or primary, and at such other times as the commission may prescribe, each registrar shall return to the commission, at its office, all registration cards used or unused in his possession, and shall account fully in writing for each missing card.

(f) Unused registration cards may be reissued by the commission, but the commission shall preserve all other papers, records and memoranda as a part of its record.

1937, April 29, P.L. 487, § 17. Amended 1941, Aug. 1, P.L. 664, § 2; 1955, May 31, P.L. 62, § 8.

¹ 25 P.S. § 951-18.

² 25 P.S. § 951-18.1.

Library References

Elections ⊕106.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46.
P.L.E. Elections § 26.

§ 951-17.1. Official nonpersonal voter registration application cards; preparation and distribution

(a) For the purpose of enabling qualified electors of each city of the second class, city of the second class A, city of the third class, borough, town or township, to register by mail, the Secretary of the Commonwealth shall cause to be prepared and printed at the expense of the State, official registration application cards containing spaces for entering the information required by sections 18, 18.1 and 18.2 of this act.¹ The form shall be a bifold self mailer so designed as to preserve the confidentiality of the information required to be submitted by the registrant. The form shall also be designed in order to require the applicant to affix two signatures, one signature to be affixed under the declaration of the applicant and the other signature on a removable label or other device to be affixed under the information required of the applicant. In addition, the form shall include a detachable portion on which the registrant shall print his name, present residential address, postal designation and zip code. Such portion shall include on the reverse side, printed notification to the registrant that his application form has been received and is being processed by the county registration commission. Such notification shall be sent within three days from receipt thereof, by first class non-forwardable mail, return postage guaranteed, with all postage costs to be paid by the State.

The Secretary of the Commonwealth may also cause to be printed bilingual forms for use of applicants in those jurisdictions wherein there is a single language minority and shall cause such bilingual forms to be printed in those jurisdictions wherein a single language minority exceeds five percent and in such jurisdiction shall cause a public educational program to be conducted among that language group alerting both organizations and individuals of that group of the availability of such forms and encouraging unregistered voters to register.

The form shall contain the following information:

(1) Notice that those currently registered do not need to re-register unless they have moved or failed to vote at least once during the immediately preceding two calendar years.

(2) Notice of a registrant's right to also register in person.

(3) Instructions on how to fill out and submit the application card and that the card must be received by the appropriate county registration commission at least thirty days prior to the ensuing primary or election at which the applicant may offer to vote.

(4) Notice that the registrant must be a citizen of the United States for at least one month, a resident of Pennsylvania, the county and the election district for at least thirty days, and must be eighteen years old on or before the day following the ensuing primary or election at which the registrant offers to vote.

(5) Notice that political party enrollment is mandatory to vote in a primary election of a political party.

(6) Notice that the voter notification stub from the application card form will be mailed non-forwardable and advising the registrant to contact the county registration commission in the event such notification stub is not received within ten days from the date the application is sent to the county board of elections.

(7) Information designating the name of each county seat together with its post office mailing address and zip code and telephone number.

(8) Notice that registration or enrollment is not complete until the application card is processed and accepted by the commission.

(9) A warning to the registrant that the State penalty for making a false registration or furnishing false information shall be perjury punishable by fine of one thousand dollars (\$1,000) and/or five (5) years imprisonment, plus loss of suffrage for ten (10) years.

(10) Instructions to Federal or State employees who wish to retain voting residence in county of last residence to so indicate on the application form.

(11) A notice that the telephone number of the registrant may be inserted in a place provided therefore.

(b) The Secretary of the Commonwealth shall supply such official registration application forms to all county registration commissions who shall supply forms when requested to any person and to all Federal, State, county, local governmental and school district offices, to all political parties, political bodies, candidates, organized bodies of citizens, community service organizations, leagues of women voters, postmasters of all post offices and to any civic, religious, educational, fraternal, labor, news-media, charitable or business organizations interested therein. In addition, the Secretary of the Commonwealth shall:

(1) Request the proper governmental agency to make an official registration application card available to all persons applying for or changing address for driver's license, library cards, senior citizens transportation passes, entry to all schools and institutions of higher education.

(2) The Secretary of the Commonwealth may provide technical assistance to county registration commissions upon request and shall contract with the United States Postal Service for the payment of all postage costs for the transmittal of said official registration application cards to the registration commission by the registrant and the transmittal of the notification receipt form to the registrant by the registration commission.

1937, April 29, P.L. 487, § 17.1, added 1976, July 1, P.L. 504, No. 123, § 1, effective in 30 days.

¹ 25 P.S. §§ 951-18, 951-18.1 and 951-18.2.

Library References

Elections ⇨ 119.

WESTLAW Topic No. 144.

C.J.S. Elections § 52.

§ 951-17.2. Change of registration by mail

(a) Any registered elector may change his registration in the same manner as section 17.1¹ provides for registration by mail.

(b) The Secretary of the Commonwealth shall cause to be prepared and printed at the expense of the Commonwealth forms upon which a registered elector may change his registration by mail in a similar fashion as provided for in section 17.1.

1937, April 29, P.L. 487, § 17.2, added 1978, Nov. 26, P.L. 1263, No. 300, § 1, effective in 60 days.

¹ 25 P.S. § 951-17.1.

§ 951-18. Manner of registration

(a) Every person claiming the right to be registered as an elector must appear in person before the commission, a commissioner, a registrar, or a clerk, at the office of the commission, or at such other place as the commission shall have designated, and answer the questions required to be asked in accordance with this act.

Every person claiming the right to be registered as an elector who is physically disabled so that he cannot appear in person to be registered may request, in writing, that the registration commission send a registrar to the residence of such person for the purpose of registering such person in the same manner as required by law of other persons appearing for registration. The letter requesting such registration shall be accompanied by a statement of the physician attending such person, stating that such person is physically disabled to the extent that such person is unable to appear at any of the established places for registration. Upon receipt by the registration commission of such a letter duly accompanied by the required

physician's statement, the registration commission shall direct one of its registrars to go to the residence of such disabled person and register him or her, as the case may be.

(b) He shall first be sworn or affirmed to the truth of the statements which he is about to make, and informed that any wilful false statement will constitute perjury and will be punishable as such. He then shall be asked to state the facts required herein, and his answers, together with other information herein required, shall be recorded in his presence by the registrar, commissioner, or clerk in permanent writing or typewriting, in duplicate in the proper spaces on the registration cards as follows:

(c)(1) The surname of the applicant; (2) his Christian name or names; (4)¹ the street or road and number, if any, of his residence; (5) if his residence is a portion only of the house, the location or number of the room or rooms, apartment, flat or floor which he occupies; (6) the date his residence in the district began; (7) his residence address when he last registered, and the year of such registration; (8) the sex of the applicant; (9) the color of the applicant: Provided, however, That an application shall not be rejected because the color of the applicant is not indicated thereon; (10) the state or territory of the United States, or foreign country, where he was born; (13)² whether he is unable, by reason of illiteracy, to read the names on the ballot or on the voting machine labels; (14) whether he has a physical disability which will render him unable to see or mark the ballot or operate the voting machine, or to enter the voting compartment or voting machine booth, without assistance, and, if so, his declaration of the fact and his statement of the exact nature of such disability; (15) the designation of the political party of the elector, for the purpose of voting at primaries; (16) the affidavit of registration, which shall be signed by the elector, attested by the signature of the registrar or clerk and dated by him; (17) his height, in feet and inches; (18) the color of his hair; (19) the color of his eyes; and (20) the date of his birth. Each registration card shall also have a sufficient number of spaces thereon for the insertion of—(21) the city of the second class, the city of the second class A, the city of the third class, the borough, town, township, ward and election district, if any, in which the elector resides and to which he may from time to time remove, together with his street address in each city of the second class, city of the second class A, city of the third class, borough, town or township, and the other data required to be given upon such removal; (22) the date of each election and primary at which the elector votes, the number and letter, if any, of the stub of the ballot issued to him or his number in the order of admission to the voting machines; and (23) the signature or initials of the election officer who enters the record of voting on the card.

(d) The applicant shall subscribe, by oath or affirmation, to the registration affidavit on both copies of the registration card. This card will hereafter be referred to in this act as the registration card or registration affidavit. When filed alphabetically for the county, the registration cards will be known as the General Registers; when filed by election districts, as the District Registers.

(e) If the applicant shall allege inability to sign his name, the registrar or clerk shall require him to present the affidavits, subscribed in person before a registrar, commissioner, or clerk of two electors who are personally acquainted with the applicant and who know his qualifications as an elector. Each of said two electors shall state in his affidavit the applicant's residence, his own residence, his knowledge of the statements made by the applicant under oath or affirmation in applying for registration, and his belief that they are true. Upon the filing thereof, the applicant shall be permitted to subscribe to his oath or affirmation by making his mark, except that if the applicant's inability to sign his name is not due to some apparent physical infirmity, he shall first also be required to make and file with the registrar or clerk an affidavit of his inability to sign his name. Every affidavit required because of an applicant's inability to sign his name shall be filed with the duplicate registration affidavit of the person whose registration it affects, and shall be returned therewith to the office of the registration commission.

(f) When the registration of an elector has been finally processed and accepted, the commission shall transmit to such registered elector by first class non-forwardable mail, a wallet-sized voter's identification card, setting forth the name and address of the elector, giving the name of the city of the second class, city of the second class A, city of the third class, borough, town or township and his ward and district, if any, the fact of registration, designation of party enrollment, the date thereof, the serial number of his registration card and space wherein the elector shall affix his signature or mark. The commission shall cause to be printed on the reverse side of such voter's identification card a warning to the registered elector that such card relates only to the time of issuance thereof, and is not of itself evidence or proof of the qualifications of the elector to vote at any primary or election, nor is it necessary to present it when voting. The carrier envelope in which said statement is enclosed shall contain on the outside a request to the postmaster to return it within five days if it cannot be delivered to the registered elector at the address given.

Upon the return by the post office of any such statement which it has been unable to deliver at the registered address because the elector could not be found there, the commission shall mail to such

registered elector at the address given a notice, sent as first-class mail to be forwarded, requiring the elector to appear within ten (10) days of the date of mailing such notice in order to satisfy the commission of his qualifications as an elector. At the expiration of the time specified in the notice, the commission shall cancel or suspend the registration of any such elector who has not communicated with the commission and proven his qualifications as an elector.

In addition, any elector whose last residence address when he registered was a location within any other county of the Commonwealth of Pennsylvania shall sign a cancellation notice provided by the registration commission and directed by the registration commission to the registration commission of former residence. Such cancellation notice shall be in form approved by the Secretary of the Commonwealth in substantially the following form:

Date

Office of the Registration Commission.

..... County, Pennsylvania.

“Cancellation of Previous Registration.”

Name am now registered as an elector in County, Pennsylvania, and hereby authorize the cancellation of my previous registration in the County of, Pennsylvania, my last address was

(Date of birth) (Printed name of elector) (Signature of elector)

Upon receipt of such cancellation notice, the registration commission of the county of former residence shall cause the registration of such elector to be cancelled in accordance with the provisions of this act.

(g) Any person employed in the service of this Commonwealth or in the service of the Federal Government, and required thereby to be absent from any city of the second class, city of the second class A, city of the third class, borough, town or township wherein he resided when entering such employment, his wife, or her husband, shall be registered as of the district wherein he or she shall have resided immediately prior to entering such service, and be enrolled as a member of the political party he or she designates without declaring a residence by street and number. All persons employed by this Commonwealth who register in this manner, shall produce a certificate from the head of the department, board, commission or office, under the seal of his office, setting forth that said person, or the husband or wife of said person, is actually employed in the service of

this Commonwealth, and also setting forth the nature of such employment and the time when such person first entered such employment.

All persons employed by the Federal Government who register in this manner shall produce a certificate from the head of the proper department or chief of the proper division or bureau, under the seal of his office, setting forth that said person, or the husband or wife of said person, is actually employed in the service of the United States, and also setting forth the nature of such employment and the time when such person first entered such employment.

The commission shall retain such certificates and shall cause to be noted on the registration card of each person so registered the fact that such person is an employe of this Commonwealth or of the Federal Government, as the case may be.

At least once every two years the commission shall verify the employment of all persons thus registered, at either the office of the proper department, board, commission or office of the State Government, or at the office of the department, division, or bureau of the Federal Government in whose employ such person is alleged to be. If any such person is found to be no longer an employe of this Commonwealth or of the Federal Government, his registration card shall be removed from the district register until such times as said person appears at the office of the commission and declares the street or road and number, if any, of his residence in the city of the second class, city of the second class A, city of the third class, borough, town or township.

1937, April 29, P.L. 487, § 18. Amended 1943, May 27, P.L. 699, § 1; 1955, May 31, P.L. 62, § 9; 1961, Aug. 24, P.L. 1129, § 1; 1961, Sept. 2, P.L. 1205, § 1; 1961, Sept. 19, P.L. 1494, § 1; 1976, July 1, P.L. 504, No. 123, § 2, effective in 30 days; 1984, May 31, P.L. 355, No. 70, § 1, imd. effective.

¹ No (3) in original.

² No (11), (12) in original.

Historical and Statutory Notes

The 1976 amendment in subsec. (c) deleted subds. (3), (11) and (12), which provided for statement the applicant's occupation and naturalization; and rewrote the first paragraph of subsec. (f) which formerly read:

"When the registration of an elector has been completed, the registrar, commissioner, or clerk shall deliver to the registered elector, a written or printed statement, signed by such registrar, commissioner, or clerk, setting forth the name and address of the elector, giving

the name of the city of the second class, city of the second class A, city of the third class, borough, town or township and his ward and district, if any, the fact of registration, designation of party enrollment, the date thereof, the serial number of his registration card and space wherein the elector shall affix his signature or mark. Such written or printed statement may be delivered by mail to the registered elector at the address given thereon. In such cases, the carrier envelope in which said statement is enclosed shall contain on the

outside a request to the postmaster to return it within five days if it cannot be delivered to the registered elector at the address given."

The 1984 amendment added the proviso in subsec. (c)(9).

Library References

Elections ⇐106.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46.
P.L.E. Elections § 26.

Notes of Decisions

Name 2
Validity 1

1. Validity

Pennsylvania voter identification provisions of §§ 623-20, 623-20.2, 951-18.1 and 951-18.2 of this title and this section, requiring registrant to record his race are reasonably related to legitimate state interest of preventing voter fraud and do not violate privileges and immunities and equal protection clauses (U.S.C.A. Const. Amends. 14, 15). *Kemp v. Tucker*, 396 F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

Provisions of §§ 623-20, 623-20.2, 951-18.1 and 951-18.2 of this title and this section, authorizing registration officials to require completion of color portion of registration card as precondition to registration were not shown to violate Fourteenth Amendment prohibition against arbitrary state action (U.S. Const. Amend. 14). *Kemp v. Tucker*, 396 F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

Provisions of §§ 623-20, 623-20.2, 951-18.1 and 951-18.2 of this title and this section, permitting voter registration officials to reject registration application on ground that "color" entry on registration card has not been completed were not shown to violate Fifteenth Amendment (U.S.C.A. Const. Amend. 15). *Kemp v. Tucker*, 396 F.Supp. 737, D.C. 1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

Pennsylvania voter identification provisions of §§ 623-20, 623-20.2, 951-18.1 and 951-18.2 of this title and this section, requiring that registrant record his race do not violate federal voting statute prohibiting distinction of race or color, 42 U.S.C.A. § 1971(a)(1), or Const. Art. 7, § 1 provisions specifying qualifications of electors. *Kemp v. Tucker*, 396 F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

2. Name

Woman could not register to vote in county under name "Mrs." followed by her late husband's name in light of fact that the Registration Act requires voters to give their Christian name or names when registering to vote. In *re Evans*, 426 A.2d 1301, 57 Pa.Cmwlth. 643, 1981.

A married woman may register to vote under her birth name, revert to her birth name from her married name on her registration, or retain her married name on her registration if she chooses, as long as she consistently utilizes that name for purposes of identification. 1973 Op.Atty. Gen. No. 72.

Surname means either the last name assigned at birth, the last name of a husband if so selected by a married woman, the last name as changed by court order, or the last name by which the person is and has been known as demonstrated by reasonable evidence. 1973 Op.Atty.Gen. No. 72.

§ 951-18.1. Manner of mail registration by persons in military service, persons in the Merchant Marine, persons in religious and welfare groups officially attached to and serving with the armed forces and civilian federal personnel overseas and their spouses and dependents

In addition to any other method herein provided, the following persons may also be registered by mail in the manner hereinafter set forth under this section: (1) any person in military service, his spouse and dependents; or (2) any person in the Merchant Marine, his spouse and dependents; or (3) any person in religious and welfare groups officially attached to and serving with the armed forces, his spouse and dependents; or (4) any person who is a civilian employee of the United States outside the territorial limits of the several States of the United States and the District of Columbia, whether or not such person is subject to the civil-service laws and the Classification Act of 1949 and whether or not paid from funds appropriated by the Congress, his spouse and dependents.

(a) He may submit by mail to the commission an official registration application card, the form of which shall be determined and prescribed by the Secretary of the Commonwealth. The commission is hereby authorized to consider a request for an absentee ballot from any person enumerated in this section as a request for an official registration application card and to cause to be forwarded to any such person, together with his absentee ballot and balloting material, an official registration application card to be completed and the declaration signed prior to or concurrently with the time of voting the absentee ballot: Provided, however, That the envelope containing such executed official registration application card shall be received at the office of the commission no later than five o'clock p.m. on the Friday immediately preceding the primary, special or November election.

(b) The official registration application card shall require the statement of the applicant, the signature of the applicant, and shall provide sufficient space for the following information: (1) The surname of the applicant, (2) his Christian name or names, (4)¹ the street or road and number, if any, of his home residence and the date of leaving same, providing that, in the event there is no street address, the registrant must list the nearest cross street or road, (5) if his residence was a portion only of a house, the location or number of the room or rooms, apartment, flat or floor which he occupied, (6) the date his residence began at the place which is his home residence, (7) his home residence address when he last registered and

the year of such registration, including any former registration under any other surname, (8) the sex of the applicant, (9) the color of the applicant: Provided, however, That an application shall not be rejected because the color of the applicant is not indicated thereon, (10) the state or territory of the United States or the foreign country where he was born, (13)² whether he is unable by reason of illiteracy to read the names on the ballot or voting machine labels, (14) whether he has a physical disability which will render him unable to see or mark the ballot or operate the voting machine or to enter the voting compartment or voting machine booth without assistance, and, if so, his declaration of that fact and his statement of the exact nature of such disability, (15) the designation of the political party of the elector for the purpose of voting at primaries, (16) the declaration of registration, as hereinafter prescribed, which shall be signed by the elector, (17) the height of the applicant in feet and inches, (18) the color of his hair, (19) the color of his eyes, (20) the date of his birth, (21) the designation by the elector that the official registration application card is intended by such elector for use as (check one):

- New Registration
- Change of Address
- Change of Name

Each official registration application card for registration by persons registering under this section shall also have (22) a sufficient number of spaces thereon for the insertion by the commission, but not by the applicant, of the city of the second class, city of the second class A, city of the third class, borough, town, township, ward and election district, if any, in which the applicant resided on the date of leaving home residence and to which he may from time to time remove after returning to his home residence, together with his street address in each city of the second class, city of the second class A, city of the third class, borough, town or township and the other data required to be given upon such removal, (23) the date of each election and primary at which the applicant votes after registration, the number and letter, if any, of the stub of the ballot issued to him, or his number in the order of admission to the voting machines, and (24) the signature or initials of the election officer, commissioner, register³ or clerk, who enters the record of voting on the card. Immediately following the spaces for inserting the information as provided in this subsection, the applicant shall affix his signature exactly as it appears in (1) and (2) of this subsection.

(c) In addition, the foregoing official registration application card shall contain the following Registration Declaration and Penalty for Falsifying Declaration:

REGISTRATION DECLARATION

I hereby declare that I am a citizen of the United States, that on the day of the next ensuing primary or election I shall be at least eighteen years of age, and shall have resided in the Commonwealth of Pennsylvania and in the election district thirty days, that I am legally qualified to vote, that I affirm that the information provided herein is true and correct, and I fully understand that this application will be accepted for all purposes as the equivalent of an affidavit, and if it contains a material false statement, shall be subject to the same penalties for perjury as if I had been duly sworn.

.....

Printed Name of Applicant

.....
Signature of applicant for registration

PENALTY FOR FALSIFYING DECLARATION

If any person shall sign an official registration application card knowing any statement declared therein to be false, he shall be guilty of perjury, and upon conviction, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), or be imprisoned for a term not exceeding five (5) years, or both, at the discretion of the court. In addition, sentence shall include loss of the right of suffrage absolutely for a term of ten (10) years.

(d) Any person registering by mail under this section who is unable to sign his official registration application card shall make his mark and acknowledge same before an officer qualified to take acknowledgments of deeds.

(e) Registration in the manner prescribed for by persons registering under this section may be made at any time.

(f) The status of any person qualified to register under this section with respect to residence shall remain as the same home residence from which he is qualified to register: Provided, however, That if at the time of leaving such home address any person shall not have resided in Pennsylvania or in a particular election district thereof for a sufficient time to have been entitled to be registered, but by continued residence would have become so entitled, he shall be entitled to be registered at such time as he would have been so entitled had he not left such home address and had continued to reside where he then resided.

(g) Official registration application cards returned by persons qualified to register under this section to any registration commission shall be examined by a member of the commission or any clerk or

registrar upon being received. The right of such person to be registered shall not be subject to challenge for any reason other than failure to have mailed the commission a properly completed registration card. If the commission finds the official registration application card not properly completed it shall reject it in the manner hereinafter provided.

1937, April 29, P.L. 487, § 18.1, added 1941, Aug. 1, P.L. 664, § 3. Amended 1955, May 31, P.L. 62, § 10; 1963, Aug. 13, P.L. 746, § 3, effective Jan. 1, 1964; 1976, July 1, P.L. 504, No. 123, § 3, effective in 30 days; 1984, May 31, P.L. 355, No. 70, § 1, imd. effective.

¹ No (3) in original.

² No (11), (12) in original.

³ So in original.

Historical and Statutory Notes

The 1976 amendment rewrote the section which formerly read:

"Manner of Registration by Persons in Military Service, Persons in the Merchant Marine, Persons in Religious and Welfare Groups Officially Attached To and Serving with the Armed Forces and Civilian Federal Personnel Overseas and Their Spouses and Dependents.

"In addition to any other method herein provided, the following persons may also be registered in the manner hereinafter set forth under this section: (1) any person in military service, his spouse and dependents; or (2) any person in the Merchant Marine, his spouse and dependents; or (3) any person in religious and welfare groups officially attached to and serving with the armed forces, his spouse and dependents; or (4) any person who is a civilian employee of the United States outside the territorial limits of the several States of the United States and the District of Columbia, whether or not such person is subject to the civil-service laws and the Classification Act of 1949 and whether or not paid from funds appropriated by the Congress, his spouse and dependents.

"(a) He may make application to the commission for a registration card. The commission is hereby authorized to consider a request for an absentee ballot from any person enumerated in this section as an application for a registration card and to cause to be forwarded to any such person, together with his absentee ballot and balloting material, a registration card, in duplicate, to be completed and sworn to or affirmed prior to or

concurrently with the time of voting the absentee ballot: Provided, however, That the envelope containing such executed duplicate registration cards shall bear a postmark no later than the day of the primary or election for which the absentee ballot is being voted and shall be received at the office of the commission no later than the date as provided by law for the canvassing of absentee ballots.

"(b) The registration card shall require the statement of, and shall provide sufficient space for the following information: (1) The surname of the applicant, (2) his Christian name or names, (3) his civilian occupation, if any, (4) the street or road and number, if any, of his home residence and the date of leaving same, (5) if his residence was a portion only of a house, the location or number of the room or rooms, apartment, flat or floor which he occupied, (6) the date his residence began at the place which is his home residence, (7) his home residence address when he last registered and the year of such registration, including any former registration under any other surname, (8) the sex of the applicant, (9) the color of the applicant, (10) the state or territory of the United States or the foreign country where he was born, (11) the date when, place where, and the court by which naturalized, and the number of the naturalization certificate, (12) if not naturalized personally, the name of father, mother or husband through whom naturalized, (13) whether he is unable by reason of illiteracy to read the names on the ballot or voting machine labels, (14) whether he has a physical disability

which will render him unable to see or mark the ballot or operate the voting machine or to enter the voting compartment or voting machine booth without assistance, and, if so, his declaration of that fact and his statement of the exact nature of such disability, (15) the designation of the political party of the elector for the purpose of voting at primaries, (16) the affidavit of registration, as hereinafter prescribed, which shall be signed by the elector, attested by the signature of any person authorized to administer oaths, (17) the height of the applicant in feet and inches, (18) the color of his hair, (19) the color of his eyes, (20) the date of his birth. Each registration card for registration by persons registering under this section shall also have (21) a sufficient number of spaces thereon for the insertion by the commission, but not by the applicant, of the city of the second class, city of the second class A, city of the third class, borough, town, township, ward and election district, if any, in which the applicant resided on the date of leaving home residence and to which he may from time to time remove after returning to his home residence, together with his street address in each city of the second class, city of the second class A, city of the third class, borough, town or township and the other data required to be given upon such removal, (22) the date of each election and primary at which the applicant votes after registration, the number and letter, if any, of the stub of the ballot issued to him, or his number in the order of admission to the voting machines, and (23) the signature or initials of the election officer, commissioner, register or clerk, who enters the record of voting on the card: Provided, however, That the applicant may state (24) his social security number.

“(c) In addition, the foregoing registration card shall contain the following affidavit:

“REGISTRATION AFFIDAVIT

“I hereby swear or affirm that I am a citizen of the United States, that on the day of the next election I shall be at least twenty-one years of age, and shall have resided in the Commonwealth of Pennsylvania for one year (or having previously been a qualified elector or a native born citizen of the Commonwealth, and having removed and returned, then six months) and in the election district sixty days, that

I am legally qualified to vote, that I have read (or have had read to me) the foregoing statements made in connection with my registration and that they are true and correct.

.....
 “Signature of applicant
 for registration

“Sworn to and subscribed before me this
 day of, 19...

.....
 “Signature of any person
 authorized to administer
 oaths.

“(d) Upon written application by any person who may register under the provisions of this section to the registration commission having jurisdiction in the city of the second class, city of the second class A, city of the third class, borough, town or township in which the applicant last resided on the date of leaving his home residence, a registration card, in the form herein prescribed, in duplicate, shall be mailed to the applicant at the address given in such application. Such person shall thereupon supply the information required on the registration card, in duplicate, and shall take the affidavit thereto in duplicate in the presence of any person authorized to administer oaths, and shall mail the same, in duplicate, to the registration commission from which it was procured.

“(e) Registration in the manner prescribed for by persons registering under this section may be made at any time.

“(f) The status of any person qualified to register under this section with respect to residence shall remain as the same home residence from which he is qualified to register: Provided, however, That if at the time of leaving such home address any person shall not have resided in Pennsylvania or in a particular election district thereof for a sufficient time to have been entitled to be registered, but by continued residence would have become so entitled, he shall be entitled to be registered at such time as he would have been so entitled had he not left such home address and had continued to reside where he then resided.

“(g) Registration cards returned by persons qualified to register under this section to any registration commission

shall be examined by a member of the commission or any clerk or registrar upon being received. The right of such person to be registered shall not be subject to challenge for any reason other than failure to have mailed the commission a properly completed registration

card. If the commission finds the registration card not properly completed it shall reject it in the manner hereinafter provided."

The 1984 amendment added the provision in subsec. (b)(9).

Library References

Elections \Leftrightarrow 18, 106.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 13, 39, 46.
P.L.E. Elections §§ 24, 26, 27.

Notes of Decisions

In general 2
Validity 1

1. Validity

Pennsylvania voter identification provisions of §§ 623-20, 623-20.2, 951-18 and 951-18.2 of this title and this section, requiring that registrant record his race do not violate federal voting statute prohibiting distinction of race or color, 42 U.S.C.A. § 1971(a)(1), or Const. Art. 7, § 1 provisions specifying qualifications of electors. *Kemp v. Tucker*, 396 F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

Provisions of §§ 623-20, 623-20.2, 951-18 and 951-18.2 of this title and this section, authorizing registration officials to require completion of color portion of registration card as precondition to registration were not shown to violate Fourteenth Amendment prohibition against arbitrary state action (U.S.C.A. Const. Amend. 14). *Kemp v. Tucker*, 396 F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

Provisions of §§ 623-20, 623-20.2, 951-18 and 951-18.2 of this title and this section, permitting voter registration officials to reject registration application on ground that "color" entry on registration card has not been completed were not shown to violate Fifteenth Amendment

(U.S.C.A. Const. Amend. 15). *Kemp v. Tucker*, 396 F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

Pennsylvania voter identification provisions of §§ 623-20, 623-20.2, 951-18 and 951-18.2 of this title and this section, requiring registrant to record his race are reasonably related to legitimate state interest of preventing voter fraud and do not violate privileges and immunities and equal protection clauses (U.S.C.A. Const. Amends. 14, 15). *Kemp v. Tucker*, 396 F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

2. In general

A resident who had never registered as a voter in township was presumptively not an eligible voter, and burden of overcoming the presumption rested on anyone claiming to the contrary but proof that placing of such person's name on military ballot list or presence at an election in his district on any election day during term of military service would not render such person a "qualified elector" within § 19092-312.2 of Title 53, Municipal and Quasi-Municipal Corporations (repealed), providing for the annexation by boroughs of land of contiguous township. In re Borough of Castle Shannon, Allegheny County, 51 A.2d 526, 160 Pa.Super. 475, 1947.

§ 951-18.2. Manner of mail registration by electors other than those enumerated in section 18.1 of this act

Any elector may, in addition to any other method herein provided, also be registered by mail in the manner set forth in this section:

(a) He may submit either in person, by mail or by representative to the commission an official registration application card, the form of

which shall be determined and prescribed by the Secretary of the Commonwealth. Provided that any person who assists in the preparation of the registration application or delivery of same to the commission sign their name and address to the registration application.

(b) The official registration application card shall require the statement of, and shall provide sufficient space for the following information: (1) The surname of the applicant, (2) his Christian name or names, (4)¹ the street or road and number of his residence and the date of leaving same, providing that, in the event there is no street address, the registrant must list the nearest cross street or road, (5) if his residence is a portion only of a house, the location or number of the room or rooms, apartment, flat or floor which he occupies, (6) the date his residence began at the place at which he resides, (7) his residence address when he last registered and the year of such registration, including any former registration under any other surname, (8) the sex of the applicant, (9) the color of the applicant: Provided, however, That an application shall not be rejected because the color of the applicant is not indicated thereon, (10) the state or territory of the United States or the foreign country where he was born, (13)² whether he is unable by reason of illiteracy to read the names on the ballot or on voting machine labels, (14) whether he has a physical disability which will render him unable to see or mark the ballot or operate the voting machine or to enter the voting compartment or voting machine booth without assistance and, if so, his declaration of that fact and his statement of the exact nature of such disability, (15) the designation of the political party of the elector for the purpose of voting at primaries, (16) the declaration of registration as hereinafter prescribed which shall be signed by the elector, (17) the height of the applicant in feet and inches, (18) the color of his hair, (19) the color of his eyes, (20) the date of his birth, (21) the designation by the elector that the official registration application card is intended by such elector for use as (check one):

- New Registration
- Change of Address
- Change of Name

Each official registration application card for electors registering in the manner prescribed by this section shall also have a sufficient number of spaces thereon for the insertion of (22) the city of the second class, city of the second class A, city of the third class, borough, town, township, ward and election district, if any, in which the applicant resides and to which he may, from time to time, remove together with his street address in each city of the second class, city of the second class A, city of the third class, borough, town or

township, and the other data required to be given upon such removal, (23) the date of each election and primary at which the applicant votes after registration, the number and letter, if any, of the stub of the ballot issued to him or his number in the order of admission to the voting machines, and (24) the signature or initials of the election officer, commissioner, registrar or clerk, who enters the record of voting on the card. Immediately following the spaces for inserting the information as provided in this subsection, the applicant shall affix his signature exactly as it appears in (1) and (2) of this subsection.

(c) In addition, the foregoing official registration application card shall contain the following Registration Declaration and Penalty for Falsifying Declaration:

REGISTRATION DECLARATION

I hereby declare that I am a citizen of the United States, that on the day of the next ensuing primary or election I shall be at least eighteen years of age, and shall have resided in the Commonwealth of Pennsylvania and in the election district thirty days, that I am now legally entitled to register under this section by virtue of being ill or disabled, that I am legally qualified to vote, that I affirm that the information provided herein is true and correct, and I fully understand that this application will be accepted for all purposes as the equivalent of an affidavit, and if it contains a material false statement, shall be subject to the same penalties for perjury as if I had been duly sworn.

.....
Printed Name of Applicant

.....
Signature of applicant for registration

PENALTY FOR FALSIFYING DECLARATION

If any person shall sign an official registration application card knowing any statement declared therein to be false, he shall be guilty of perjury, and upon conviction, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), or be imprisoned for a term not exceeding five (5) years, or both, at the discretion of the court. In addition, sentence shall include loss of the right of suffrage absolutely for a term of ten (10) years.

(d) Any person registering by mail under this section who is unable to sign his official registration application card shall make his mark and acknowledge same before an officer qualified to take acknowledgments of deeds. -

(e) Registration in the manner prescribed by this section may be made at any time. If any registration card is received by any registration commission from any elector so registering any time when registration by personal appearance in the manner provided in section 18 of this act³ could not be made under the provisions of section 16 of this act⁴, such application shall be retained by the commission until the beginning of the next period during which such registration by personal appearance could be made and at such time the applicant, if otherwise entitled, shall be duly registered.

(f) Official registration application cards returned by persons qualified to register under this section to any registration commission shall be examined by a member of the commission or any clerk or registrar upon being received. The right of such person to be registered shall not be subject to challenge for any reason other than failure to have furnished the commission a properly completed registration card. If the commission finds the official registration application card not properly completed it shall reject it. Mail registration shall be challenged on the same basis as "in person" registration. The commission should make reasonable efforts to complete the registration before rejecting the same for omissions and inconsistencies.

1937, April 29, P.L. 487, § 18.2, added 1963, Aug. 13, P.L. 746, § 4, effective Jan. 1, 1964. Amended 1976, July 1, P.L. 504, No. 123, § 4, effective in 30 days; 1984, May 31, P.L. 355, No. 70, § 1, imd. effective.

¹ No (3) in original.

² No (11), (12) in original.

³ 25 P.S. § 951-18.

⁴ 25 P.S. § 951-16.

Historical and Statutory Notes

The 1976 amendment rewrote the section which formerly read:

"Manner of Absentee Registration by Certain Ill or Disabled Electors. Any elector who is unable to appear in person to register because of illness or physical disability may, in addition to any other method herein provided, also be registered in the following manner:

"(a) He may make application to the commission for a registration card.

"(b) The registration card shall require the statement of, and shall provide sufficient space for the following information: (1) The surname of the applicant, (2) his Christian name or names, (3) his occupation, if any, (4) the street or road and number of his residence, (5) if his residence is a portion only of a house, the

location or number of the room or rooms, apartment, flat or floor which he occupies, (6) the date his residence began at the place at which he resides, (7) his residence address when he last registered and the year of such registration, including any former registration under any other surname, (8) the sex of the applicant, (9) the color of the applicant, (10) the state or territory of the United States or the foreign country where he was born, (11) the date when, place where, and the court by which naturalized, and the number of the naturalization certificate, (12) if not naturalized personally, the name of father, mother or husband through whom naturalized, (13) whether he is unable by reason of illiteracy to read the names on the ballot or on voting machines labels, (14) whether he has a

VOTER REGISTRATION

25 P.S. § 951-18.2

physical disability which will render him unable to see or mark the ballot or operate the voting machine or to enter the voting compartment or voting machine booth without assistance and, if so, his declaration of that fact and his statement of the exact nature of such disability, (15) the designation of the political party of the elector for the purpose of voting at primaries, (16) the affidavit of registration as hereinafter prescribed which shall be signed by the elector attested by the signature of any person authorized to administer oaths or affirmations, (17) the height of the applicant in feet and inches, (18) the color of his hair, (19) the color of his eyes, (20) the date of his birth. Each registration card for electors registering in the manner prescribed by this section shall also have a sufficient number of spaces thereon for the insertion of (21) the city of the second class, city of the second class A, city of the third class, borough, town, township, ward and election district, if any, in which the applicant resides and to which he may, from time to time, remove together with his street address in each city of the second class, city of the second class A, city of the third class, borough, town or township, and the other data required to be given upon such removal, (22) the date of each election and primary at which the applicant votes after registration, the number and letter, if any, of the stub of the ballot issued to him or his number in the order of admission to the voting machines, and (23) the signature or initials of the election officer, commissioner, registrar or clerk, who enters the record of voting on the card: Provided, however, That the applicant may state (24) his social security number.

“(c) In addition, the foregoing registration card shall contain the following affidavit:

“REGISTRATION AFFIDAVIT

“I hereby swear or affirm that I am a citizen of the United States, that on the day of the next election I shall be at least twenty-one years of age, and shall have resided in the Commonwealth of Pennsylvania for one year (or having previously been a qualified elector or a native born citizen of the Commonwealth and having removed and returned, then six months), and in the election district sixty days, that I am now legally entitled to register under this section by virtue of being ill or

disabled, that I am legally qualified to vote, that I have read (or have had read to me) the foregoing statements made in connection with my registration, and that they are true and correct.

.....
“Signature of applicant
for registration

“Sworn to and subscribed before me this
..... day of, 19...
.....

“Signature of any person authorized to
administer oaths or affirmations.

“(d) Upon written application by an elector in the manner prescribed by this section to the registration commission having jurisdiction in the city of the second class, city of the second class A, city of the third class, borough, town or township, in which the applicant resides, a registration card in the form herein prescribed, in duplicate, shall be mailed, postage prepaid, to the applicant at the address given in such application. Such elector shall thereupon supply the information required on the registration card, in duplicate, and shall take the affidavit thereto, in duplicate, in the presence of any person authorized to administer oaths or affirmations and shall have delivered or mail the same, in duplicate, to the registration commission from which it was procured.

“(e) Registration in the manner prescribed by this section may be made at any time. If any registration card is received by any registration commission from any elector so registering any time when registration by personal appearance in the manner provided in section 18 of this act could not be made under the provisions of section 16 of this act, such application shall be retained by the commission until the beginning of the next period during which such registration by personal appearance could be made and at such time the applicant, if otherwise entitled, shall be duly registered.

“(f) Registration cards returned by electors registering in the manner prescribed by this section to any registration commission shall be examined by a member of the commission or any clerk or registrar at a time and place when personal registrations are being received and such member of the commission, clerk or

registrar shall announce in the hearing of all present the name and address of the elector who has thus offered to register. The right of such elector to be registered shall be subject to challenge in like manner and for the same causes as set forth

in section 20 of this act. If the commission finds the registration card not properly completed, it shall reject it in the manner hereinafter provided."

The 1984 amendment added the proviso in subsec. (b)(9).

Library References

Elections ⇨ 106.
WESTLAW Topic No. 144.
C.J.S. Elections §§ 39, 46.

Notes of Decisions

Validity 1

1. Validity

Pennsylvania voter identification provisions of §§ 623-20, 623-20.2, 951-18 and 951-18.1 of this title and this section, requiring registrant to record his race are reasonably related to legitimate state interest of preventing voter fraud and do not violate privileges and immunities and equal protection clauses (U.S.C.A. Const. Amends. 14, 15). *Kemp v. Tucker*, 396 F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

Provisions of §§ 623-20, 623-20.2, 951-18 and 951-18.1 of this title and this section, authorizing registration officials to require completion of color portion of registration card as precondition to registration not shown to violate Fourteenth Amendment prohibition against arbitrary state action (U.S.C.A. Const. Amend. 14). *Kemp v. Tucker*, 396

F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

Pennsylvania voter identification provisions of §§ 623-20, 623-20.2, 951-18 and 951-18.1 of this title and this section, requiring that registrant record his race do not violate federal voting statute prohibiting distinction of race or color, 42 U.S.C.A. § 1971(a)(1), or Const. Art. 7, § 1 provisions specifying qualifications of electors. *Kemp v. Tucker*, 396 F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

Provisions of §§ 623-20, 623-20.2, 951-18 and 951-18.1 of this title and this section, permitting voter registration officials to reject registration application on ground that "color" entry on registration card has not been completed were not shown to violate Fifteenth Amendment (U.S.C.A. Const. Amend. 15). *Kemp v. Tucker*, 396 F.Supp. 737, D.C.1975, affirmed 96 S.Ct. 10, 423 U.S. 803, 46 L.Ed.2d 24.

§ 951-18.3. Approval of official registration application cards

(a) The county registration commission, upon receipt of an official registration application card, shall make an entry of the date received on each application and on the corresponding notification of receipt stub. In the event the applicant does not reside within the county, but resides elsewhere in Pennsylvania, the commission shall forthwith forward such application card to the proper county registration commission after making a record of the county registration commission to whom it was sent. In all other cases, the commission shall forthwith detach the notification stub as provided for in subsection (a) of section 17.1 of this act¹, and send the same to the applicant by first class non-forwardable mail, return postage guaranteed, with such postage costs to be paid by the State.

(b) If the application card shall contain the required information indicating that the applicant is legally qualified to register as stated in his application, the commission shall transfer all information on such application to a registration card, serially numbered in duplicate as provided in section 17 of this act, provided that the official registration application card form may serve as the registration card of the applicant in the general file. The commission shall detach the signature portion from the application form and affix it in the proper space on the original registration card to be inserted in the district register.

(c) If the application card is intended by the applicant as a transfer of registration and shall contain the required information, and the applicant is legally qualified to transfer his registration as stated in his application, the commission shall thereupon make such transfer.

(d) If the application card is not in compliance with this act the commission shall mark "REJECTED" on the application form together with the reason for rejection and return same to the applicant by first class non-forwardable mail, return postage guaranteed. An application shall not, however, be rejected because the color of the applicant is not indicated on the application form.

(e) Upon the return by the post office of an applicant's voter notification form which the post office is unable to deliver at the given address, the commission shall cause an investigation to be made and in the event the commission finds that the applicant is not qualified to register from such address, the commission shall reject the application card of such applicant and shall notify the applicant by first class forwardable mail of such action.

(f) If the registration commission suspects that for any reason the applicant is not entitled to registration, change of address or change of name, the commission may cause an investigation to be made in reference thereto.

(g) If the commission shall find that the applicant is not qualified to register, change address or change name, the application shall be rejected and the applicant notified of such rejection with the reason therefor, provided that such rejection must be made no later than ten days before the ensuing primary or election succeeding the filing of the application.

(h) The records of the commission, and all district registers, street lists, voting check lists, voters' certificates, affidavits, official nonpersonal voter registration application cards, petitions, appeals, witness lists, accounts, contracts, reports, and other documents in its custody, except the general registers, shall be open to public inspection, except as herein provided, and may be inspected and copied by any

qualified elector during ordinary business hours, except when they are necessarily being used by the commission or its employes having duties to perform in reference thereto, or when such inspection or copying shall unreasonably interfere with the proper and efficient performance of the duties and exercise of the functions of the commission or its employes in administering this act. Such public inspection thereof shall only be in the presence of an authorized employe of the commission, and shall be subject to proper regulation for safekeeping of the records and documents and subject to the further provisions of this act. The records and documents of the commission open to inspection by the public shall not be used for commercial or improper purposes. Upon request of a qualified elector, a photocopy of the record shall be provided at cost.

(i) In all cases wherein the application discloses that the applicant's last residence address when he registered was a location within any other county of the Commonwealth of Pennsylvania the registration commission shall direct a cancellation notice to the registration commission of former residence. Such cancellation notice shall be in form approved by the Secretary of the Commonwealth in substantially the following form:

Date

Office of the Registration Commission
 County, Pennsylvania

"Cancellation of Previous Registration."

Name, whose date of birth is
 has now registered as an elector in County, Pennsylvania. Our records indicate that this registrant was previously registered in the County of, Pennsylvania, at the following address

.....
 Chief Clerk

Upon receipt of such cancellation notice, the registration commission of the county of former residence shall cause the registration of such elector to be cancelled in accordance with the provisions of this act. 1937, April 29, P.L. 487, § 18.3, added 1976, July 1, P.L. 504, No. 123, § 5, effective in 30 days. Amended 1984, May 31, P.L. 355, No. 70, § 2, imd. effective.

¹ 25 P.S. § 951-17.1.

§ 951-19. Who may register; who may vote; electors need register only once; exception

Every person living in a city of the second class, city of the second class A, city of the third class, borough, town or township who shall

possess all the qualifications of an elector as provided in the Constitution and laws of this Commonwealth, and has been a citizen of the United States for at least one month and who has resided in this Commonwealth and the election district where he shall offer to vote for at least thirty days prior to the next ensuing general, municipal or primary election, shall be entitled to be registered as herein provided. From and after the first day of June, one thousand nine hundred fifty-five, no person shall be permitted to vote at any election or primary held in any city of the second class, city of the second class A, city of the third class, borough, town or township unless he shall have been so registered, except by order of a court of common pleas as hereinafter provided; and no elector so registered shall be required to register again for any election or primary while he continues to reside at the same address, unless his registration is cancelled by reason of his failure to vote during a period of two years as hereinafter provided.

1937, April 29, P.L. 487, § 19. Amended 1955, May 31, P.L. 62, § 11; 1972, July 12, P.L. 779, No. 184, § 1, imd. effective.

Cross References

Qualifications of electors, see 25 P.S. § 2811 et seq.

Library References

Elections ⇐ 59, 98.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 16, 40.
P.L.E. Elections §§ 4, 24, 26.

Notes of Decisions

In general 1
Referenda 3
Residence 2

"registered voter". In re Borough of Castle Shannon, Allegheny County, 51 A.2d 526, 160 Pa.Super. 475, 1947.

1. In general

Under statutory and constitutional provisions making United States citizenship prerequisite to right to vote and requiring registrants to certify that they are United States citizens and legally qualified to vote, alien who voted in Pennsylvania was placed on notice that citizenship was essential to qualify as an elector, so that indictment charging false representation of United States citizenship by voting in Pennsylvania was not subject to dismissal on ground that alien did not know that citizenship was necessary for voting. U.S. v. Martinez, 73 F.Supp. 403, D.C., 1947.

One who registered as a voter in her maiden name but made no correction of registration after marriage was not a

2. Residence

A penitentiary prisoner could properly be denied the right to register to vote, since an inmate, by incarceration, did not fulfill the "residence" requirement of the election laws. Com. ex rel. Walden v. Brown, 85 D. & C. 581, 64 Dauph. 375, 1953.

3. Referenda

Petition for referendum on question of granting malt and brewed beverage licenses to retail dispensers, under § 84-100n, of Title 47, Liquor (repealed), had to be signed by qualified electors equal to at least 25 per cent of highest vote cast for any office in municipality or township at the last preceding general election, but such electors needed not be registered under Permanent Registration

Note 3

Act for Boroughs, Towns and Townships, Country Club v. Delaware County, 27 § 951-1, et seq. of this title. Magsam v. Del. 27, 1937.
Wible, 29 D. & C. 707, 1937; Chelsea

§ 951-20. Applicants to register may be challenged; procedure; challenge affidavit

(a) Any person claiming the right to register may be challenged by a registrar or by any commissioner or by any clerk or by a qualified elector of the city of the second class, city of the second class A, city of the third class, borough, town or township. Any person so challenged shall answer the questions of the challenge affidavit, as herein specified, and after his answers have been recorded, he shall subscribe to them by his signature or mark, and swear to their truth.

(b) The affidavits of all persons so registered shall be filed with the duplicate registration affidavits, and shall be returned with them to the office of the registration commission.

(c) The challenge affidavit shall be, in form, prescribed by the Secretary of the Commonwealth, and shall contain spaces for the following information: (1) Serial number; (2) place and date of execution; (3) full name of challenged applicant; (4) whether he is married or single; (5) if married, where his family resides; (6) if single, where his parents reside; (7) where applicant actually resided immediately before he took up his present residence; (8) his residence for the four months immediately preceding date of execution; (9) the name of his present employer; (10) the city, town, borough, and street and number of his place of business; (11) the name of his last employer, and the year in which he left his employ; (12) the city, town, borough, and street and number of said last employer's place of business; (13) sex of the applicant; (14) his color; (15) the date of his birth; and (16) such distinguishing marks, peculiarities, and further information for identification as the commission shall prescribe.

(d) The challenged applicant shall produce at least one qualified elector of the election district as a witness who shall make affidavit of his residence in the election district. If such challenged applicant shall establish his right to be registered as required by this act, he shall be permitted to be registered.

(e) Any person making application to be enrolled as a member of a political party for the purpose of voting at primaries may be challenged by any qualified elector of the county. Any person so challenged shall be enrolled as a member of such party if he shall make and subscribe to an affidavit that, at the last election at which he voted, he voted for a majority of the candidates of such party, all of the candidates of a party for presidential elector being counted as

two candidates; but if he is unable or unwilling to make such affidavit, he shall be denied enrollment as a member of such party, but he shall not be deemed to be guilty of any violation or attempted violation of any law by reason thereof.

1937, April 29, P.L. 487, § 20. Amended 1955, May 31, P.L. 62, § 11.

Cross References

Power of watcher to challenge, see 25 P.S. § 951-13.

Library References

Elections ⇄106.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46.

P.L.E. Elections § 26.

§ 951-21. Repealed. 1976, July 1, P.L. 504, No. 123, § 6, effective in 30 days

Historical and Statutory Notes

The repealed section related to naturalized applicants and applicants whose parents or spouse were naturalized and was derived from:

1937, April 29, P.L.487, § 21.

1955, May 31, P.L.62, § 12.

1961, July 25, P.L.870, § 1.

§ 951-22. Incomplete or rejected applications to be recorded

The registrar, commissioner, or clerk shall record on registration cards the surname, Christian name or names, and street and number of residence of each person who applies for registration, whether or not the application is accepted. Whenever the applicant is rejected after a portion of the record has been filled in, the registration card or cards shall be marked "Applicant Rejected," and the registrar, commissioner or clerk shall note thereon the reason for the rejection and shall sign his name thereto. The registrar, commissioner or clerk shall forthwith personally notify the applicant if his application for registration is rejected: Provided, however, That if the registration card was received by mail notice of rejection shall be by mail. All such cards shall be returned to the commission and shall be preserved for a period of two years.

1937, April 29, P.L. 487, § 22. Amended 1941, Aug. 1, P.L. 664, § 4; 1955, May 31, P.L. 62, § 13; 1976, July 1, P.L. 504, No. 123, § 7, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment in the proviso deleted "from a person in military service" following "received by mail".

Library References

Elections ⇨106.
 WESTLAW Topic No. 144.
 C.J.S. Elections §§ 39, 46.

§ 951-23. Appeal of rejected applicant

Any person whose application to be registered has been denied by a registrar, commissioner or clerk, may file a petition with the commission, not later than the fifteenth day prior to an election or primary, setting forth the ground of his complaint under oath, and praying to be registered. The commission shall fix a time for a public hearing thereof at its office not later than the tenth day prior to the election or primary. At the time so fixed, the commission shall hear and dispose of the petition, having first given a least forty-eight hours' notice of the hearing to the registrar, commissioner or clerk, who rejected the petitioner's application for registration. The commission, if satisfied that the petitioner is entitled to be registered, shall direct a registrar, commissioner or clerk, to register him in the usual manner, and shall amend accordingly the records affected, but any registrar, clerk, inspector of registration or qualified elector of the county may appear and show cause why the petitioner should not be registered.

1937, April 29, P.L. 487, § 23. Amended 1955, May 31, P.L. 62, § 14.

Library References

Elections ⇨106.
 WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46.
 P.L.E. Elections §§ 26, 28.

§ 951-24. General register

The duplicate registration cards for all cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, and townships within the county shall be placed in exact alphabetical order and shall be indexed, and shall be kept at the office of the commission in a place and in such manner as to be properly safeguarded. In any county where the registration cards of the cities of the second class, cities of the second class A, boroughs, towns, and townships are of the same type as those used in the cities of the third class, and, in the opinion of the commission, can be consolidated into one duplicate registration, it shall be the duty of the commission to place the duplicate registration cards for all cities of the second class, cities of the second class A, boroughs, towns, and townships, and all cities of the third class, in exact alphabetical order, which shall be indexed, and shall be kept at the office of the commission in a place and in such manner as to be properly safeguarded. These cards shall

constitute the general register of the cities of the second class, cities of the second class A, boroughs, towns, and townships, or of all such cities of the third class, cities of the second class, cities of the second class A, boroughs, towns, and townships in the county, as the case may be, and shall not be removed from the office of the commission except upon order of a court of record of the county wherein such city of the third class, city of the second class, city of the second class A, borough, town, or township is located: Provided, however, That the official registration card of an elector who has registered by mail may qualify as a duplicate registration card.

1937, April 29, P.L. 487, § 24. Amended 1939, June 9, P.L. 278, § 1; 1955, May 31, P.L. 62, § 15; 1976, July 1, P.L. 504, No. 123, § 8, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment added the proviso.

Library References

Elections ¶110.
WESTLAW Topic No. 144.
C.J.S. Elections § 47.

§ 951-25. District registers

The original registration cards shall be filed by election districts, and within each election district, in exact alphabetical order and indexed. The cards so filed for each election district shall constitute the district register for such district. The district register shall be kept at the office of the commission, except as herein provided, and shall be open to public inspection at all times, subject to reasonable safeguards, rules and regulations.

1937, April 29, P.L. 487, § 25. Amended 1955, May 31, P.L. 62, § 16.

Library References

Elections ¶110.
WESTLAW Topic No. 144.
C.J.S. Elections § 47.
P.L.E. Elections § 27.

Notes of Decisions

In general 1

1. In general

Where complaint requesting right to inspect voters' certificates and district registers, averred that they were not in constant use by the County Election Board which was tabulating the votes, and con-

test was a close one, court, under the unusual circumstances, granted the request subject to right of county board to have order opened upon cause shown. *Austin v. Dauphin County Bd. of Elections*, 79 D. & C. 562, 1953.

District election registers required by paragraph (c) of § 3065 of this title, to be sealed and locked, did not constitute rec-

Note 1

ords which were open to public inspection under § 2648 of this title, although there might be instances when they should be unlocked and exhibited to par-

ties having an appropriate interest. *Austin v. Dauphin County Bd. of Elections*, 79 D. & C. 562, 1953.

§ 951-26. Removal notices

(a) The commission shall provide removal notices, which it shall cause to be made available for the convenient use of electors who are registered in any city of the second class, city of the second class A, borough, town, township or city of the third class within the county. These notices shall be printed upon cards suitable for mailing, addressed to the office of the registration commission, and shall contain space wherein the elector shall write—(1) the city of the second class, city of the second class A, city of the third class, borough, town or township, the street or road and number, if any, of his present residence, and the specific location thereof including the number of the room or rooms, apartment, flat, or floor, if his residence is a portion only of a house; (2) the city of the second class, city of the second class A, city of the third class, borough, town or township, the street or road, and number, if any, of the address from which he was last registered; (3) the date of his removal to his present residence; and (4) space wherein the elector shall sign his name. The removal notice shall contain a statement that the elector may, by filling out properly and signing a removal notice and returning it to the office of the commission, secure the transfer of his registration to the election district in which he resides, effective as to elections and primaries occurring at least thirty days after the date of his removal into the new district. Each removal notice shall contain a warning to the elector that the notice will not be accepted as an application for transfer of the elector's registration unless the signature thereon can be identified by the commission as the elector's signature in the general and district register for the city of the second class, city of the second class A, city of the third class, borough, town or township in which he was last registered. Each removal notice, to be effective, must be received at the office of the commission at least thirty days prior to any primary, general or municipal election, which warning shall also be contained on the removal notice: Provided, however, That an official registration application card of any elector who has registered by mail may qualify as a removal notice.

(b) Any elector who removes his residence from one place to another within the same election district must notify the commission by filing a removal notice with the commission not later than thirty days next preceding the primary or election: Provided, That an official registration application card of any elector who has registered by mail may qualify as a removal notice: And provided further,

That any elector who removes his residence from one place to another within the same election district, and who has not yet filed a removal notice with the commission, may be permitted to vote at the election or primary next following such removal, if, at the time of signing voter's certificate, he files with the judge of election a signed removal notice properly filled out. All such removal notices shall be returned to the commission with the voting check list, and the commission shall proceed to transfer the registration of such electors in accordance with the provisions of this act.

1937, April 29, P.L. 487, § 26. Amended 1939, June 21, P.L. 606, § 1; 1941, Aug. 1, P.L. 654, § 3; 1947, June 20, P.L. 752, § 1; 1955, May 31, P.L. 62, § 17; 1973, March 26, P.L. 5, No. 2, § 2, imd. effective; 1976, July 1, P.L. 504, No. 123, § 9, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment in subsec. (a) months" and added the proviso, and in substituted "thirty days" for "two subsec. (b) inserted the first proviso.

Library References

Elections ¶119.

WESTLAW Topic No. 144.

C.J.S. Elections § 52.

P.L.E. Elections § 27.

Notes of Decisions

In general 1

1. In general

Action of state officials in adopting procedure whereby notices to persons about to be purged from voter's registration lists would not be forwarded was proper. *Brier v. Luger*, 351 F.Supp. 313, D.C. 1972.

So long as a voter resided for at least two months immediately preceding the election in the election district where he casts his ballot as required by Const. Art. 8, § 1, subsec. 3, his vote was valid, even though prior to such election he moved his residence, remaining in the same district, without filing a removal notice, since this section is directory and not mandatory. *In re Second Legislative Dist. Election Contest*, 4 D. & C.2d 93, 45 Luz.L.Reg. 33, 1956.

Under this section if an elector moves within the 30-day period he is disfranchised. *Appeal of Ives*, 39 D. & C. 498, 1941.

Registered elector in city of third class, who moved to another election district more than sixty days prior to primary or election, was not required to deliver removal notice prescribed by act of 1935, July 1, P.L. 478, repealed, to registration commission at least sixty days before such primary or election, to entitle him to registration in his new election district and to vote therein. Such removal notice, however, had to be presented to commission within reasonable time, which, taking into consideration all provisions of the repealed Act, was within that period when commission was required to receive personal application for registration, i.e., until thirty days before election or primary. *King's Appeal*, 26 Del. 394, 27 D. & C. 532, 1936.

§ 951-27. Transfer of registration

(a) Upon receipt, not later than the thirtieth day next preceding any primary, general or municipal election, of a signed removal notice properly filled out or a signed request containing the required

information and setting forth a removal of residence to another location in any city of the second class, city of the second class A, city of the third class, borough, town or township, within the county, the commission shall cause the signature thereon to be compared with the signature on the registration card of the elector from whom the removal notice purports to come, and, if the signature shall appear authentic, shall enter the change of residence on the registration cards of the elector in the general and district registers, and shall transfer the registration card of the elector from the district register of the election district of his previous residence to the district register of the election district of his new residence.

(b) When a request for transfer, believed authentic by the commission, is received at the office of the commission and shows thereon a removal within the period of thirty days next preceding an election or primary, the commission shall enter the change of residence on the registration cards of the elector in the general and district registers and shall transfer the registration card of the elector from the district register of the election district of his previous residence but shall not include it in the register of the district of his new residence until after the election or primary. In any such case the commission shall advise the elector promptly, in writing, of its action.

(c) If the commission shall doubt that the request for transfer is authentic, it shall, without transferring the registration of the elector, promptly notify the elector that it will be necessary for him to apply in person at the office of the commission for the transfer of his registration.

(d) No elector who is unable to write his name shall be permitted to apply for transfer of registration by use of a written removal notice, but each such elector must apply in person at the office of the commission, or before a registrar at any registration place designated by the commission, and establish his identity, and state, under oath or affirmation, to which he shall affix his mark in the presence of a registrar, a commissioner or clerk, who shall affix his own signature thereto as a witness, the information required of registered electors in a removal notice.

1937, April 29, P.L. 487, § 27. Amended 1939, June 21, P.L. 606, § 1; 1947, June 20, P.L. 752, § 2; 1955, May 31, P.L. 62, § 18; 1973, March 26, P.L. 5, No. 2, § 2, imd. effective; 1976, July 1, P.L. 504, No. 123, § 10, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment in subsec. (b) substituted "thirty days" for "two months" and deleted subsec. (d) which formerly read:

"No elector who is unable to write his name shall be permitted to apply for transfer of registration by use of a written removal notice, but each such elector

must apply in person at the office of the commission, or before a registrar at any registration place designated by the commission, and establish his identity, and state, under oath or affirmation, to which

he shall affix his mark in the presence of a registrar, a commissioner or clerk, who shall affix his own signature thereto as a witness, the information required of registered electors in a removal notice."

Library References

Elections ¶119.
WESTLAW Topic No. 144.

C.J.S. Elections § 52.
P.L.E. Elections § 27.

Notes of Decisions

In general 1

1. In general

This section must not be construed as requiring residence within an election district for a longer period than that required by Const. Art. 8, § 1, since such a construction would render the section unconstitutional. Appeal of Durboraw, 39 D. & C. 401, 1941.

This section providing for the transfer by the County Elections Commission of the enrollment of a voter who has removed to another location in the same county, authorizes a transfer from a city to a part of the county outside the city as well as from one location in the part of the county outside the city to another similar location. In re Appeal of Evans, 31 D. & C. 258, 44 Dauph. 339, 1938.

§ 951-28. Change of enrollment of political party; cancellation of party enrollment; persons suffering disability after registration to have fact recorded; cancellation

(a) At any time prior to the thirtieth day next preceding a primary or an election, any person who desires to change the enrollment of his political designation, or who, although registered, has not hitherto enrolled as a member of a party, may appear before a registrar, commissioner or clerk and state in writing, over his signature, the political party in which he desires to be enrolled, and the registrar, commissioner or clerk shall cause the enrollment of the elector's political designation to be made or altered accordingly in the general and district registers. The signature of the elector shall be verified by comparison with his signature on the general and district registers before the change of enrollment is made. Any elector desiring to change his party enrollment is unable to sign his application, he shall make his mark thereto in the presence of the registrar, commissioner or clerk, and shall produce such other evidence as may be necessary to establish his identity.

(b) At any time not later than the tenth day preceding any primary, any qualified elector of the city of the second class, city of the second class A, city of the third class, borough, town or township, including any watcher, may petition the commission to cancel the party enrollment of any registered elector of such city of the second class, city of the second class A, city of the third class, borough, town or township who has previously enrolled as a member of a party for the purpose of voting at primary elections, setting forth, under oath, that he

believes that such elector is no longer a member of the party with which he has been enrolled, and also setting forth that due notice of the time and place when said petition would be presented had been given to the person so registered, at least twenty-four hours prior to presentation of the same, by delivering a copy of the petition to him personally or by leaving it with an adult member of the family with which he resides. If, at the hearing of any such petition, the elector against whom the petition is filed appears and swears or affirms that, at the last general or municipal election at which he voted, he voted for a majority of the candidates of the party with which he is enrolled at the time of said hearing, all of the candidates of a party for presidential elector being counted as two candidates, the petition shall be refused, otherwise, the party enrollment of such elector shall be forthwith cancelled.

(c) Any elector who has, since the time of registration, suffered a physical disability which renders him unable to see or mark the ballot or operate the voting machine, or to enter the voting compartment or voting machine booth, without assistance shall, at least ten days prior to the next succeeding primary or election personally make application, under oath, to the commission or a registrar or a clerk thereof to have such fact entered on his registration card, together with the exact nature of his physical disability, which entry shall be made accordingly.

(d) When the commission shall ascertain that any elector who has declared his need for assistance is no longer illiterate, or no longer suffers from the physical disability stated by him, or has voted without assistance, it shall forthwith cancel on his registration card the entry relating to illiteracy or physical disability which authorized him to have assistance, and shall forthwith notify such elector by mail of its action.

1937, April 29, P.L. 487, § 28. Amended 1939, June 9, P.L. 281, § 1; 1941, Aug. 1, P.L. 664, § 5; 1945, May 15, P.L. 466, § 2; 1955, May 31, P.L. 62, § 19; 1963, Aug. 13, P.L. 746, § 5, effective Jan. 1, 1964; 1973, March 26, P.L. 6, No. 2, § 3, imd. effective; 1976, July 1, P.L. 504, No. 123, § 11, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment rewrote subsec. (a) which formerly read:

"At any time prior to the thirtieth day next preceding a primary or an election, excepting the thirty days next following each election and the five days next following each primary, any person who desires to change the enrollment of his political designation, or who, although registered, has not hitherto enrolled as a

member of a party, may appear before a registrar, commissioner or clerk and state in writing, over his signature, the political party in which he desires to be enrolled, and the registrar, commissioner or clerk shall cause the enrollment of the elector's political designation to be made or altered accordingly in the general and district registers: Provided, however, That no registered elector shall be per-

mitted to change his party enrollment between any primary and the following general or municipal election, nor more than once between any November election and the following primary election. In such cases the signature of the elector shall be verified by comparison with his signature on the general and district registers before the change of enrollment is made. If any elector desiring to change his party enrollment is unable to sign his application, he shall make his mark thereto in the presence of the registrar, commissioner or clerk, and shall produce such other evidence as may be necessary to establish his identity. When an elector has applied for a change in the enrollment of his political designation, as provided herein, the registrar, commissioner or clerk shall, upon request, stamp or mark the change so made on the elector's card attesting his registration. Any per-

son who is duly registered and is a member of any of the categories enumerated in sections 18.1 and 18.2 herein, who desires to change his party enrollment, shall be permitted to do so by addressing to the commission a signed written application under oath taken and subscribed to before any person authorized to administer oaths. The application shall be sent by the applicant if outside the continental limits of the United States by registered mail, return receipt required, otherwise by certified mail, return receipt required, and shall also contain a statement that such person is at the time of making the application absent from his residence or is ill or disabled. If upon examination the signature appears authentic and the application conforms to the provisions of this section the enrollment shall be changed in accordance with the application."

Library References

Elections ⇄108.
WESTLAW Topic No. 144.

C.J.S. Elections § 48.
P.L.E. Elections § 27.

§ 951-28.1. Duties of common pleas courts on days of primaries and elections

The court of common pleas of each county or a judge or judges thereof of any county of the Commonwealth maintaining a reinstatement system of registration shall be in continuous session at the courthouse of said county on the day of each primary and election during the period the polls are open. During such period said court shall hear and determine (1) the petition of any qualified elector who has heretofore been duly registered as an elector of said county but who, due to circumstances beyond his control, has failed to file a removal notice or reinstatement card in order to insure the inclusion of his registration card in the district register of the election district of his residence, (2) the petition of any qualified registered elector who has suffered a physical disability which renders him unable to see or mark the ballot or operate the voting machine or to enter the voting machine compartment or voting booth without assistance and, due to circumstances beyond his control, was unable to make application personally at the office of the registration commission within the time prescribed by law in order to have such fact entered on his registration card, (3) the petition of any qualified elector who is a duly discharged veteran and who, by reason of his service in the armed forces, was unable to register within the time fixed by law, and (4) the petition of any commissioner, chief clerk, registrar or

clerk, setting forth that the right to vote of the particular elector has been denied by reason of an error by the registration commission. 1937, April 29, P.L. 487, § 28.1, added 1961, Sept. 2, P.L. 1205, § 2.

Library References

Elections ⇨220, 222, 227(1).	P.L.E. Courts § 102.
WESTLAW Topic No. 144.	P.L.E. Elections § 83.
C.J.S. Elections §§ 196, 203, 208, 214.	

Notes of Decisions

Late registration 1

1. Late registration

Court of Common Pleas was not empowered to grant county election officials

blanket authorization to register over 4,700 voters who merely failed to present registration applications in timely manner. In re General Election, Nov. 8, 1988, 560 A.2d 260, 126 Pa.Cmwith. 450, 1989.

§ 951-29. Reports of deaths from Department of Health; canceling registration; correction if person is falsely reported deceased; reports of removals from municipal offices, departments and bureaus, certain public utility corporations, and real estate brokers and rental agents; notice

(a) The commission shall cancel the registration of each registered elector reported dead by the Department of Health.

(b) Any person falsely reported deceased by the Department of Health may appear in person before a registrar, commissioner or clerk, at the office of the commission in such county, and prove his identity, and the commission thereupon shall correct its records accordingly.

(c) All municipal offices, departments, bureaus and all public utility corporations furnishing electricity, gas, water, or steam to ¹ householders in any city of the second class, city of the second class A, city of the third class, borough, town or township shall report, in writing, from time to time, to the commission, upon the request of the commission, upon forms supplied by the commission, all cases of discontinuance of their service to residences, together with the names of the persons who contracted for such service and the addresses to which such persons have removed, if known to them. All real estate brokers and rental agents shall report, in writing, from time to time, to the commission, upon the request of the commission, all cases of residence property managed by them which have been vacated by the tenants thereof, together with the names of such tenants and the addresses to which they have removed, if known to them. The commission shall forthwith send to each such person who is found to be registered as an elector from the address given in any

of the foregoing reports, and to all the members of his family and household who are electors registered from the same address, the notice provided for by section thirty-one of this act,² and shall proceed thereupon in accordance with the provisions of that section. 1937, April 29, P.L. 487, § 29. Amended 1939, June 9, P.L. 289, § 1; 1955, May 31, P.L. 62, § 20; 1961, Sept. 2, P.L. 1152, § 1.

¹ Enrolled bill reads "or".

² 25 P.S. § 951-30.

Library References

Elections ⇐108.

WESTLAW Topic No. 144.

C.J.S. Elections § 48.

P.L.E. Elections § 27.

§ 951-30. Check-up of registers

(a) At any time prior to the thirtieth day next preceding an election or primary, the commission may send, by mail, to any elector whose name appears in any district register, a notice, setting forth the elector's name and address as it shall appear in the register, and requesting him in case of any error to present the notice, on or before the tenth day next ensuing, at the office of the commission and secure the correction of the error, and warning the elector that any discrepancy between his actual name and address and his name and address as recorded in the original register will constitute ground for challenging his vote. Such notice shall contain on the outside, "DO NOT FORWARD, return to Board of Elections" and a request of the postmaster to return it within five days if it cannot be delivered to the addressee at the address given thereon.

(b) At any time prior to the thirtieth day next preceding an election or primary, the commission may cause a check-up to be made by postmen of the United States Post Office of any elector whose name appears in any district register.

(c) At least once in each four years the commission may conduct a check-up of each registered elector in the cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, and townships by either of the methods provided for in subsections (a) and (b) above.

(d) Upon the return by the post office of any such notice which it has been unable to deliver at the given address because the addressee cannot be found there, or upon report by the post office that any registered elector does not reside at the address given on his registration card, the commission shall either, (1) direct an authorized employe to visit in person the address of the elector, and if he shall find that the elector does not reside at the address, he shall leave at such address the notice prescribed by clause (e) of this section, or, (2)

mail to such registered elector at the address given on his registration card the notice prescribed by clause (e) of this section. Such notice, when mailed, shall be sent as first-class mail, and shall contain on the outside a request to the postmaster to forward it, if the addressee does not reside at the address given thereon.

(e) The notice stipulated by clause (d) of this section shall require the registered elector to communicate with the commission on or before a date which the commission shall designate, and which shall be not less than ten days, and not more than thirty days from the service or mailing of the notice, and in any case not later than the fifteenth day preceding the election or primary next ensuing, and satisfy the commission of his qualifications as an elector. At the expiration of the time specified in the notice the commission shall cancel or suspend the registration of such person who has not communicated with the commission and proved his qualifications as an elector: Provided, That when any registered elector who has been mailed the notice prescribed by this clause shall communicate with the commission claiming the right to remain registered at the address to which the original notice was mailed the commission shall cause an investigation to be made of such claim, and, if not satisfied of the right of the elector to remain registered at such address, shall cancel or suspend the registration of the elector. Every elector whose registration is cancelled in accordance with the provisions of this section shall be required to register in the manner provided by this act in order to be eligible to vote at any ensuing election or primary.

(f) The registration of any person in military service shall not be cancelled or suspended by reason of the failure of such person to reside at the address appearing upon the district register, if such person did reside at such address on the date of entering military service.

1937, April 27, P.L. 487, § 30. Amended 1941, Aug. 1, P.L. 654, § 4; 1941, Aug. 1, P.L. 664, § 6; 1945, May 18, P.L. 650, § 1; 1947, June 20, P.L. 752, § 3; 1955, May 31, P.L. 62, § 21; 1961, Sept. 2, P.L. 1205, § 3; 1973, March 26, P.L. 4, No. 2, § 4, imd. effective; 1974, Dec. 10, P.L. 833, No. 279, § 1.

Historical and Statutory Notes

The 1974 amendment, in the last sentence of subsection (a), inserted the phrase "DO NOT FORWARD, return to Board of Elections and".

Library References

Elections § 109.
WESTLAW Topic No. 144.

C.J.S. Elections § 47.
P.L.E. Elections § 27.

Notes of Decisions

In general 1

constitutional practice into unconstitutional one. *Brier v. Luger*, 351 F.Supp. 313, D.C.1972.

1. In general

Where there were extenuation circumstances which caused state officials to conduct purge of voter's registration lists after time set for such purge by statute, delay in conducting purge did not convert

Action of state officials in adopting procedure whereby notices to persons about to be purged from voter's registration lists would not be forwarded was proper. *Brier v. Luger*, 351 F.Supp. 313, D.C. 1972.

§ 951-31. Canvass of registered electors

(a) The commission may at any time, by individual commissioners or by inspectors of registration, verify the registration in any election district in the cities of the second class, cities of the second class A, cities of the third class, boroughs, towns or townships of the county by visiting each building from which an elector is¹ registered, and such other buildings as the commission may deem necessary, and shall make a record of the name and address of each person registered who shall not be found to reside at the address from which he is registered, or who, for any other reason, shall appear to be not qualified to vote in the election district from which he is registered, and shall leave at the address of each such person the notice prescribed by clause (e) of section thirty of this act.²

(b) At the expiration of the time specified in the notice, the commission shall cancel or suspend the registration of each such person who has not communicated with the commission and proved his qualifications as an elector.

(c) For the purpose of facilitating any such canvass, the commission may, when necessary, appoint special inspectors of registration, in number not exceeding double the number of election districts which the commission shall determine to canvass.

(d) Such special inspectors shall have and may exercise the powers conferred by this act upon inspectors of registration. They shall be qualified electors of the county, and shall be appointed without reference to residence in election districts or to their political affiliations or beliefs.

(e) The commission shall instruct each special inspector in his duties.

1937, April 29, P.L. 487, § 31. Amended 1941, Aug. 1, P.L. 654, § 5; 1955, May 31, P.L. 62, § 22; 1961, Sept. 2, P.L. 1205, § 3.

¹ Enrolled bill omitted word "is".

² 25 P.S. § 951-30.

Library References

Elections ⇐108.
WESTLAW Topic No. 144.

C.J.S. Elections § 48.
P.L.E. Elections § 27.

§ 951-32. Comparison and correction of registers

Commencing thirty days prior to each election and primary, the commission shall compare and correct the general and district registers.

1937, April 29, P.L. 487, § 32. Amended 1939, June 19, P.L. 446, § 1; 1945, May 15, P.L. 466, § 3; 1947, March 5, P.L. 24, § 2; 1955, May 31, P.L. 62, § 23; 1973, March 26, P.L. 7, No. 2, § 4, imd. effective.

Library References

Elections ⇐108.
WESTLAW Topic No. 144.

C.J.S. Elections § 48.
P.L.E. Elections § 27.

§ 951-33. Street lists; posting

(a) Commencing not later than the thirtieth day prior to each primary and election, the commission shall prepare for each election district a list of the names and addresses of all registered electors as of that date resident in the district, either arranged by streets and house numbers, arranged alphabetically or another arrangement whereby the location of the elector's residence can be identified.

(b) The commission shall cause to be made a sufficient number of exact copies of each such list, and, as soon as possible, shall distribute the same among the inspectors and special inspectors of registration and the officials concerned with the conduct of primaries and elections, and among the parties, political bodies, candidates, and organized bodies of citizens, interested therein, giving at least ten copies of each street list to the county committee of each political party or political body, upon the written application of the chairman thereof, and at least ten copies of each street list to the executive or governing board or committee of each organized body of citizens having as its purpose, or among its purposes, the investigation and prosecution of election frauds, upon the written application of the presiding officer of such body of citizens, and at least one copy of each street list with which his candidacy is concerned, to each candidate, upon his written request, and keeping two complete sets of such street lists on file at the office of the commission, convenient for public inspection during all the hours when the other records of the commission are open to public inspection, as herein provided.

1937, April 29, P.L. 487, § 33. Amended 1939, June 19, P.L. 446, § 1; 1947, June 20, P.L. 752, § 4; 1955, May 31, P.L. 62, § 24; 1957, April 30, P.L. 64, § 1; 1959, Sept. 11, P.L. 875, § 1; 1973, March 26, P.L. 8, No. 2, § 5, imd. effective; 1976, July 1, P.L. 504, No. 123, § 12, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment in subsec. (a) added the provision relating to other arrangements whereby the elector's residence can be identified.

Library References

Elections ☞ 109.

C.J.S. Elections § 47.

WESTLAW Topic No. 144.

P.L.E. Elections § 27.

§ 951-34. Petition to strike off names

At any time not later than the tenth day preceding any election or primary, any qualified elector of the city of the second class, city of the second class A, city of the third class, borough, town or township, including any watcher and any registrar or inspector of registration, may petition the commission to cancel or suspend the registration of any registered elector of such city of the second class, city of the second class A, city of the third class, borough, town or township, setting forth, under oath, sufficient grounds for such cancellation or suspension, and also setting forth that due notice of the time and place when said petition would be presented had been given to the person so registered, personally, at least twenty-four hours prior to the presentation of the same, or that he could not be found at the place given in the district register as his residence and that the person in charge thereof, to be mentioned by name in said petition, had declared that he or she was well acquainted with the names of all persons residing at the address given as such residence and that the person so registered had never been or was no longer one of them, or that no such person is residing at the address given, whereupon the commission shall forthwith cancel or suspend the registration of such elector, and amend accordingly the general and district registers and the other records affected, unless the person so registered shall appear and show cause why the same should not be done.

1937, April 29, P.L. 487, § 34. Amended 1955, May 31, P.L. 62, § 25; 1961, Sept. 2, P.L. 1205, § 3; 1976, July 1, P.L. 504, No. 123, § 13, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment deleted a requirement that a petition be supported by affidavits of at least two persons.

Library References

Elections ☞ 108.

C.J.S. Elections § 48.

WESTLAW Topic No. 144.

P.L.E. Elections § 27.

Notes of Decisions

Actions 3

Procedure 2

Striking off names 1

1. Striking off names

In absence of evidence that any individual student registrant could be struck under provision of state election statutes governing striking of registered electors, there was no basis for decree directing county board of electors to strike 195 student registrants from rolls of registered electors and further directing the board to determine propriety of registration of other student registrants. *Starkey v. Smith*, 283 A.2d 700, 445 Pa. 118, 1971.

An appeal from the action of the registration commission of the city of Pittsburgh in striking the name of appellant from the registry list of electors as a non-resident, was dismissed, where the record showed that he owned two houses, one in the city and another in Mt. Lebanon township, and that he and his family resided in the township home, but that he occasionally slept in the city home, which was rented to and occupied by a tenant. *Appeal of Stabile*, 91 P.L.J. 543, 1944, affirmed 36 A.2d 451, 348 Pa. 587.

Where an elector sought to have his name restored to the registry, after it had been stricken off by the commission, appellant had the burden of proof to satisfy the court that an injustice had been done and that the commission had acted improperly. It was immaterial whether the commission presented any or no testimony. *Appeal of Stabile*, 91 P.L.J. 543, 1944, affirmed 36 A.2d 451, 348 Pa. 587.

2. Procedure

Stipulation and order, entered in federal proceedings, permitting college students to register at their college residences if they met residential qualifications of electors as set forth in all other sections of State Constitution and Election Code, did not preclude county board of elections from following voter registration challenge procedures specified in election statutes. *Starkey v. Smith*, 283 A.2d 700, 445 Pa. 118, 1971.

3. Actions

Election statutes provide adequate, complete and appropriate statutory remedy for challenging voter registrations; thus, challenge to validity of student registrations was not cause of action cognizable in equity. *Starkey v. Smith*, 283 A.2d 700, 445 Pa. 118, 1971.

§ 951-35. Delivery of district registers to election officers

(a) Not later than noon of the third day preceding an election or primary, the commission shall have the district register accurately corrected to date, for each election district, and shall deliver the same to the election officers for use on election day, in the manner in which the county election boards now are or hereafter may be required to deliver election materials: Provided, The registration commission shall not deliver the registration card, for use at the polls on election day, of any person who has removed from one election district to another within two months of any general, municipal, primary or special election. The registration commission shall withdraw from the district registers the cards of all such persons before the registers are so delivered.

(b) District registers, when so delivered, shall be contained in suitable binders so constructed and locked that the name, address, voting record, and other data on each card may be visible, and that entries may be made on each card, but that the cards cannot be removed by the election officers. Said binders shall have printed or

written thereon the words "District Register of Voters" and the number of the district and ward, if any. Said binders shall be enclosed within a case or container and shall be locked and sealed by the commission before delivery.

1937, April 29, P.L. 487, § 35. Amended 1955, May 31, P.L. 62, § 26.

Library References

Elections § 110.
WESTLAW Topic No. 144.

C.J.S. Elections § 47.
P.L.E. Elections § 27.

§ 951-36. Persons registered are entitled to vote at general or municipal elections if identified by signature, proviso; evidence of registration discrepancies; persons registered and enrolled may vote at primaries if identified by signatures, proviso; persons not registered are not entitled to vote; challenging of persons; registered voter's certificates; voting check list, elections and primaries; counting, et cetera, of names checked as having voted; sealing of registers and voting check lists; return of voting check list and registers

(a) Any person whose name is in the district register of any election district in any city of the second class, city of the second class A, city of the third class, borough, town or township, and who, upon applying to vote, shall have signed his name and address to a voter's certificate, in the form hereinafter provided for, as a means of identification, and whose signature thereon shall have been compared by the election officers in the presence and view of the watchers, with the signature of the applicant as recorded in the district register and shall have been deemed authentic by said election officers, shall be entitled to vote in such district at any general, municipal or special election, unless it be shown to the satisfaction of the election officers that he has become disqualified by removal from the district since registration, or that he has violated any law of this Commonwealth prohibiting bribery at elections: Provided, That if the signature on the voter's certificate, as compared with the signature as recorded in the district register, shall not be deemed authentic by any of the election officers, such elector shall not be denied the right to vote for that reason, but shall be considered challenged as to identity, and required to make the affidavit and produce the evidence as provided in subsection (e) of this section.

(b) No elector shall be required to sign a voter's certificate as a means of identification if he shall have been unable to sign his name when registered, or if, having been able to sign his name when

registered, he subsequently shall have lost his sight or lost the hand with which he was accustomed to sign his name or shall have been otherwise rendered by disease or accident unable to sign his name when he applies to vote, but each elector shall establish his identity to the satisfaction of the election officers, and, in such case, a voter's certificate shall be prepared for him by one of the election officers upon which the facts as to such disability shall be noted and attested by the signature of such election officer.

(c) No person who applies to vote shall be permitted by any election officer or clerk or other person to see the signature recorded as his in the district register until after he shall have signed his name to the voter's certificate.

(d) Any person who is registered and also enrolled as a member of a political party, and who, upon applying to vote, shall have established his identity by signing his name and address, or otherwise, as herein required at elections, and is otherwise qualified, may vote as a member of said party at any primary succeeding such registration without being subject to any challenge regarding his party membership. No elector registered and enrolled as a member of any one particular party shall be allowed to receive or vote the ballot of any other political party at any primary election, and any qualified elector registered, although not enrolled as aforesaid, shall be permitted to vote a nonpartisan ballot according to any law providing for same at any primary election.

(e) No one, except a qualified elector who is in actual military or naval service under a requisition of the President of the United States or by the authority of this Commonwealth, shall be entitled to vote at any election or primary without being personally registered as an elector in the election district in which he offers to vote, except by order of the court of common pleas as herein provided regarding appealed cases. Any person, although personally registered, may be challenged by any qualified elector, watcher, overseer or election officer, at any election or primary, as to his identity, as to his continued residence in the election district, or as to any alleged violation of the laws of this Commonwealth prohibiting bribery at elections; and if challenged as to identity or residence, he shall produce at least one qualified elector of the election district as a witness, who shall make affidavit of his identity or continued residence in the election district; and if challenged as to bribery, he shall be required to swear or affirm that the matter of the challenge is untrue, before his vote shall be received.

(f) The county election board shall cause to be printed for each election district in the city of the second class, city of the second class A, city of the third class, borough, town or township a suitable

number of Voter's Certificates, which shall be, in form approved by the Secretary of the Commonwealth substantially as follows:

VOTER'S CERTIFICATE

(Primary) (Election) 19...

I hereby certify that I am qualified to vote at this (primary) (election)

Signature

Address

..... Pennsylvania

Approved

Number of stub or ballot issued (or number of admission to voting machines)

(and party at primary)

The voter's certificates shall be so prepared as to be capable of being inserted by the election officers in a suitable file or binder, to be furnished by the county election board. After a voter's certificate has been presented by an elector and has been compared with his signature in the district register and approved, or, in the case of an elector who is unable to write, the notations hereinabove required have been made thereon, one of the election officers who made the comparison shall sign his name or initials thereon, and, if the elector's signature is not readily legible, shall print such elector's name over his signature. After the elector has been admitted to vote, the number of the stub of the ballot issued to him, or his number in the order of admission to the voting machines, and at primaries a letter or abbreviation designating the party in whose primary he votes, shall be entered on his voter's certificate and the same shall thereupon be inserted in the file or binder. One such file or binder shall be furnished for each election district for each primary and election, and shall have printed or written thereon the words "Voting Check List" and the number of the district and ward, if any, and date of the primary or election. The voter's certificates, so bound, shall constitute the voting check list of the district. All voter's certificates prepared by persons applying to vote, whose applications to vote are refused by the election officers, shall be carefully preserved and returned to the commission with the voting check list.

(g) The district registers herein provided for shall constitute the ballot check list of the district. As each voter is found to be qualified and votes, the election officer in charge of the district register shall write or stamp the date of the election or primary, the number of the stub of the ballot issued to him, or his number in the order of admission to the voting machines, and at the primaries, a letter or abbreviation designating the party in whose primary he votes, and shall sign his name or initials in the proper space on the registration card of such voter contained in the district register. After the polls are closed, the names of all electors on the district register marked or

stamped as having voted shall be immediately counted and the result compared with the number of persons voting, shown by the voting check list and numbered lists of voters, and announced and the cause of any difference ascertained, if possible, before the ballot box or voting machine is opened. The district register and the voting check list shall be immediately locked and sealed, and shall be returned to the custody of the registration commission by the judge of election immediately upon completion of the count and tabulation of the votes cast in the district.

(h) Persons in military service shall be entitled to vote, if duly registered in a manner provided by this act. Persons in military service, and by reason thereof absent from their places of residence on the day of any election, shall be entitled to vote in such manner as may now or hereafter be provided by law, unaffected by the provisions of this section in so far as they relate to the manner of voting. 1937, April 29, P.L. 487, § 36. Amended 1941, Aug. 1, P.L. 664, § 7; 1955, May 31, P.L. 62, § 27.

Library References

Elections ¶59, 118, 126(4).
WESTLAW Topic No. 144.

C.J.S. Elections §§ 16, 38, 115, 130.
P.L.E. Elections §§ 21, 27, 42.

§ 951-37. Examination of district registers; report of indications of fraud to district attorney

(a) Immediately following each election or primary, the commission shall cause each district register to be examined.

(b) In the case of any elector whom the election officers shall have recorded as removed, deceased, or challenged and prevented from voting, the commission shall ascertain the facts and shall correct the general and district registers in accordance with the procedure outlined in sections 30 and 31¹ herein.

(c) The commission specifically shall compare the signature of each elector on each voter's certificate with his signature in the district register, and shall report forthwith, in writing, to the district attorney any evidence or indication of probable fraud, personation, or forgery which may appear to the commission by reason of any comparison of voter's certificates and registers hereby prescribed.

(d) Whenever the registration card of any registered elector shall have been entirely filled up so that the entries required to be made thereon by this act can no longer be made, the commission shall have prepared and attached to such registration cards in each register a supplemental card. Each supplemental card shall be printed in a color different from the registration cards. It shall have the same serial number as the registration card, followed by the letter "A,"

"B," et cetera, according to the number of supplemental cards attached to each registration card. Each supplemental card shall have space thereon for the entry of the surname of the registered elector, his Christian name or names, the street and number of his residence, the ward and election district in which he resides and to which he may from time to time remove; together with his street address in each such district, and the other data required to be given upon such removal, the date of each election and primary at which the elector votes, and the signature or initials of the election officer who enters the record of voting on the card. Each supplemental card shall be attached to the registration card to which it relates, by permanent fasteners, in such a manner that the contents of the registration card may be examined and the entries required by this act may be made on the supplemental card. Whenever supplemental cards are attached to the registration card of any elector, the registration card shall be stamped with the words "Supplemental cards attached," together with the date thereof.

1937, April 29, P.L. 487, § 37. Amended 1955, May 31, P.L. 62, § 28.

¹ 25 P.S. §§ 951-30 and 951-31.

Library References

Elections ⇨ 108, 111.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 48, 50.
P.L.E. Elections § 27.

§ 951-38. Cancellation or suspension of registration upon failure to vote during two calendar years; request for reinstatement; effect of removal notice

Within three months after January first of each year except in such years as the commission shall conduct a check of electors in compliance with clause (c) of section thirty of this act, the registration commission shall cause all of the district registers to be examined, and in the case of each elector who has been registered for a period of at least two immediately preceding calendar years and who is not recorded as having voted at any election or primary during said period, the commission shall send to such elector by mail, at his address appearing upon his registration card, a notice setting forth that the records of the commission indicate that he has not voted during the two immediately preceding calendar years and that his registration will be cancelled or suspended at the expiration of thirty days from the date of mailing such notice unless he shall, within that period, file with the commission, either personally or by mail, a written request for reinstatement of his registration, or a removal notice properly executed, setting forth his place of residence, and signed by him. At the expiration of the time specified in the notice,

the commission shall cancel or suspend the registration of such elector unless he has filed with the commission a signed request for reinstatement of his registration as above provided, or a removal notice: Provided, however, That the official registration application card of an elector who has registered by mail may qualify as a reinstatement of his registration, or a removal notice. The cancellation or suspension of the registration of any such elector for failure to vote during the two immediately preceding calendar years shall not affect the right of any such elector to subsequently register in the manner provided by this act.

Such removal notice, properly executed, shall have the same effect as the request for reinstatement, as above provided, where failure to vote during two calendar years may cause cancellation or suspension of registration. Either a removal notice card or request for reinstatement card shall be permitted to be used interchangeably in such circumstances: Provided, That in counties in which a reinstatement system is maintained, any elector who, due to circumstances beyond his control, has failed to vote or file a removal notice card as heretofore provided may, on the day of any election or primary, appear at the office of the commission and, upon satisfactory proof, execute and file the necessary removal or reinstatement notice in accordance with the provisions of this act. On any of the aforesaid days, such elector may petition the proper court of common pleas praying for such order directed to the election board of his district that will enable him to exercise his right of suffrage. Appended to said petition shall be a certification to the court by the commission or such person or persons as it may authorize, stating the reason for the removal of the elector's registration card from its active file and further certifying that he has now been duly registered and his card transferred to its active file for all intents and purposes. The petition shall be signed by the petitioner whose signature shall be compared by an election officer with the signature of the petitioner as it appears on the voter's certificate as executed by him for the purpose of identification and qualified to vote.

1937, April 29, P.L. 487, § 38. Amended 1941, Aug. 1, P.L. 651, § 6; 1945, May 15, P.L. 463, § 2; 1947, July 7, P.L. 1443, § 1; 1955, May 31, P.L. 62, § 29; 1961, Sept. 2, P.L. 1205, § 3; 1976, July 1, P.L. 504, No. 123, § 13, effective in 30 days; 1983, June 3, P.L. 14, No. 7, § 1, effective in 30 days.

Historical and Statutory Notes

The 1976 amendment in the first paragraph inserted the proviso and deleted a provision relating to personal application by an elector whose previous registration had been canceled or suspended.

The 1983 amendment in the first paragraph substituted "thirty days" for "ten days".

Library References

Elections ☞ 108, 119.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 48, 52.
P.L.E. Elections § 27.

Notes of Decisions

In general 1

1. In general

Where complaint by voter who had been purged from voter's registration list alleged that purge was not conducted during time period specified by this section that approximately 2% of those purged had voted by absentee ballot within previous two years, that approximately 3.5% of cards of those purged indicated that they had been requalified or reinstated in 1971, that 3% of those purged had voted in May 1970 primary, that approximately 20% of those purged never received notice that they would be purged, that Democrats were purged at significantly higher rate than Republicans, each

ground represented distinct cause of action which plaintiff could not maintain as class action unless he was member of class. *Brier v. Luger*, 351 F.Supp. 313, D.C.1972.

Action of state officials in adopting procedure whereby notices to persons about to be purged from voter's registration lists would not be forwarded was proper. *Brier v. Luger*, 351 F.Supp. 313, D.C. 1972.

Purge notices affecting registered voters who signed primary nominating petition were invalid when mailed more than three months following first of January, in violation of Election Code. In re *Williams*, 625 A.2d 1279, 155 Pa.Cmwlth. 494, 1993.

§ 951-39. Cancellation, removal, and preservation of registration cards

(a) Whenever the registration of an elector is cancelled for any cause, the commission shall mark on the registration cards of the elector the word "cancelled" and the date and cause of cancellation, and shall remove them from the general and district registers, but each such card shall be kept for five years, after which the commission may destroy it.

(b) All records which are not essential for maintaining the current status of any qualified elector may be destroyed by the commission after three years.

1937, April 29, P.L. 487, § 39. Amended 1939, June 9, P.L. 292, § 1; 1955, May 31, P.L. 62, § 30.

§ 951-40. Correction by commission of errors in cancellation or suspension of registration

Whenever the registration of an elector has been cancelled or suspended through error, such elector may petition the commission for the reinstatement of his registration not later than the tenth day preceding any primary or election, and after a hearing on said application, if error on the part of the commission is proved, the commission shall reinstate the registration of such elector.

1937, April 29, P.L. 487, § 40. Amended 1955, May 31, P.L. 62, § 31; 1961, Sept. 2, P.L. 1205, § 3.

Library References

Records \Leftrightarrow 3.
WESTLAW Topic No. 326.

C.J.S. Records § 3.
P.L.E. Records § 4.

§ 951-41. Appeals to court; time of hearing; notice; postponement; hearing; decision of court; costs and fees

(a) Any person whose claim for registration has been denied by the commission, or whose name, although previously registered, has been removed and not restored by the commission upon a petition filed for that purpose as herein provided, or any qualified elector of any city of the second class, city of the second class A, city of the third class, borough, town or township whose rights are impaired by any general order made by the commission, not including refusals to remove names upon any petition of any kind aforesaid, may file an appeal with the proper court of common pleas not later than the seventh day preceding any election or primary, setting forth why he feels that an injustice has been done, and praying for such order as will give him relief. Thereupon any judge of the court shall fix a time and place for hearing the matter in dispute, of which notice shall be served, with a copy of said appeal, by the appellant upon the counsel for the commission and upon any elector, or his attorney, who opposed the contention of the appellant before the commission, at least forty-eight hours before such matter may be reviewed by the court. Proof of notice or the waiver thereof must be filed therein.

(b) Any judge of the court may enlarge the time of notice or postpone such hearing as may be reasonable with due regard for the time remaining before the succeeding election or primary. At the time so fixed, the court, or any judge thereof assigned for the purpose, shall hear all the witnesses and other evidence that may be offered, unless the issue can be decided in some other manner by agreement of the parties concerned.

(c) If, after any such public hearing, the court shall find that an injustice has been done, it may reverse or alter the decision of the commission and modify any order made by it accordingly, and, if necessary, issue its mandate to the election officers of any election district to permit the appellant to vote at any designated election or primary although his name may not have been entered in or restored to the district register of such district. If the appellant shall not satisfy the court that an injustice has been done, the decision of the commission shall be affirmed.

(d) The court may compel the appellant or any opposing party, other than the commission, or, in proper cases, the county, to pay all the witness fees and other legal costs of such appeal, which may be taxed by the prothonotary in the usual manner: Provided, however,

That in all cases where the appeal is sustained by the court, the costs advanced by the appellant shall be ordered refunded.

1937, April 29, P.L. 487, § 41. Amended 1955, May 31, P.L. 62, § 32.

Library References

Elections ☞112.
WESTLAW Topic No. 144.

C.J.S. Elections § 48.
P.L.E. Elections §§ 24, 28.

Notes of Decisions

In general 1
Mootness 3
Time of taking appeal 2

only five days before election, federal court would not apply doctrine of abstention. *Brier v. Luger*, 351 F.Supp. 313, D.C.1972.

1. In general

Registration commissioners had authority to expedite proceedings before them so as to enable their final decision to be heard on appeal. *Nolan v. Farr*, 143 A. 776, 294 Pa. 139, 1928.

2. Time of taking appeal

Where action seeking to nullify purge of voter's registration lists was brought

3. Mootness

A mandamus proceeding to compel City Registration Commission to summon and interrogate electorate of city as to literacy and disability for voting prior to a primary election, was "moot", where such election had already taken place. *Com. ex rel. Reno v. Lawler*, 22 A.2d 900, 343, Pa. 353, 1943.

§ 951-42. Production of documents, et cetera, at appeals

At the written request, of any person taking an appeal from any action or order of a commission as aforesaid, the commission shall produce at the hearing thereof any petition, register or other record in its custody relevant to the issue involved, but the commission shall not be obliged to answer any appeal, and shall not be obliged, by subpoena or otherwise, to appear at any such hearing unless it shall deem it expedient to do so.

1937, April 29, P.L. 487, § 42. Amended 1955, May 31, P.L. 62, § 33.

Rules of Civil Procedure

This section, as provided in Rule 4023, is not deemed suspended by Rules 4001-4020 of the Rules of Civil Procedure governing depositions and discovery.

Library References

Elections ☞112.
WESTLAW Topic No. 144.

C.J.S. Elections § 48.
P.L.E. Elections § 28.

§ 951-43. Subpoenas and witness fees

(a) Any person filing any petition of any kind with the commission, or opposing same, shall have the privilege of having subpoenas issued by the commission to compel the attendance of witnesses,

upon condition that all witnesses so subpoenaed shall be paid the witness fees, provided by law, in the manner herein provided.

(b) The commission, on its own motion, may subpoena witnesses, including registrars, each of whom shall also be entitled to daily witness fees at the rate aforesaid, to be paid out of any money to be provided for the purpose to the commission by the county commissioners in the same manner as other necessary expenses of such commission are to be provided for.

(c) All subpoenas shall be in substantially the same form and shall have the same force and effect as subpoenas now issued by a court of common pleas. The commission shall have the benefit of the process of said courts if necessary to enforce any subpoena issued by such commission.

(d) No subpoena shall be issued for the benefit of any person, other than the commission, until he shall have paid the commission a fee of twenty-five cents for issuing the same, and deposited with said commission one day's witness fees for each witness to be summoned thereby, whose names shall be given to the commission and entered by it in such subpoena and among the records of the commission. No such subpoena shall be of any virtue to require the further attendance of any witness after the day mentioned therein unless the hearing be postponed or continued by the commission, and unless, before four o'clock postmeridian of said day, the person for whose benefit it is issued shall have deposited with the commission an additional day's witness fees for each witness whose further attendance is desired. As soon as convenient after any hearing is concluded (or postponed or continued) on any day, the commission shall disburse the fees deposited with it by any person among those witnesses who have appeared in response to subpoena issued, and shall return to the person who deposited the same any fees deposited for others who did not attend, and shall also pay like fees to any summoned by the commission, taking their receipts therefor, so long as there are sufficient funds available for such payments. Provided, however, That in all cases where the petition of the elector is sustained, all costs advanced by him for witness fees and subpoenas shall be refunded to the elector so petitioning.

(e) The commission shall pay over to the county treasurer all fees received for subpoenas. The accounts of such commission respecting disbursements of witness fees out of appropriations made to such commission by the county commissioners shall be subject to audit from time to time by the county controller.

1937, April 29, P.L. 487, § 43. Amended 1955, May 31, P.L. 62, § 34.

Cross References

Compensation of witnesses, see 42 Pa.C.S.A. § 5903.

Library References

Witnesses ¶8, 16, 24.
WESTLAW Topic No. 144.

C.J.S. Witnesses §§ 13, 19 et seq., 25,
35 et seq.
P.L.E. Witnesses §§ 3, 4, 9.

§ 951-44. Crimes and penalties

(a) Any person who wilfully disobeys a lawful order of the commission or of a commissioner, or refuses to obey its or his subpoenas duly issued and served under the provisions of this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500).

(b) Any wilful false statement made under oath, by any person regarding any material matter or thing relating to any subject investigated, heard, or acted upon by any registrar, commissioner, clerk, judge, watcher, inspector of registration, court, or commission by virtue of this act, shall be perjury, and any person, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), and to undergo an imprisonment of not less than three (3) months nor more than two (2) years.

(c) Any registrar, commissioner or clerk who knowingly registers, or permits to be registered, a person not lawfully entitled to be registered, or who, without reasonable cause, refuses to register a person entitled to be registered, or knowingly assists in preventing such person from being registered, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), and to undergo an imprisonment of not less than three (3) months nor more than five (5) years.

(d) Any person who applies for registration, or who notifies the commission of a change of his residence address, knowing, or having reason to know, that he is not entitled to be registered, or have his residence address changed, or any person who declares as his residence a place or address which he knows is not his legal residence, or who falsely personates another in an application for registration, shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), and to undergo an imprisonment not exceeding five (5) years, or both, at the discretion of the court. In addition, sentence shall include the loss of the right of suffrage absolutely for a term of ten (10) years.

(e) Any registrar, commissioner, clerk or assistant or employe of a commission, who inserts, or intentionally permits to be inserted, a name or other entries in any registration card without a proper application in person on the part of the person registered, either at the office of the commission or before a registrar appointed by the commission at a place properly designated, as provided herein, or without requiring the proper evidence of the right of the applicant to be registered, or who materially alters any registration card after the entries have been made, except upon an order of the court of common pleas or of the commission, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), and to undergo an imprisonment of not less than three (3) months or more than five (5) years.

(f) Any election officer who knowingly refuses the vote of a duly registered and qualified elector, or who knowingly accepts the vote of a person not registered in accordance with the provisions of this act (except that of a person in actual military or naval service, or a person having an order of court, as aforesaid) or who knowingly receives a vote from a person falsely claiming to be a registered voter, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), and to undergo an imprisonment of not less than three (3) months nor more than five (5) years.

(g) Any commissioner, registrar, clerk, inspector of registration, or other officer, assistant or employe, or any person, partnership or corporation, upon whom a duty is laid by this act, who shall wilfully delay, neglect or refuse to perform such duty, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), and to undergo an imprisonment of not less than three (3) months nor more than two (2) years.

(h) Any person who inserts, or intentionally permits to be inserted, any name or material entry in any registration card, street list, affidavit, petition, subpoena, certificate, report, or other record, authorized or required by this act to be made or prepared for any purpose herein mentioned, except in accordance herewith, or who materially alters or destroys an entry which has been duly made therein, except as herein provided, or who takes and removes any such book, paper, card, or other record from the custody of any person having lawful charge thereof in order to prevent the same from being used or inspected or copied as herein provided, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000),

and to undergo an imprisonment of not less than three (3) months nor more than three (3) years.

(i) Any person who neglects or refuses to furnish to any commissioner or to any inspector of registration any information which he is herein authorized to obtain, or to exhibit any records, papers, or documents herein authorized to be inspected by him, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), and to undergo an imprisonment of not less than three (3) months nor more than two (2) years.

(j) Any constable, policeman, sheriff, or other peace or police officer, or deputy or subordinate thereof, who shall fail, upon demand of any commissioner or inspector of registration, to render such aid and assistance to him as he shall demand in the maintenance of peace and in the making of arrests without warrant as herein provided, or who shall wilfully hinder or delay, or attempt to hinder or delay, any commissioner or inspector of registration in the performance of any duty, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), and to undergo an imprisonment of not less than three (3) months nor more than two (2) years.

(k) Any person who intentionally interferes with, hinders, or delays any other person in the performance of any act or duty authorized or imposed herein shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), and to undergo an imprisonment of not less than three (3) months nor more than two (2) years.

(l) Any registrar, commissioner, clerk, assistant or employe of a commission, or any other person, who knowingly and wilfully prevents a person from being registered, or who, by coercion, threats of bodily injury or intimidation, prevents or attempts to prevent any person from being registered or from changing his political enrollment in accordance with the provisions of this act, or who gives, or promises or offers to give, any gift or reward in money or, goods to any person to enroll in a particular party or to change his political enrollment, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), and to undergo an imprisonment of not less than three (3) months nor more than five (5) years.

(m) Any registrar, commissioner, clerk, assistant or employe of a commission, or any other person, who unlawfully destroys or attempts to destroy any card, book, paper, affidavit or other record of the commission, or who unlawfully removes, or attempts to remove same from the office of the commission, shall be guilty of a misde-

meanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), and to undergo an imprisonment of not less than three (3) months nor more than five (5) years.

(n) Any person, who shall maliciously and without probable cause, file a petition for the purpose of striking off the registration or party affiliation of any elector, shall, upon conviction thereof, be subject to a penalty of ten dollars (\$10.00).

(o) Any wilful false statement made by a registrant in information set forth by such registrant on the official registration application card shall be perjury, and any registrant convicted thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), and to undergo an imprisonment not exceeding five (5) years, or both, at the discretion of the court. In addition, sentence shall include the loss of the right of suffrage absolutely for a term of ten (10) years.

(p) It shall be a misdemeanor for an elector's representative under section 18¹ to deliberately misinstruct or falsify or alter party designation or to fail to deliver a completed and signed registration application.

1937, April 29, P.L. 487, § 44. Amended 1955, May 31, P.L. 62, § 35; 1965, Oct. 13, P.L. 582, § 1; 1976, July 1, P.L. 504, No. 123, § 14, effective in 30 days.

¹ 25 P.S. § 951-18.

Library References

Elections ⇨309.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 324, 334.

P.L.E. Elections § 141 et seq.

§ 951-45. Effective date; partial invalidity; legislative intent

(a) Except as otherwise provided herein, this act shall become effective immediately upon its final enactment.

(b) It is the intention of the General Assembly that if this act cannot take effect in its entirety because of the judgment of any court of competent jurisdiction holding unconstitutional any part or parts thereof, the remaining provisions of the act shall be given full force and effect as completely as if the part or parts held unconstitutional had not been included herein.

1937, April 29, P.L. 487, § 45.

Library References

Statutes ⇨64(2).

WESTLAW Topic No. 361.

C.J.S. Statutes § 96 et seq.

P.L.E. Statutes § 16.

Notes of Decisions

Effective date 1

tering thereafter, was effective only after date of enactment, and applied only to persons registering thereafter, and electors who had registered under Permanent Registration Act of 1935, repealed, were not required to re-register. Com. ex rel. Reno v. Lawler, 22 A.2d 900, 343 Pa. 353, 1942.

1. Effective date

The Permanent Registration Act of 1937, repealed, requiring certain data from persons asking assistance and regis-

§ 951-46. Repeal of prior laws; proviso

(a) The following acts of Assembly and amendments and supplements thereto are hereby repealed absolutely, in so far as they affect the personal registration and enrollment of voters in boroughs, towns, and townships:

* * * * *

(b) The following acts of Assembly and parts of acts are hereby repealed in so far as they relate to assessors who perform duties relative to elections in boroughs, towns or townships or to the assessment or registration of voters therein:

* * * * *

(c) All other acts or parts of acts of Assembly in conflict or inconsistent with this act, or any part hereof, are hereby repealed so far as they are inconsistent herewith.

(d) The repeal by this act of any act of Assembly, or part thereof, shall not revive any act, or part thereof, heretofore repealed or superseded.

(e) The provisions of this act shall not affect any act done, or any suit or prosecutions pending, or to be instituted to enforce any right or penalty or punish any offense under the authority of such acts so repealed respecting any act done or omitted prior to such repeal. 1937, April 29, P.L. 487, § 46.

Historical and Statutory Notes

Repealed absolutely, in so far as they affect the personal registration and enrollment of voters in boroughs, towns and townships:

- 1839, July 2, P.L. 519, § 59.
- 1874, Jan. 30, P.L. 31, §§ 1 to 3, 10, 18.
- 1874, Feb. 13, P.L. 44, § 1.
- 1891, May 29, P.L. 134.
- 1891, June 16, P.L. 298.
- 1893, June 12, P.L. 455.
- 1895, May 16, P.L. 75.

- 1913, July 25, P.L. 1043, §§ 3 to 8.
- 1915, June 2, P.L. 724.
- 1917, April 20, P.L. 87.
- 1927, May 11, P.L. 972.
- 1933, April 7, P.L. 25.
- 1933, May 22, P.L. 910.
- 1933-34, Jan. 17, P.L. 236, §§ 1 to 4, 6.
- 1935, July 12, P.L. 670.
- 1935, July 12, P.L. 694, No. 264.

Repealed in so far as they relate to assessors who perform duties relative to

elections in boroughs, towns or townships or to the assessment or registration of voters therein:

1874, Jan. 30, P.L. 31, §§ 15, 19.
1933-34, Jan. 17, P.L. 236, §§ 5, 7.

CHAPTER 5

NOMINATION OF CANDIDATES; CONVENTIONS AND PRIMARY ELECTIONS [REPEALED]

Historical and Statutory Notes

Acts of 1913, July 24, P.L. 1001, §§ 1 to 15, 17, 20, 21 and the amendments thereto, act of 1915, June 18, P.L. 1046, §§ 1, 2, act of 1915, June 18, P.L. 1050, § 1, act of 1917, May 18, P.L. 242, §§ 1, 2, and act of 1919, July 8, P.L. 745, §§ 1 to 5, providing a scheme for nonpartisan nominations of officers in cities of the second class and of judges of a court of record, were repealed as to cities of the

second class by act of 1921, May 10, P.L. 426, No. 199, § 2, and as to judges of a court of record by act of 1921, May 10, P.L. 423, § 6, repealed.

The last paragraph of § 17 of such act of 1913, July 24, P.L. 1001, providing for the withdrawal of names was held repealed by act of 1919, July 9, P.L. 832, §§ 974 to 979, of this title, repealed.

Cross References

Nomination of candidates, see 25 P.S. § 2861 et seq.
Primary elections, see 25 P.S. § 2751 et seq.

NOMINATION OF CANDIDATES IN GENERAL

§§ 971 to 1341. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

Derivation of sections:

Sections 971 to 987 of this title were derived from acts of 1881, June 8, P.L. 70, § 4; 1893, June 10, P.L. 419, §§ 2 to 9, 11, 12, 32; 1897, June 22, P.L. 179, § 1; 1897, July 9, P.L. 223, §§ 1 to 5; 1903, April 21, P.L. 224, § 1; 1903, April 29, P.L. 338, § 1; 1919, July 9, P.L. 832, §§ 1 to 3; 1919, July 9, P.L. 855, § 1; 1923, April 18, P.L. 67, § 1; 1931, June 22, P.L. 634, § 1.

Sections 1001 to 1023 were derived from acts of 1874, April 18, P.L. 64, §§ 1, 2; 1906, March 5, P.L. 78, §§ 1 to 14; 1919, April 18, P.L. 68, § 1; 1927, April 23, P.L. 367, § 1; 1931, June 22, P.L. 626, § 1; 1933, April 27, P.L. 93, No. 61, § 1.

Sections 1041 and 1042 were derived from acts of 1913, July 12, P.L. 719, §§ 1, 2; 1917, May 18, P.L. 244, § 1.

Sections 1061 to 1063 were derived from acts of 1881, June 29, P.L. 128, § 1; 1913, July 12, P.L. 719, §§ 20, 21.

Sections 1081 to 1086 were derived from acts of 1913, July 12, P.L. 719, §§ 3, 4; 1915, June 18, P.L. 1044, § 1; 1917, July 6, P.L. 753, § 1; 1919, July 9, P.L. 836, § 1; 1923, May 18, P.L. 256, § 1.

Sections 1101 to 1108 were derived from acts of 1913, July 12, P.L. 719, §§ 6, 6a to 6c, 7, 8; 1917, May 18, P.L. 244, §§ 2, 3; 1919, July 9, P.L. 839, § 1; 1925, April 29, P.L. 361, No. 214, § 1; 1927, April 23, P.L. 372, No. 236, § 1; 1931, June 22, P.L. 685, No. 251, § 1; 1933, May 31, P.L. 1106, No. 271, § 1; 1935, April 25, P.L. 83, §§ 1, 2; 1935, June 14, P.L. 337, §§ 1, 2.

Section 1121 was derived from act of 1913, July 12, P.L. 719, § 9.

Section 1141 was derived from acts of 1913, July 12, P.L. 719, § 13; 1919 July 9, P.L. 839, § 3; 1931, June 22, P.L. 635, § 1.

Sections 1161 to 1164 were derived from acts of 1913, July 12, P.L. 719, §§ 5, 10; 1915, June 18, P.L. 1025, § 1; 1919,

NOMINATION OF CANDIDATES

25 P.S. §§ 971 to 1341

Repealed

July 9, P.L. 839, § 2; 1921, May 17, P.L. 680, § 1; 1935, April 25, P.L. 74, § 1; 1935, April 25, P.L. 83, § 3.

Sections 1181 to 1185 were derived from acts of 1913, July 12, P.L. 719, §§ 11, 13, 14; 1915, April 14, P.L. 122, § 1; 1919, July 9, P.L. 839, §§ 3, 4; 1921, May 17, P.L. 669, § 1; 1923, June 29, P.L. 920, § 1; 1931, June 22, P.L. 635, § 1; 1935, April 25, P.L. 74, § 2; 1935, June 5, P.L. 277, § 1.

Sections 1201 to 1209 were derived from acts of 1913, July 12, P.L. 719, §§ 14 to 17; 1919, July 9, P.L. 839, §§ 4, 5; 1921, May 17, P.L. 669, § 1; 1921, May 25, P.L. 1125, § 1; 1923, May 21, P.L. 293, § 1; 1923, June 29, P.L. 920, § 1; 1935, April 25, P.L. 74, § 2; 1935, June 5, P.L. 277, § 1.

Section 1221 was derived from act of 1913, July 12, P.L. 719, § 18.

Sections 1241 and 1242 were derived from acts of 1913, July 12, P.L. 719, § 19; 1921, May 20, P.L. 958, No. 337, § 1; 1925, April 29, P.L. 361, No. 214, § 2.

Sections 1261 to 1276 were derived from acts of 1881, June 29, P.L. 128, § 2; 1913, July 12, P.L. 719, §§ 15, 21 to 23; 1919, July 9, P.L. 839, § 5; 1921, May 25, P.L. 1125, § 1.

Sections 1291 and 1292 were derived from acts of 1913, July 12, P.L. 719, § 12; 1915, May 28, P.L. 638, § 1.

Sections 1321 to 1323 were derived from acts of 1913, July 12, P.L. 719, §§ 24, 25; 1919, July 9, P.L. 839, § 6.

Section 1341 was derived from act of 1921, May 10, P.L. 426, No. 199, § 1.

Other laws:

The act of 1917, May 29, P.L. 312, § 1, fixing the time for filing nomination papers for state officers, and for determination by the courts of contested papers, was repealed by the act of 1919, July 9, P.L. 831.

The county commissioners of counties forming congressional districts, senatorial districts and judicial districts, were empowered to appoint district return judges to take charge of the returns of primaries, by act of 1919, June 12, P.L. 460, § 1. Such act was repealed as to congressional districts by § 9 of act of 1921, May 10, P.L. 444, repealed; as to senatorial districts by § 10 of act of 1921, May 10, P.L. 449, repealed; and as to judicial districts by § 13 of act of 1921, May 25, P.L. 1163, repealed.

CHAPTER 6

QUALIFICATIONS OF VOTERS

Section

1361. Repealed.

1362. Qualifications of electors at borough elections.

1381 to 1444. Repealed.

Cross References

Qualification of voters, see Const. Art. 7, § 1; 25 P.S. § 2811 et seq.

Library References

Elections ☞59.

WESTLAW Topic No. 144.

C.J.S. Elections § 16.

P.L.E. Elections § 21 et seq.

§ 1361. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

This section was derived from act of
1839, July 2, P.L. 519, § 6.

§ 1362. Qualifications of electors at borough elections

Every person entitled to vote for members of the general assembly, having resided in the borough six months immediately preceding the election, and within one year paid a borough tax, if such shall have been levied, shall be entitled to vote at the borough election.

1851, April 3, P.L. 320, § 16.

Repealed in Part

This section was repealed, except insofar as it relates to assessors, constables, elections, justices of the peace, overseers of the poor, school directors, or taxation, by section 1(b) of art. I of ch. XIII of the act of 1915, May 14, P.L. 312.

Cross References

Thirty day durational residence requirement, see 25 P.S. § 951-19.

Library References

Elections ☞72.

WESTLAW Topic No. 144.

C.J.S. Elections § 20.

P.L.E. Elections § 22.

Notes of Decisions

Validity 1

qualifying electors are unenforceable.
1972 Op.Atty.Gen. No. 121.**1. Validity**Durational residency requirements in
this section regarding registering and**§§ 1381 to 1444. Repealed. 1937, June 3, P.L. 1333, § 1901****Historical and Statutory Notes****Derivation of sections:**Sections 1381 to 1389 of this title were
derived from acts of 1839, July 2, P.L.
519, §§ 64 to 66; 1874, Jan. 30, P.L. 31,
§§ 10, 11; 1899, May 6, P.L. 254, § 1;
1933, Sp.Sess., Jan. 17, 1934, P.L. 236,
§ 4; 1937, April 29, P.L. 487, § 46(a).Sections 1411 to 1415 were derived
from acts of 1869, April 17, P.L. 49, § 38;
1874, Jan. 30, P.L. 31, §§ 11, 20, 21;
1874, Feb. 13, P.L. 44, § 3.Sections 1441 to 1444 were derived
from act of 1919, July 15, P.L. 966, §§ 1
to 4.**Other laws:**The act of 1869, April 17, P.L. 49, § 12,
which contained provisions identical with
those of § 1412 except that it made the
offenses high misdemeanors was repealed
by act of 1937, June 3, P.L. 1333, § 1901.Section 13 of the act of 1869, April 17,
P.L. 49 was also repealed by act of 1937,
June 3, P.L. 1333, § 1901.The act of 1870, April 6, P.L. 54, § 4,
provides "that the assessors of the city of
Philadelphia shall not assess any poll or
personal tax for election purposes, but all
such tax shall be assessed, in the several
election divisions of the said city, by the
canvassers of said divisions, and shall be
paid to the receiver of taxes of said city,
or to his agents specially appointed by
him to receive the same: Provided, That
owners of real estate or personal property,
who shall have paid a state or county
tax upon the same within two years of
any election, which shall have been as-
sessed at least ten days before such elec-
tion, shall not be required to pay any
additional tax to entitle them to the privi-
lege of electors."This is modified by the constitution of
Pennsylvania, art. 8, § 1, and the amend-
ment of November 5, 1901, thereto.**CHAPTER 7****ELECTIONS BY SOLDIERS IN ACTUAL
MILITARY SERVICE [REPEALED]****§§ 1471 to 1510. Repealed. 1937, June 3, P.L. 1333, § 1901****Historical and Statutory Notes**These sections were derived from act of
1864, Aug. 25, P.L. 990, §§ 1-30 and
32-41.

CHAPTER 8

CONDUCT OF ELECTIONS

Section

1521. Repealed.
1522. Borough elections.
1541 to 1581. Repealed.
1582. Polling places in Philadelphia; how designated.
1583 to 1632. Repealed.
1633. Change of polling places in Philadelphia.
1634 to 1863. Repealed.
1864. Commissioners in Philadelphia to furnish list of delinquent taxpayers.
1865 to 1903. Repealed.
1904. Appointment of deputy sheriffs in certain counties prohibited.
1905 to 1957. Repealed.

Cross References

Conduct of primaries and elections, see 25 P.S. § 3041 et seq.

Library References

- Elections ⇨ 197. C.J.S. Elections §§ 192, 196.
WESTLAW Topic No. 144. P.L.E. Elections § 81 et seq.

§ 1521. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

This section was derived from act of
1874, Jan. 30, P.L. 31, § 23.

§ 1522. Borough elections

Borough elections shall be held in accordance with and subject to all the provisions of the laws regulating township elections, so far as applicable, unless otherwise provided for in the charter.

1851, April 3, P.L. 320, § 14.

Repealed in Part

This section was repealed, except insofar as it relates to assessors, constables, elections, justices of the peace, overseers of the poor, school directors, or taxation, by section 1(b) of art. I of ch. XIII of the act of 1915, May 14, P.L. 312.

Library References

- Elections ⇨ 198. C.J.S. Elections § 191.
WESTLAW Topic No. 144. P.L.E. Elections § 81.

§§ 1541 to 1581. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

Derivation of sections:

Sections 1541 to 1545 of this title were derived from acts of 1839, July 2, P.L. 519, § 96; 1840, June 13, P.L. 683, §§ 2, 11; 1885, June 23, P.L. 144, § 1; 1893, June 10, P.L. 419, § 10; 1895, June 26, P.L. 392, § 1; 1923, May 23, P.L. 340, § 1.

Sections 1561 to 1567 were derived from acts of 1839, July 2, P.L. 519, §§ 67, 68; 1840, March 7, P.L. 72, §§ 27, 28; 1869, April 17, P.L. 49, § 19; 1891, June 11, P.L. 296, § 1; 1893, April 18, P.L. 107, § 1.

Section 1581 was derived from act of 1893, April 18, P.L. 107, § 2.

Other laws:

Section 10 of the act of 1893, June 10, P.L. 419, was in great part a re-enact-

ment of § 13 of the act of 1839, July 2, P.L. 519, and § 10 of the act of 1891, June 19, P.L. 349, which were repealed by act of 1937, June 3, P.L. 1333, § 1901.

Section 13 of the act of 1839, July 2, P.L. 519 was repealed by the act of 1891, June 19, P.L. 349, § 37, which also repealed the act of 1854, Feb. 2, P.L. 21, § 29, relating to sheriff's proclamations in Philadelphia and the duties of the county commissioners.

Act of 1923, May 22, P.L. 309, §§ 1-15, provided a complete scheme for voting by absentees but the act was declared unconstitutional in Lancaster City's Fifth Ward Election, 281 Pa. 131, 126 A. 199, 1924. It was repealed by act of 1937, June 3, P.L. 1333, § 1901.

§ 1582. Polling places in Philadelphia; how designated

It shall be the duty of the select and common councils of said city to designate the place of holding the elections in the several election divisions of the wards in said city, and to notify the sheriff thereof at least thirty days prior to the second Tuesday of October next; and shall have full power and authority to remove or change the place of holding the elections in any of the said election divisions whenever, by reason of inability to hold said election at the place so designated, a change shall become necessary.

1855, April 21, P.L. 264, § 2.

Library References

Elections ⇨203.
WESTLAW Topic No. 144.

C.J.S. Elections § 193.
P.L.E. Elections § 84.

§§ 1583 to 1632. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

Derivation of sections:

Sections 1583 and 1584 of this title were derived from acts of 1855, Jan. 31, P.L. 5, § 1; 1866, April 17, P.L. 107, § 1.

Sections 1611 to 1613 were derived from acts of 1887, May 19, P.L. 126, § 2; 1891, June 19, P.L. 349, § 19; 1893, June 10, P.L. 419, § 19.

Sections 1631 and 1632 were derived from acts of 1839, July 2, P.L. 519, § 56; 1854, April 20, P.L. 419; 1893, May 18, P.L. 106, § 1; 1903, April 14, P.L. 187, § 1; 1919, July 8, P.L. 769, § 1.

Other laws:

Act of 1887, May 13, P.L. 108, § 17, forbidding the furnishing of any liquors

Repealed

on election days, by sale, gift, or otherwise was repealed by act of 1923, March 27, P.L. 34, § 18.

§ 1633. Change of polling places in Philadelphia

The place for holding all elections in the city of Philadelphia may be changed in accordance with the provisions of the fifty-sixth section of the act¹ entitled "An act relating to the elections of this commonwealth," passed July 2, 1839.

1856, May 13, P.L. 567, § 31.

¹ 25 P.S. § 1632 (repealed).

Library References

Elections ⇨ 203.
WESTLAW Topic No. 144.

C.J.S. Elections § 193.
P.L.E. Elections § 84.

§§ 1634 to 1863. Repealed. 1937, June 3, P.L. 1333, § 1901**Historical and Statutory Notes****Derivation of sections:**

Sections 1634 to 1637 of this title were derived from acts of 1839, July 2, P.L. 519, § 94; 1866, April 17, P.L. 107, § 2; 1867, April 15, P.L. 86, § 1; 1883, June 13, P.L. 124, § 1.

Sections 1651 to 1663 were derived from acts of 1854, Feb. 2, P.L. 21, § 3; 1854, April 20, P.L. 419, § 2; 1876, May 18, P.L. 178, §§ 1 to 6; 1885, June 24, P.L. 149, § 1; 1895, June 26, P.L. 377, §§ 1, 2; 1919, July 9, P.L. 805, §§ 1, 2.

Section 1681 was derived from act of 1874, Jan. 30, P.L. 31, § 5.

Sections 1691 to 1702 were derived from acts of 1874, Jan. 30, P.L. 31, § 22; 1891, June 19, P.L. 349, §§ 1, 13, 15, 16, 17, 18 and 21; 1893, June 10, P.L. 419, §§ 1, 13, 16 to 18, 20; 1921, May 24, P.L. 1079, § 1.

Sections 1721 to 1736 were derived from acts of 1874, Jan. 30, P.L. 31, § 9; 1893, June 10, P.L. 419, §§ 13 to 15; 1897, July 9, P.L. 223, § 6; 1903, April 29, P.L. 338, § 2; 1929, April 26, P.L. 836, § 1; 1931, June 22, P.L. 627, §§ 1 to 6; 1931, June 22, P.L. 628, § 1; 1933, May 22, P.L. 838, § 1.

Sections 1741 and 1742 were derived from acts of 1893, June 10, P.L. 419, § 14; 1897, June 9, P.L. 223, § 6; 1903,

April 29, P.L. 338, § 2; 1931, June 22, P.L. 628, § 1.

Section 1761 was derived from acts of 1891, June 19, P.L. 349, § 26; 1893, June 10, P.L. 419, § 25.

Section 1771 was derived from acts of 1893, June 10, P.L. 419, § 29; 1897, April 14, P.L. 23, § 1.

Sections 1781 to 1783 were derived from acts of 1883, June 13, P.L. 92, § 1; 1893, June 10, P.L. 419, §§ 34, 35.

Sections 1811 to 1840 were derived from acts of 1929, April 18, P.L. 549, §§ 1 to 30; 1931, June 23, P.L. 1185, §§ 1 to 20; 1933, May 22, P.L. 846, § 1; 1935, May 7, P.L. 131, §§ 1 to 6.

Sections 1861 to 1863 were derived from acts of 1840, June 13, P.L. 683, § 7; 1874, Jan. 30, P.L. 31, § 24; 1893, June 10, P.L. 419, § 16; 1921, May 24, P.L. 1079, § 1.

Other laws:

Section 6 of the act of 1919, July 8, P.L. 745, read as follows: "At the head of every official ballot furnished for an election at which any candidate for any office within the provisions of this act is to be voted for, there shall be printed, immediately after the instructions now by law required to be printed thereon, the following additional instructions in the

same style and size of type; to wit, a cross mark (X) in the party square in the first column does not carry a vote for any judge or for (here insert names of any other offices for which candidates have been nominated under the provisions of this act). To vote for judge or any city office mark a cross (X) opposite the name of the candidate desired."

That section amended § 3 of the act of 1915, June 18, P.L. 1046, which amended § 16 of act of 1913, July 24, P.L. 1001, which was an act providing for non-partisan nominations and elections in cities of the second class and for the office of judge of any court of record.

Act of 1913, July 24, P.L. 1001, is with its amendments, repealed, so far as it relates to nominations and elections of officers of cities of the second class, by § 2 of act of 1921, May 10, P.L. 426, No. 199. Said act of 1913, July 24, P.L. 1001 and said act of 1915, June 18, P.L. 1046, are also repealed, so far as they relate to nomination and election of persons to office of judge of Supreme Court, Superior Court, or court of record, by § 6 of act of 1921, May 10, P.L. 423, repealed.

Section 29 of the act of 1893, June 10, P.L. 419, is practically a re-enactment of § 30 of the act of 1891, June 19, P.L. 349, repealed by act of 1937, June 3, P.L. 1333, § 1901.

Sections 35 and 36 of act of 1891, June 19, P.L. 349, were also repealed by act of 1937, June 3, P.L. 1333, § 1901.

Section 31 of act of 1929, April 18, P.L. 549, repealed, repeals all acts or parts of acts inconsistent therewith so far as the conduct of elections in political subdivisions adopting voting machines is concerned with a proviso that such acts should remain in force when paper ballots are used as provided in §§ 21, 22 of this act, repealed.

By the act of 1852, March 11, P.L. 129, § 17, so much of § 7 of the act of 1840, June 13, P.L. 683, "as requires county commissioners to furnish every election district with a list of the voters residing therein," is repealed, "so far as relates to township elections, in the county of Lancaster, and it shall be the duty of the inspectors to whom such lists are furnished at the general elections, to preserve the same for use at the township elections."

The provisions of the 17th section of such act are extended to the counties of Chester, Delaware, Montgomery, Cumberland, Fayette, Adams and Franklin, by the act of 1855, March 17, P.L. 99; to the counties of Dauphin and Northumberland, by the act of 1855, May 7, P.L. 478; to the county of York, by the act of 1861, March 16, P.L. 148; to the county of Washington, by the act of 1861, May 1, P.L. 474; and to the county of Armstrong, by the act of 1869, Feb. 18, P.L. 205. See the act of 1873, April 1, P.L. 475, as to Berks county.

§ 1864. Commissioners in Philadelphia to furnish list of delinquent taxpayers

The county commissioners of the city and county of Philadelphia be and they are hereby directed and required, upon the application of any inspector of elections of any ward or district in the city or county aforesaid, to furnish the said inspector with a certified copy of all persons assessed in the ward or district to which the said inspector belongs, who have not paid a state or county tax for two years preceding such application: Provided, That nothing in this section shall be construed to disqualify any person from voting whose receipt for state or county tax may bear a date subsequently to the making out of said list.

1848, April 11, P.L. 476, § 5.

Library References

Elections ⇐83.
WESTLAW Topic No. 144.

C.J.S. Elections § 29.
P.L.E. Elections § 21.

§§ 1865 to 1903. Repealed. 1933, April 7, P.L. 26, No. 19, § 1; 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

Derivation of sections:

Section 1865 was derived from act of 1839, July 2, P.L. 519, § 109.

Sections 1881 to 1888 were derived from acts of 1839, July 2, P.L. 519, § 70; 1874, Jan. 30, P.L. 31, § 8; 1893, June 10, P.L. 419, §§ 21 to 23, 26; 1903, April 16, P.L. 213, § 1; 1903, April 29, P.L. 338, § 3; 1919, July 9, P.L. 829, § 1; 1927, April 23, P.L. 363, §§ 1, 3; 1931, June 22, P.L. 628, § 2.

Section 1901 was derived from acts of 1839, July 2, P.L. 519, § 59; 1844, April 9, P.L. 220, § 1; 1933 Sp.Sess., Jan. 2,

1934, P.L. 140, § 45; 1933 Sp.Sess., Jan. 18, 1934, P.L. 250, § 44; 1937, April 29, P.L. 487, 46(a), § 951-46(a) of this title.

Sections 1902 and 1903, were derived from acts of 1874, Jan. 30, P.L. 31, § 4; 1893, June 10, P.L. 419, § 23; 1903, April 16, P.L. 213, § 1.

Other laws:

Section 4 of act of 1874, Jan. 30, P.L. 31, was in large part a re-enactment of § 11 of the act of 1869, April 17, P.L. 49, repealed by act of 1937, June 3, P.L. 1333, § 1901.

§ 1904. Appointment of deputy sheriffs in certain counties prohibited

It shall not be lawful, on and after the passage of this act, for the sheriff of any county, coextensive in boundaries with any city of the first class, to appoint any deputies to be present and act as such, for preserving the peace or for any other purpose, at any election polls within said cities of the first class.

1877, March 24, P.L. 36, § 1.

Library References

Sheriffs and Constables ⇐18.
WESTLAW Topic No. 353.

C.J.S. Sheriffs and Constables § 22.
P.L.E. Sheriffs and Constables § 41.

Notes of Decisions

Police officers 2
Validity 1

1. Validity

This section would seem to be unconstitutional, under the ruling in *Blankenburg v. Black*, 50 A. 198, 200 Pa. 629, 1902.

2. Police officers

A police officer has no business at the polls, except for the purpose of casting his vote, or of preserving the peace; this section does not require his presence at any other time. *Petition of Director of Public Safety*, 15 C.C. 166, 34 W.N.C. 476, 3 Dist. 243, 1894.

CONDUCT OF ELECTIONS

25 P.S. §§ 1905 to 1957

Repealed

§§ 1905 to 1957. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

Derivation of sections:

Sections 1905, 1921 to 1932, 1951 to 1957, of this title were derived from acts of 1839, July 2, P.L. 519, §§ 95, 106, 110 to 114, 119 to 121, 124, 125; 1870, April 6, P.L. 53, §§ 6, 7, 9; 1874, Jan. 30, P.L. 31, § 19; 1893, June 10, P.L. 419, §§ 30, 31; 1897, July 12, P.L. 257, § 1; 1897, July 14, P.L. 261, § 1; 1903, April 29, P.L. 338, § 6; 1927, April 23, P.L. 363, § 2; 1933, Sp.Sess., Jan. 17, 1934, P.L. 236, § 7.

Sections 1923 and 1925 were repealed as to Bradford and Susquehanna counties, by the act of 1869, March 19, P.L. 441. But the repealing act was repealed as to Susquehanna county, by the act of 1873, April 10, P.L. 743.

Sections 1928, 1929 and 1931 were repealed absolutely in so far as they affect personal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44. They were also repealed, in so far as they relate to assessors who perform duties relative to elections in boroughs, towns or townships or to the assessment or registration of voters therein, by act of 1937, April 29, P.L. 487, § 46(b). See § 951-46 of this title.

Other laws:

Sections 31 and 32 of act of 1891, June 19, P.L. 349, were also repealed by act of 1937, June 3, P.L. 1333, § 1901.

CHAPTER 9

COUNT AND RETURN OF VOTE

Section

- 1971 to 2094. Repealed.
2095. Disposition of ballot boxes in Philadelphia.
2096. Neglect of duty in care of ballot boxes.
2121 to 2126. Repealed.

Cross References

Count and return of votes under Pennsylvania Election Code, see 25 P.S. §§ 3061 et seq. and 3151 et seq.

Library References

- Elections ⇐235. C.J.S. Elections § 221 et seq.
WESTLAW Topic No. 144. P.L.E. Elections § 101.

§§ 1971 to 2094. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

Derivation of sections:

Sections 1971 to 1976 were derived from acts of 1893, June 10, P.L. 419, §§ 24, 27, 28; 1903, April 29, P.L. 338, §§ 4, 5.

Sections 1991 to 1996 were derived from acts of 1839, July 2, P.L. 519, § 54; 1874, Jan. 30, P.L. 31, § 13; 1878, May 10, P.L. 51, § 3; 1899, April 28, P.L. 127, § 1; 1909, May 6, P.L. 425, § 1; 1923, May 19, P.L. 267, No. 171, § 1; 1925, April 1, P.L. 103, § 1.

Sections 2011 to 2023 were derived from acts of 1839, July 2, P.L. 519, § 79; 1840, June 13, P.L. 683, § 7; 1860, April 2, P.L. 609, § 1; 1870, April 6, P.L. 53, § 5; 1874, Jan. 30, P.L. 31, § 13; 1899, April 28, P.L. 127, § 1; 1909, May 6, P.L. 425, § 1; 1919, June 12, P.L. 458, §§ 1, 3; 1923, May 19, P.L. 267, No. 171, § 1; 1925, April 1, P.L. 103, § 1; 1929, May 9 P.L. 1691, No. 543, § 1.

Sections 2041 to 2058 were derived from acts of 1939, July 2, P.L. 519, §§ 80, 81, 83 to 91; 1840, June 13, P.L. 683, § 8; 1879, May 9, P.L. 51, §§ 1, 2; 1919, June 12, P.L. 458, § 2.

Sections 2071 and 2072, were derived from acts of 1839, July 2, P.L. 519, § 93; 1840, June 13, P.L. 683, § 10; 1895, June 25, P.L. 290, § 1.

Sections 2091 to 2094 were derived from acts of 1839, July 2, P.L. 519, §§ 74, 127; 1874, Jan. 30, P.L. 31, § 13; 1899, April 28, P.L. 127, § 1; 1903, April 16, P.L. 217, § 1; 1909, May 6, P.L. 425, § 1; 1923, May 7, P.L. 147, § 1; 1923, May 19, P.L. 267, No. 171, § 1; 1925, April 1, P.L. 103, § 1; 1931, May 29, P.L. 238, § 1.

Sections 2019, 2021 and 2047 were repealed, so far as they applied to Congressional districts by § 9 of act of 1921, May 10, P.L. 444, repealed; so far as they related to senatorial districts, by § 10 of act of 1921, May 10, P.L. 449, repealed; and so far as they related to judicial districts, by § 13 of act 1921, May 25, P.L. 1163, repealed.

Other laws:

Section 2 of act of 1874, Feb. 13, P.L. 44, § 25 of the act of 1891, June 19, P.L. 349, and §§ 73 and 82 of act of 1839, were also repealed by act of 1937, June 3, P.L. 1333, § 1901.

§ 2095. Disposition of ballot boxes in Philadelphia

The commissioners for the city of Philadelphia shall provide a fireproof room or vault, in the public buildings of the said city, or some other suitable place, at which the judge of the elections, after the closing of the polls, and the requirements of the law have been complied with, shall forthwith there deliver to the mayor and recorder¹ of the city of Philadelphia the said ballot boxes; that the said room or vault shall not be accessible to any other person than the mayor and recorder aforesaid, who shall be present and receive, at the said room, or vault, the ballot boxes from the return inspectors as aforesaid; that the mayor and recorder aforesaid shall not take or open, nor permit to be taken or opened, any ballot box deposited as aforesaid, for the space of one year after the same has been therein deposited, except when they shall be called upon by some court or other tribunal authorized to try the merits of such election; and after such trial or investigation it shall be the duty of the mayor and recorder aforesaid to have said box or boxes returned and deposited as aforesaid.

1861, May 1, P.L. 575, § 11.

¹ Office abolished, see historical note.

Repealed in Part

This act was repealed, so far as the recorder of Philadelphia is concerned, by the act of 1883, May 29, P.L. 48, which abolished that office.

Historical and Statutory Notes

Upon the office of recorder being abolished, his key to the vaults was, by order of court, delivered to the prothonotary.

Library References

Elections ¶259.

WESTLAW Topic No. 144.

C.J.S. Elections § 237.

P.L.E. Elections § 102.

§ 2096. Neglect of duty in care of ballot boxes

If any officer under this act shall neglect or fail to perform the duties herein imposed upon them, then they, or either of them, shall, upon conviction, be sentenced to pay a fine of five hundred dollars, and undergo an imprisonment, by separate or solitary confinement, not exceeding three years, respectively, for every such offense.

1861, May 1, P.L. 575, § 12.

Library References

Elections ⇄314.
WESTLAW Topic No. 144.

C.J.S. Elections § 327.
P.L.E. Elections § 141.

§§ 2121 to 2126. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

These sections were derived from act of
1927, April 23, P.L. 360, No. 231, §§ 1 to
6.

CHAPTER 10

ELECTIONS TO FILL SPECIAL OFFICES

Section

2141 to 2162. Repealed.

ELECTION OF MEMBERS OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES [Repealed]

Section

2181 to 2198. Repealed.

2199.1 to 2199.3. Repealed.

2199.11 to 2199.16. Repealed.

2199.21 to 2199.23. Repealed.

ELECTION OF STATE SENATORS AND REPRESENTATIVES

2201. Number of Senators; senatorial districts.

2202. Basis of apportionment.

2203. Districts containing one county or a part thereof.

2204 to 2208. Repealed.

2209. Time of election of Senators; Senators in office.

2209a to 2209d. Unconstitutional.

2210, 2211. Repealed.

2212. Certificates of election.

2213, 2214. Repealed.

2215, 2216. Repealed.

2217 to 2222. Repealed.

Library References

P.L.E. Elections § 1 et seq.

§§ 2141 to 2162. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

Derivation:

Sections 2141 to 2146 of this title were derived from acts of 1839, July 2, P.L. 519, §§ 28 to 33; 1893, May 24, P.L. 129, § 1.

Sections 2161 and 2162 were derived from act of 1913, July 24, P.L. 995, §§ 1, 2.

Other laws:

Act of 1893, June 10, P.L. 419, § 27, was also repealed by Act of 1937, June 3, P.L. 1333, § 1901.

Act of 1913, July 24, P.L. 995, supplied the act of 1867, Jan. 11, P.L. 18, now repealed by act of 1937, June 3, P.L. 1333, § 1901.

ELECTION OF MEMBERS OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES [REPEALED]

Cross References

Special elections for Representative in Congress, see 25 P.S. § 2777.

United States Code Annotated

Election of Senators and Representatives, see 2 U.S.C.A. § 1 et seq.

**§§ 2181 to 2187. Repealed. 1931, June 27, P.L. 1416, No. 361,
§ 9**

Historical and Statutory Notes

These sections were derived from act of 1921, May 10, P.L. 444, §§ 1 to 8.

Section 9 of the act, repealed, repeals absolutely act of 1901, July 11, P.L. 652; act of 1909, April 27, P.L. 233; and act of 1919, June 12, P.L. 459. Said section

also repeals, in so far as they apply to congressional districts, act of 1919, June 12, P.L. 458, §§ 2019, 2021 and 2047 of this title, and act of 1919, June 12, P.L. 460 which is now repealed in toto. Said section also repeals all other inconsistent acts and parts of acts.

§ 2188. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

This section was derived from act of 1839, July 2, P.L. 519, § 25.

§§ 2189, 2190. Repealed. 1942, Ex.Sess., Feb. 25, P.L. 7, § 4

Historical and Statutory Notes

These sections, derived from the act of 1931, June 27, P.L. 1416, No. 361, §§ 1 and 2, related to congressional apportionment and a district composed of one county or a part thereof. The subject matter is now covered by § 2198 et seq. of this title.

Section 9 of the act repealed act of 1921, May 10, P.L. 444, §§ 2181 to 2187 of this title, and all other inconsistent acts and parts of acts.

§§ 2191 to 2195. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

These sections were derived from act of 1931, June 27, P.L. 1416, No. 361, §§ 3 to 7.

§ 2196. Repealed. 1942, Ex.Sess., Feb. 25, P.L. 7, § 4

Historical and Statutory Notes

This section, derived from the act of 1931, June 27, P.L. 1416, No. 361, § 8, related to the first election under the act;

congressmen then in office; and vacancies. The subject matter is now covered by § 2199.2 of this title.

SPECIAL OFFICES

25 P.S. §§ 2199.11 to 2199.16

Repealed

§§ 2196a to 2196c. Repealed. 1943, May 8, P.L. 256, § 3

Historical and Statutory Notes

These sections were derived from act of 1942, Ex.Sess., Feb. 25, P.L. 7, and related to the election of representatives to the United States Congress.

§ 2197. Repealed. 1951, Dec. 22, P.L. 1734, § 3

Historical and Statutory Notes

This section, derived from act of 1943, May 8, P.L. 256, § 1, related to the apportioning of the Commonwealth of Pennsylvania into congressional districts. The subject matter is now covered by § 2199.1 of this title.

§ 2198. Repealed. 1962, Ex.Sess., Jan. 29, P.L. (1961) 1805, § 4

Historical and Statutory Notes

This section, derived from act of 1951, Dec. 22, P.L. 1734, § 1; 1953, July 28, P.L. 698, § 1, related to congressional districts. The subject matter is now covered by § 2199.1 of this title.

Section 3 of the act of 1951 repealed § 2197 of this title.

Section 4 of the act of 1962, Ex.Sess., Jan. 29, P.L. (1961) 1805 (see §§ 2199.1 to 2199.3 of this title), repealed the act of 1951 and its amendments "except as to the filling of vacancies under the provisions of section 2199.2" of this title.

§§ 2199.1 to 2199.3. Repealed. 1966, Sp.Sess. No. 2, March 8, P.L. 1, § 7

Historical and Statutory Notes

The repealed sections related to congressional districts and were derived from act 1962, Ex.Sess., Jan. 29, P.L. (1961) 1805, §§ 1 to 3.

See, now, 25 P.S. § 3571 et seq.

§§ 2199.11 to 2199.16. Repealed. 1972, Jan. 25, P.L. 7, No. 3, § 4, imd. effective

Historical and Statutory Notes

These sections, derived from Act 1966, Special Session No. 2, March 8, P.L. 76, No. 3, §§ 1 to 6, related to apportionment of congressional districts in conformity with constitutional requirements.

See, now, 25 P.S. § 3571 et seq.

Repealed

§§ 2199.21 to 2199.23. Repealed. 1982, March 3, P.L. 127, No. 42, § 3, imd. effective

Historical and Statutory Notes

The repealed sections, which were added by Act 1972, Jan. 25, P.L. 7, No. 3, §§ 1 to 3, related to apportionment of congressional districts.

See, now, 25 P.S. § 3571 et seq.

ELECTION OF STATE SENATORS AND REPRESENTATIVES

Cross References

Special elections for member of General Assembly, see 25 P.S. § 2778.

State legislature, election and qualifications of members, see Const. Art. 2, §§ 2, 5 to 7.

§ 2201. Number of Senators; senatorial districts

Until the next United States decennial census is taken, and an apportionment made thereon, the Senate shall consist of fifty members, and the State is hereby apportioned into fifty senatorial districts, each of which shall be known by the number herein attached thereto, and shall each be entitled to elect one Senator as follows, to wit:

First District.—The first, twenty-sixth, thirty-sixth, thirty-ninth, and forty-eighth wards of the city of Philadelphia.

Second District.—The second, third, fourth, seventh, eighth, ninth, and thirtieth wards of the city of Philadelphia.

Third District.—The fifth, sixth, tenth, eleventh, twelfth, thirteenth, fourteenth, sixteenth, and eighteenth wards of the city of Philadelphia.

Fourth District.—The twenty-fourth, twenty-seventh, thirty-fourth, fortieth, forty-fourth, and forty-sixth wards of the city of Philadelphia.

Fifth District.—The seventeenth, nineteenth, twentieth, thirty-first, and thirty-seventh wards of the city of Philadelphia.

Sixth District.—The twenty-first, twenty-second, thirty-eighth, and forty-second wards of the city of Philadelphia.

Seventh District.—The fifteenth, twenty-eighth, twenty-ninth, thirty-second, and forty-seventh wards of the city of Philadelphia.

Eighth District.—The twenty-third, twenty-fifth, thirty-third, thirty-fifth, forty-first, forty-third, and forty-fifth wards of the city of Philadelphia.

Ninth District.—The county of Delaware.

Tenth District.—The county of Bucks.

Eleventh District.—The county of Berks.

Twelfth District.—The county of Montgomery.

Thirteenth District.—All that part of the county of Lancaster not included in the seventeenth district.

Fourteenth District.—The counties of Carbon, Monroe, Pike, and Wayne.

Fifteenth District.—The county of Dauphin.

Sixteenth District.—The county of Lehigh.

Seventeenth District.—The county of Lebanon; and the boroughs of Adamstown, Akron, Columbia, Denver, Elizabethtown, Ephrata, Lititz, Manheim, Marietta, and Mount Joy, and Mountville; and the townships of Clay, Conoy, East Cocalico, East Donegal, Elizabeth, Ephrata, Mount Joy, Penn, Rapho, Warwick, West Cocalico, West Donegal, and West Hempfield, in the county of Lancaster.

Eighteenth District.—The county of Northampton.

Nineteenth District.—The county of Chester.

Twentieth District.—The townships of Black Creek, Butler, Conyngham, Dallas, Denison, Dorrance, Foster, Fairmount, Fairview, Hazle, Hollenback, Hunlock, Huntingdon, Lake, Lehman, Jackson, Kingston, Nescopeck, Plymouth, Ross, Salem, Slocum, Sugarloaf, Union, and Wright; and the boroughs of Conyngham, Courtdale, Dallas, Dorranceton, Edwardsville, Forty Fort, Freeland, Jeddo, Kingston, Larksville, Nanticoke, Nescopeck, New Columbus, Nuan-gola, Plymouth, Shickshinny, West Hazleton, and White Haven; and the city of Hazleton, in the county of Luzerne.

Twenty-first District.—The residue of the county of Luzerne, not included in the twentieth district.

Twenty-second District.—The county of Lackawanna.

Twenty-third District.—The counties of Bradford, Susquehanna, and Wyoming.

Twenty-fourth District.—The counties of Columbia, Lycoming, Montour, and Sullivan.

Twenty-fifth District.—The counties of McKean, Potter, and Tioga.

Twenty-sixth District.—The counties of Cameron, Clarion, Clinton, Elk, and Forest.

Twenty-seventh District.—The counties of Northumberland, Snyder, and Union.

Twenty-eighth District.—The county of York.

Twenty-ninth District.—The county of Schuylkill.

Thirtieth District.—The counties of Blair and Huntingdon.

Thirty-first District.—The counties of Cumberland, Juniata, Mifflin, and Perry.

Thirty-second District.—The county of Fayette.

Thirty-third District.—The counties of Adams and Franklin.

Thirty-fourth District.—The counties of Centre and Clearfield.

Thirty-fifth District.—The county of Cambria.

Thirty-sixth District.—The counties of Bedford, Fulton, and Somerset.

Thirty-seventh District.—The counties of Indiana and Jefferson.

Thirty-eighth District.—The first, second, sixth, ninth, sixteenth, seventeenth, eighteenth, and nineteenth wards of the city of Pittsburgh, in the county of Allegheny.

Thirty-ninth District.—The county of Westmoreland.

Fortieth District.—All the boroughs and townships in that portion of Allegheny County lying north of the Ohio and Allegheny Rivers; and the boroughs of East Pittsburgh, East McKeesport, Pitcairn, Turtle Creek, Wall, and Wilmerding; and the townships of Braddock, Patton, Plum, and Wilkins, in the county of Allegheny.

Forty-first District.—The counties of Armstrong and Butler.

Forty-second District.—The twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, and twenty-seventh wards of the city of Pittsburgh, in the county of Allegheny.

Forty-third District.—The third, fourth, fifth, seventh, eighth, tenth, and fifteenth wards of the city of Pittsburgh, in the county of Allegheny.

Forty-fourth District.—The eleventh, twelfth, thirteenth, and fourteenth wards of the city of Pittsburgh, the city of McKeesport, and all the boroughs and townships in that portion of Allegheny County lying between the Allegheny and Monongahela Rivers, not included in the fortieth district.

Forty-fifth District.—All the boroughs and townships in that portion of Allegheny County lying south of the Ohio and Monongahela Rivers, and the twentieth ward of the city of Pittsburgh, in said county.

Forty-sixth District.—The counties of Greene and Washington.

Forty-seventh District.—The counties of Beaver and Lawrence.

Forty-eighth District.—The counties of Venango and Warren.

Forty-ninth District.—The county of Erie.

Fiftieth District.—The counties of Crawford and Mercer.
1921, May 10, P.L. 449, § 1. Amended 1923, April 26, P.L. 106, No. 80, § 1.

Repealed in Part

Act 1964, Jan. 9, P.L. (1963, Ex.Sess.) 1432, enacting the provisions incorporated in §§ 2217 to 2220 of this title, provides in § 5 that the act of May 10, 1921, P.L. 449 (§§ 2201 to 2209 of this title) "is repealed in so far as inconsistent". Act 1964, Jan. 9, P.L. (1963, Ex.Sess.) 1432, was repealed by Act 1983, June 15, P.L. 23, § 1.

Historical and Statutory Notes

Act of 1937, June 30, P.L. 2454, including § 5 thereof which repealed this section, was held invalid in its entirety. See notes to §§ 2209a to 2209d.

Section 10 of the act of 1921, May 10, P.L. 449, repeals act of 1906, Feb. 17, P.L. 31, and act of 1909, April 27, P.L. 228 absolutely. Said § 10 also repeals act of 1919, June 12, P.L. 458, repealed, §§ 2019, 2021, 2047, of this title, and act of 1919, June 12, P.L. 460 (the act is now repealed in toto) in so far as they relate to senatorial districts. Said § 10 also repeals all other inconsistent acts and parts of acts.

Act of 1906, Feb. 17, P.L. 31, §§ 1 and 4, repealed by this act repealed by implication §§ 2 and 4 of the act of 1874, May 19, P.L. 197.

Title of Act:

An Act to fix the number of Senators in the General Assembly of the State; to apportion the State into senatorial districts, as provided by the Constitution; and to regulate the election of, and the terms of office of, the present and future elected Senators. 1921, May 10, P.L. 449.

Library References

States ⇄27.
WESTLAW Topic No. 144.
C.J.S. States § 31.

Notes of Decisions

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1. Validity of prior act

The judicial power extends to the review of all legislative acts for the comparison of their provisions with the requirements and prohibitions of the Constitution, and there is no exception expressed or implied in regard to statutes of apportionment; accordingly the judicial power extended to a consideration of the constitutionality of act 1906, Feb. 17, P.L. 31, repealed, relating to senatorial apportionment. *Com. v. Crow*, 67 A. 355, 218 Pa. 234, 1907.

2. Validity

Where the first General Assembly of Pennsylvania convened following 1950 decennial census was still in session, suit in federal court to have Pennsylvania Apportionment Act of 1921 as amended, this section et seq., declared unconstitutional and compel General Assembly to reapportion representative and senatorial districts so as to reflect population changes, was premature and should be dismissed for want of equity, since a proper reapportionment act might be adopted by General Assembly or a remedy might be found in courts of the Commonwealth. *Remmey v. Smith*, 102 F.Supp. 708, D.C. 1952, appeal dismissed 72 S.Ct. 368, 342 U.S. 916, 96 N.Ed. 685.

Such growth in population of county as would entitle it to an additional senator under Const. Art. 2, § 16, constitution,

Note 2

though a strong and cogent reason for reapportionment, does not invalidate apportionment act which was valid when enacted. *Costello v. Rice*, 153 A.2d 888, 397 Pa. 198, 1959.

Even if a justiciable question cognizable in equity is presented, court should not declare Apportionment Act under which members of the legislature have been elected unconstitutional, since to do so would benefit no one but would seriously disrupt and render chaotic the state's government. *Butcher v. Rice*, 153 A.2d 869, 397 Pa. 158, 1959.

3. Jurisdiction

It was appropriate that state Supreme Court decide issues of validity of existing apportionment of legislative houses in presence of demonstrated willingness of legislature to act and willingness of court to assume jurisdiction, so as to relieve of responsibility federal district court in which second suit had been commenced after instant suit had been commenced in state trial court. *Butcher v. Bloom*, 203 A.2d 556, 415 Pa. 438, 1964.

Suit in equity to enjoin election of state senators on ground that Apportionment Act of 1921, as amended § 2201 et seq. of this title, was unconstitutional, was properly dismissed for want of a justiciable controversy, since failure of General Assembly to divide state into senatorial districts since latest federal census raised a purely political question and whether Apportionment Act divided state into senatorial districts as nearly equal in population as might be, as required by Const. Art. 2, § 16 rested in the discretion of General Assembly alone and was not justiciable. *Butcher v. Rice*, 153 A.2d 869, 397 Pa. 158, 1959.

Whether acts pertaining to senatorial and representative districts provide for a constitutional apportionment is a justiciable issue under both the United States and Pennsylvania Constitutions. *Butcher v. Trimarchi*, 28 D. & C.2d 537, 79 Dauph. 164, 1963.

4. Reapportionment

Such growth in population of county as would entitle it to an additional senator under Const. Art. 2, § 16, though a strong

and cogent reason for reapportionment, does not invalidate apportionment act which was valid when enacted. *Costello v. Rice*, 153 A.2d 888, 397 Pa. 198.

Court had no power to reapportion legislative districts or compel the legislature to do so and hence could not afford relief, though legislative districts had not been reapportioned since last federal census, as required by Const. Art. 2, § 18, and increase in population of Montgomery County since most recent valid apportionment act had been such as to entitle it to an additional senator under constitution. *Costello v. Rice*, 153 A.2d 888, 397 Pa. 198.

An equity action was dismissed where plaintiffs, as citizens, electors and taxpayers of certain state senatorial districts in the City and County of Philadelphia sought to enjoin the Secretary of the Commonwealth from any act relating to the holding of elections for the state senate from their senatorial districts on the ground that the districts were extremely disproportionate in population, and had not been reapportioned by the legislature at the time of each decennial census since 1921, contrary to the provisions of the State Constitution and this section. *Butcher v. Rice*, 73 Dauph. 10, 1959, affirmed 153 A.2d 869, 397 Pa. 158.

5. Parties

One claiming to have been rightfully elected senator had no such interest as to entitle him to maintain a writ of quo warranto in the name of the commonwealth to test the constitutionality of act 1906, Feb. 17, P.L. 31, repealed, relating to the senatorial apportionment. *Com. v. Crow*, 67 A. 355, 218 Pa. 234, 1907.

6. Injunction

In actions seeking to have this section and § 22.02 et seq. and § 2215 et seq. of this title, and the Act of July 29, 1953, P.L. 956, pertaining to senatorial and representative districts, declared unconstitutional, the court will refuse plaintiffs' motions for judgment on the pleadings, where the immediate injunctive relief sought would result in stopping the election machinery. *Butcher v. Trimarchi*, 28 D. & C.2d 537, 79 Dauph. 164, 1963.

§ 2202. Basis of apportionment

The districts, as above enumerated, shall be based on the decennial census of the United States for the year one thousand nine hundred and twenty, and shall take the lines and boundaries, and include all the territory within the same, as said lines and districts respectively existed at the completion of said census.

1921, May 10, P.L. 449, § 2.

Repealed in Part

Act 1964, Jan. 9, P.L. (1963, Ex.Sess.) 1432, enacting the provisions incorporated in sections 2217 to 2220 of this title, provides in § 5 that the act of May 10, 1921, P.L. 449 (§§ 2201 to 2209 of this title) "is repealed in so far as inconsistent".

Historical and Statutory Notes

Act of 1937, June 30, P.L. 2454, including § 5 thereof which repealed this section, was held invalid in its entirety. See notes to §§ 2209a to 2209d.

Library References

States ⇐27.
WESTLAW Topic No. 360.
C.J.S. States § 62.

Notes of Decisions**Annexation 1****1. Annexation**

Where legislature at next session after census of 1920, in obedience to constitutional mandate, apportioned state into senatorial districts by this section, and

thereafter, under act 1921, May 25, P.L. 1142, repealed, borough annexed territory situated in county adjoining that in which such borough was located, territory annexed did not become part of senatorial district which included borough. State Senatorial Election, 3 Wash. 68, 3 D. & C. 27, 1922.

§ 2203. Districts containing one county or a part thereof

The nomination and election of State Senator, which the qualified electors of any county or of any part of a county are entitled to elect of themselves unconnected with any other county or district, shall be made, held, and conducted, and the return of votes cast at primary and general elections for the nomination and election of such members shall be made, computed, canvassed, and certified, as now or hereafter may be provided by law.

1921, May 10, P.L. 449, § 3.

Repealed in Part

Act 1964, Jan. 9, P.L. (1963, Ex.Sess.) 1432, enacting the provisions incorporated in §§ 2217 to 2220 of this title, provides in § 5 that the act of May 10, 1921, P.L. 449 (§§ 2201 to 2209 of this title) "is repealed in so far as inconsistent".

Historical and Statutory Notes

Act of 1937, June 30, P.L. 2454, including § 5 thereof which repealed this section, was held invalid in its entirety. See notes to §§ 2209a to 2209d.

Library References

States ⇐27.
WESTLAW Topic No. 360.
C.J.S. States § 62.

§§ 2204 to 2208. Repealed. 1937, June 3, P.L. 1333, § 1901**Historical and Statutory Notes**

These sections were derived from act of 1921, May 10, P.L. 449, § 4 to 8.

The Act of 1937, June 30, P.L. 2454, including § 5 thereof which repealed these sections, was held invalid in its entirety. See notes to §§ 2209a to 2209d. However, these sections were also repealed by Act of 1937, June 3, P.L. 1333, § 1901, repealing the various laws incorporated into the Pennsylvania Election Code.

§ 2209. Time of election of Senators; Senators in office

At the general election in the year one thousand nine hundred and twenty-two, and quadriennially thereafter, Senators shall be chosen to serve for four years in the even-numbered districts. At the general election in the year one thousand nine hundred and twenty-four, and quadriennially thereafter, Senators shall be chosen to serve for four years in the odd-numbered districts.

The Senators now in office shall continue in such office, and shall respectively represent the districts as herein apportioned in which they reside until the expiration of the terms for which they were elected.

1921, May 10, P.L. 449, § 9.

Repealed in Part

Act 1964, Jan. 9, P.L. (1963, Ex.Sess.) 1432, enacting the provisions incorporated in §§ 2217 to 2220 of this title, provides in § 5 that the act of May 10, 1921, P.L. 449 (§§ 2201 to 2209 of this title) "is repealed in so far as inconsistent".

Historical and Statutory Notes

Act of 1937, June 30, P.L. 2454, including § 5 thereof which repealed this section, was held invalid in its entirety. See notes to §§ 2209a to 2209d.

States ⇨28(1).
WESTLAW Topic No. 360.
C.J.S. States §§ 42, 43.

§§ 2209a to 2209d. Unconstitutional

Historical and Statutory Notes

These sections, derived from act of 1937, June 30, P.L. 2454, §§ 1 to 4, fixed the number of Senators in the General Assembly, apportioned the state into Senatorial Districts and regulated the election and terms of office of the present and future elected Senators.

The act of 1937, June 30, including §§ 1 to 5, was held to be in violation of Const. Art. 1, § 5, and Art. 2, § 16, by the Court of Common Pleas of Dauphin

County in *Lyme v. Lawrence*, 1938, 45 Dauph. 322. It was further held that the provisions of the act were not severable and that, therefore, the entire act was invalid.

For act of 1921, May 10, P.L. 449, as amended, controlling the number of Senators in the General Assembly and apportioning the State into Senatorial Districts, see §§ 2201 to 2203, 2209 of this title.

§§ 2210, 2211. Repealed. 1953, July 29, P.L. 956, § 4

Historical and Statutory Notes

These sections were derived from acts of 1921, May 10, P.L. 455, §§ 1, 2; 1923, April 26, P.L. 98, § 1; 1923, May 8, P.L. 172, § 1; 1923, May 15, P.L. 206, § 1; 1923, June 29, P.L. 942, § 1; 1929, April 30, P.L. 877, § 1. The sections related to the number of state representatives and to the apportionment of the state into representative districts.

Act of 1887, May 12, P.L. 98 was expressly repealed by act of 1927, April 7, P.L. 163, No. 130, § 1.

Act of 1906, Feb. 15, P.L. 21, §§ 1 to 4, and the amendments to § 1 thereof by act of 1907, April 15, P.L. 88, were repealed

by § 4 of act of 1921, May 10, P.L. 455, repealed, without referring to amendment of § 1 of said act of 1906 by act of 1909, April 27, P.L. 213, § 1. This latter act of 1909 has been omitted from the text as supplied.

Act of 1906, Feb. 15, P.L. 21, § 1, repealed by implication act of 1887, May 12, P.L. 98, as amended by act of 1889, May 8, P.L. 138, § 1.

The act of 1937, June 30, P.L. 2443, § 4 of which repealed this section, was held invalid in its entirety. See notes to §§ 2213, 2214. The act of 1937 was repealed by act 1953, July 29, P.L. 956, § 4.

§ 2212. Certificates of election

From and after the passage of this act, the President pro tempore of the Senate and the Speaker of the House of Representatives shall be and they hereby are authorized and directed, upon receipt of the returns of elections for Senators and Representatives in the General Assembly of Pennsylvania, held in the several counties of this Commonwealth, to issue to each person so returned as elected as Senator or Representative an appropriately engraved and engrossed certificate of his election. Said certificates to be signed by the said President pro tempore of the Senate and the Speaker of the House of

Representatives, respectively, attested by the Chief Clerks of the respective Houses, and sealed with the seals hereinafter provided for. 1911, June 14, P.L. 926, § 1.

Historical and Statutory Notes

Act of 1911, June 14, P.L. 926, § 3, made an appropriation to cover the cost of certificates for the Senators and Representatives of the session of 1911, and provided that it should be paid by the

state treasurer on warrants of the auditor general upon the presentation of vouchers approved by the president pro tem. of the Senate and the Speaker of the House of Representatives, respectively.

Library References

Elections ⇨265.
WESTLAW Topic No. 144.

C.J.S. Elections § 240.
P.L.E. Elections § 104.

§§ 2213, 2214. Repealed. 1953, July 29, P.L. 956, § 4

Historical and Statutory Notes

These sections derived from act of 1937, June 30, P.L. 2443, §§ 1, 2, fixed the number of Representatives in the General Assembly and apportioned the State into Representative Districts.

The act of 1937, June 30, including §§ 1 and 2, was held to be in violation of Const. Art. 1, § 5, and Art. 2, § 17, by the Court of Common Pleas of Dauphin County in *Shoemaker v. Lawrence*, 1938, 31 D. & C. 681, 45 Dauph. 111, in that it failed to include certain townships and

boroughs in any legislative district, in that certain districts which it established were not of contiguous territory and in that in Dauphin County it gave the City of Harrisburg, having less than one half of the population, two thirds of the representatives. It was further held that the provisions of the Act were not severable and that, therefore, the entire Act was invalid.

Section 4 of the act of 1937, June 30, repealed §§ 2210 and 2211 of this title.

§§ 2215, 2216. Repealed. 1964, Jan. 9, P.L. (1963 Ex.Sess.) 1419, § 4

Historical and Statutory Notes

The repealed sections fixed the number of state representatives and apportioned

the state into districts for the state house of representatives.

§§ 2217 to 2220. Repealed. 1983, June 15, P.L. 23, No. 11, § 1, imd. effective

Historical and Statutory Notes

The repealed sections, added by Act 1964, Jan. 9, P.L. (1963, Ex.Sess.) 1432, §§ 1 to 4, apportioned the state into fifty

senatorial districts, and provided for the nomination, election, and terms of office of state senators.

VACANCIES

25 P.S. §§ 2231 to 2255

Repealed

§§ 2221, 2222. Repealed. 1983, June 15, P.L. 24, No. 12, § 1, imd. effective

Historical and Statutory Notes

The repealed sections, added by Act 1964, Jan. 9, P.L. (1963, Ex.Sess.) 1419, §§ 1 and 2, prescribed the number of members of the house of representatives, divided the state into districts, based ap-

portionment on the United States decennial census of 1960, and provided rules for townships, boroughs, cities, and wards created since such census.

CHAPTER 11

ELECTIONS TO FILL VACANCIES [REPEALED]

§§ 2231 to 2255. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

These sections were derived from acts of 1839, July 2, P.L. 519, §§ 35 to 42;

1855, Jan. 16, P.L. 1, § 1; 1913, July 24, P.L. 995, § 3.

CHAPTER 12

OFFENSES AGAINST ELECTION LAWS

Section

2271 to 2294. Repealed.

2295. Payment of poll tax in Philadelphia; wrongful issuance of receipt. 2311, 2312. Repealed.

2331 to 2373. Repealed.

2374. Political assessments and contributions forbidden in certain cases.

2375. Penalty for violation.

Library References

Elections \Leftrightarrow 309.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 324 et seq., 334 et seq.

§§ 2271 to 2294. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

Sections 2271 to 2276 were derived from acts of 1839, July 2, P.L. 519, § 97; 1840, June 13, P.L. 683, § 15; 1869, April 17, P.L. 49, § 14; 1874, Jan. 30, P.L. 31, § 19; 1893, June 10 P.L. 419, § 33; 1933, Sp.Sess., Jan. 17, 1934, P.L. 236, § 7.

Sections 2291 to 2294 were derived from acts of 1897, July 15, P.L. 276, §§ 1 to 4; 1931, June 23, P.L. 903, §§ 1, 2.

Sections 2274 and 2275 were repealed absolutely in so far as they affected per-

sonal registration and enrollment of voters in cities of second class A by act of 1933, Sp.Sess., Jan. 2, 1934, P.L. 140, § 45, and in cities of second class by act of 1933, Sp.Sess., Jan. 18, 1934, P.L. 250, § 44. They were also repealed, in so far as they related to assessors who performed duties relative to elections in boroughs, towns or townships or to the assessment or registration of voters therein, by act of 1937, April 29, P.L. 487, § 46(b). See § 951-46 of this title.

§ 2295. Payment of poll tax in Philadelphia; wrongful issuance of receipt

From and after the passage of this act it shall not be lawful for any alderman of said city to receive the payment of personal taxes, unless specially deputed by the receiver of taxes of said city; and no receipt for the payment of taxes, heretofore given by any alderman, shall be taken as evidence of the payment of any such tax by the election officers of any election division of said city. The said receiver of taxes shall have power, and he is hereby required, to appoint at least one person, in each of the wards of said city, to receive poll taxes from citizens assessed therefor; said appointment shall be made at least three weeks before any election; and the person, so appointed, shall have some public place wherein he shall be found for at least three hours, between 10 and 1 o'clock, in each secular day prior to the day of the election; and on the day of the election during the

OFFENSES

25 P.S. §§ 2331 to 2373

Repealed

whole time the polls are open; of which time and place notice shall be given upon the street lists now required to be published and posted: Provided, That in the rural wards there shall be not less than three persons appointed, to each of whom shall be assigned the district for which he is to collect and receive such personal taxes; but no election division shall be divided in forming such district; said deputies shall be required to collect both city and state taxes from the citizen assessed, either on the regular or extra assessment, unless he shall make oath or affirmation that he is unable to pay both; and not then, unless he shall have paid at least one of said taxes within fourteen months next previously; Provided, That if any person so appointed shall issue or give a receipt to, or for, any person whose name is not upon the assessment list,¹ shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined in a sum not exceeding \$200, and imprisoned for a period not exceeding three months, both or either, in the discretion of the court.

1866, April 17, P.L. 969, § 2.

¹ The original bill contains the words "assessment list shall."

Library References

Elections ⇨309.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 324, 334.

P.L.E. Elections § 141.

§§ 2311, 2312. Repealed. 1992, Nov. 24, P.L. 717, No. 108, § 3, imd. effective

Historical and Statutory Notes

Former §§ 2311 and 2312, which were added by Act 1867, April 10, P.L. 1129,

§§ 1 and 2, related to the regulation of political parades in Philadelphia.

§§ 2331 to 2373. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

Sections 2331 and 2332, were derived from acts of 1893, June 10, P.L. 419, §§ 23, 24; 1903, April 16, P.L. 213, § 1.

Sections 2351 and 2352, were derived from acts of 1839, July 2, P.L. 519, § 128; 1874, Jan. 30, P.L. 31, § 25.

Sections 2371 to 2373 were derived from act of 1872, March 13, P.L. 24, §§ 1 to 3.

Sections 2371 to 2373 were supplied by acts of 1875, April 12, P.L. 40, and 1887, May 13, P.L. 108, but act of 1887 was repealed by act of 1923, March 27, P.L. 34, § 18.

§ 2374. Political assessments and contributions forbidden in certain cases

It shall be unlawful for any political committee or any member, employe or agent thereof, or for any public officer or employe, or any other person whatsoever, directly or indirectly, to demand from any public officer, subordinate or employe holding any office or position of honor, trust or profit under this Commonwealth, or otherwise engaged or employed in the service of the Commonwealth, or employed by, or in any way engaged in the service of, any political subdivision, or from any person receiving any public assistance whatsoever from the Commonwealth or the United States, directly or through employment on public works, or any person, association or corporation desiring or having a contract with, or a certificate, license or permit from, the Commonwealth or any political subdivision, any assessment or percentage of any money or profit, or their equivalent in any thing of value, with the understanding, express or implied, that the same may be used or shall be used for political purposes: Provided, however, That nothing in this act contained shall be construed to prohibit voluntary contributions to any political committee or organization for legitimate political and campaign purposes to the extent such contributions are not prohibited by law. 1939, April 6, P.L. 16, § 1.

Historical and Statutory Notes

Title of Act:

An Act to prohibit assessments and demands for contributions for political pur-

poses; and providing a penalty. 1939, April 6, P.L. 16.

Library References

Elections ☞317.
WESTLAW Topic No. 144.

C.J.S. Elections § 329.
P.L.E. Elections § 142.

Notes of Decisions

Evidence 3, 4
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chilling rights guaranteed by First and Fourteenth Amendments, U.S.C.A. Const. Amends. 1, 14. Com. v. Tiberi, 361 A.2d 318, 239 Pa.Super. 152, 1976.

Anti-Macing statute making it unlawful for any political committee or member directly or indirectly to demand from any public officer or employe anything of value to be used for political purposes was sufficiently definite as to be reasonably defined and interpreted as required by 46 P.S. §§ 533 and 551, and was not violative of due process clause of federal Constitution or of definiteness requirements of state Constitution. Com. v. Zeger, 186 A.2d 922, 200 Pa.Super. 92, 1962.

1. Validity

Pennsylvania anti-macing statute, prohibiting public employes from demanding money from subordinates with the understanding that the same might be used for political purposes, was not vague or overbroad and did not have result of

2. Limitations

Macing is an example of malfeasance in government service, and is therefore covered by extended statute of limitations governing indictments for malfeasance, misfeasance or nonfeasance in office and not two-year statute of limitations for offenses committed by public officers or employees in course of, or in connection with, office. (Per Price, J., with one Judge concurring.) *Com. v. Bestwick*, 396 A.2d 1311, 262 Pa.Super. 558, 1978, affirmed 414 A.2d 1373, 489 Pa. 603.

Although defendant's indictment for bribery, macing, extortion, and conspiracy may have been beyond normal two-year statute of limitations applicable to offenses committed by public officers or employees in course of, or in connection with, their office, the indictment was timely brought under six-year statute of limitations governing indictments for malfeasance, misfeasance, or nonfeasance in office. (Per Price, J., with one Judge concurring). (Per Price, J., with one Judge concurring.) *Com. v. Bestwick*, 396 A.2d 1311, 262 Pa.Super. 558, 1978, affirmed 414 A.2d 1373, 489 Pa. 603.

3. Evidence—Admissibility

Where jurors could have properly considered evidence of defendant's alleged misconduct in 1971 and 1972 in determining guilt of crime of extortion allegedly committed in 1973, and where the evidence was not complicated and jury would have been able to understand that certain evidence applied only to certain of the crimes charged, trial court which refused to grant defendant's motion to sever indictment which charged three counts of extortion from indictments charging conspiracy, solicitation, and seven counts of macing, did not prejudice defendant, who did not contend that consolidation of the indictments hindered him in presenting his defense. *Com. v. Casper*, 417 A.2d 1216, 273 Pa.Super. 612, 1980.

Admission of testimony of snow removal truck operator, in prosecution resulting in conviction under this section, that "gist" of conversation with defendant was that if witness paid some money his truck would work was at most harmless error where the witness subsequently testified that defendant asked him for another "contribution" during same plowing

season. (Per Price, J., with one Judge concurring.) *Com. v. Bestwick*, 396 A.2d 1311, 262 Pa.Super. 558, 1978, affirmed 414 A.2d 1373, 489 Pa. 603.

It was error in Anti-Macing prosecution to permit prosecution witness to testify as to her impression and understanding of defendant's conversations with her where evidence indicated no direct demand for payment and only question was whether defendant made indirect demand. *Com. v. Zeger*, 186 A.2d 922, 200 Pa.Super. 92, 1962.

In prosecution for violation of the "Anti-Macing" Act, where the issue before the jury was whether the defendant demanded political contributions, in view of the court's charge thereon, evidence of the reputation of defendant for veracity was relevant, and hence the trial court properly granted a new trial for the exclusion thereof. *Com. v. Zeger*, 165 A.2d 683, 193 Pa.Super. 498, 1961.

4. — Sufficiency, evidence

In prosecution for "macing," evidence was sufficient to support conviction with respect to each of the subject public employees. *Com. v. Casper*, 417 A.2d 1216, 273 Pa.Super. 612, 1980.

Evidence, including testimony of witness to effect that defendant had informed witness that unless witness contributed to Democratic Party, witness' truck would not be used for snow removal, was sufficient to sustain conviction for macing. *Com. v. Bestwick*, 414 A.2d 1373, 489 Pa. 603, 1980.

In prosecution resulting in conviction under this section, testimony of snow removal truck operator that defendant approached him to seek "contribution" was sufficient to support conviction. (Per Price, J., with one Judge concurring.) *Com. v. Bestwick*, 396 A.2d 1311, 262 Pa.Super. 558, 1978, affirmed 414 A.2d 1373, 489 Pa. 603.

5. Jury instructions

Court's failure to explain "Anti-Macing Act" to jury after jury returned, requesting copy of act and explanation but also after foreman said that a juror was college professor who could understand wording sufficiently so that it would not be misinterpreted was error which, with other errors, called for reversal. *Com. v. Zeger*, 186 A.2d 922, 200 Pa.Super. 92, 1962.

Note 6

6. Review

Trial court did not err in denying pre-trial motion for severance of defendant's trial for extortion and macing from that of fellow employee where evidence showed prima facie case of conspiracy between defendant and such employee, and employee's inculpatory statements therefore would have been admissible in defendant's prosecution even if it had been tried separately. *Com. v. Tiberi*, 361 A.2d 318, 239 Pa.Super. 152, 1976.

Trial court did not abuse its discretion in refusing motion for separate trial on witness tampering charge from trial on charges of extortion, bribery and macing where alleged witness tampering, although it took place one year after acts of

macing and extortion were completed, were allegedly attempts to abort state police investigation of such charges and assure that defendant was not convicted. *Com. v. Tiberi*, 361 A.2d 318, 239 Pa.Super. 152, 1976.

In prosecution under the "Anti-Macing" Act, exclusion of testimony as to the defendant's reputation as to veracity, where his credibility was in issue and where the charge was to the effect that it was for the jury to determine the credibility of witnesses of the commonwealth and the defendant in determining his guilt or innocence, involved an admixture of law and fact, and the commonwealth was not entitled to appeal. *Com. v. Zeger*, 165 A.2d 683, 193 Pa.Super. 498, 1961.

§ 2375. Penalty for violation

Any person who violates any of the provisions of this act shall be guilty of a misdemeanor, and, on conviction thereof, shall be sentenced to imprisonment for a term not exceeding one (1) year, or to pay a fine not exceeding one thousand dollars (\$1,000), or both, in the discretion of the court.

1939, April 6, P.L. 16, § 2.

Library References

Elections ⇨332.
WESTLAW Topic No. 144.

C.J.S. Elections § 353.
P.L.E. Elections § 141 et seq.

CHAPTER 13

CONTESTED ELECTIONS [REPEALED]

§§ 2391 to 2541. Repealed. 1937, June 3, P.L. 1333, § 1901

Historical and Statutory Notes

Sections 2391, 2401 to 2420, 2431, 2432, 2451 to 2454, 2471, 2481 to 2485, were derived from act of 1874, May 19, P.L. 208, §§ 1 to 8, 11 to 16, 20 to 37.

Sections 2501 to 2504 were derived from act of 1878, June 12, P.L. 204, §§ 1 to 4.

Sections 2521 to 2529 were derived from acts of 1874, May 19, P.L. 208, §§ 9, 10, 17 to 19; 1876, May 8, P.L. 148, § 1; 1889, April 26, P.L. 60, § 1; 1899,

April 28, P.L. 103, § 1; 1899, April 28, P.L. 118, § 1.

Section 2541 was derived from act of 1854, Feb. 2, P.L. 21, § 35.

Act of 1840, June 13, P.L. 689, § 4, supplied by act of 1874, May 19, P.L. 208, § 16, was also repealed by act of 1937, June 3, P.L. 1933, § 1901.

Act of 1851, April 15, P.L. 648, §§ 14, 15, was supplied by the act of 1874, May 19, P.L. 208.

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Rules of Appellate Procedure

The provisions of Act 1937, June 3, P.L. 1333, No. 320 (25 P.S. § 2600 et seq.) are not deemed to be suspended or affected by the Rules of Appellate Procedure. See Pa.R.A.P., Rule 5102(b), 42 Pa.C.S.A.

Saved from Repeal

Act 1961, Sept. 30, P.L. 1778, relating to lobbying, and incorporated in sections 148.1 to 148.9 of Title 46, Legislature and Statutes, provided in section 8 (section 148.8 of Title 46, Legislature and Statutes), that "The provisions of this act [sections 148.1-148.9] shall not apply to practices or activities regulated by the act of June 3, 1937 (P.L. 1333), known as the 'Pennsylvania Election Code,' nor to be construed as repealing any of the provisions of that act."

Sections 2600 et seq. of this title are not repealed by either the County Code or the Second Class County Code. See sections 103 and 3103 of Title 16, Counties.

Cross References

Borough officers, election, see 53 P.S. § 45801 et seq.
Cities of the Third Class, officers, election, see 53 P.S. § 35701 et seq.
Constables, election, see 13 P.S. § 1 et seq.
Constitutional amendments, conduct of elections, see 1 Pa.C.S.A. § 902.
Constitutional provisions, see Const. Art. 7, § 1 et seq.
District justices, election, see 42 Pa.C.S.A. § 1511 et seq.
Holidays, election days, see 44 P.S. §§ 11, 21.
Incorporated towns, officers, election, see 53 P.S. § 53151 et seq.
Libraries, election concerning, see 24 P.S. § 4402.
School directors, election, see 24 P.S. § 3-301 et seq.
Townships of the First Class, officers, election, see 53 P.S. § 55501 et seq.
Townships of the Second Class, officers, election, see 53 P.S. § 65401 et seq.

Pennsylvania Code References

Voting rights, see 4 Pa. Code § 171.1 et seq.

Library References

P.L.E. Elections § 1 et seq.

§ 2600. Election laws codified

The laws relating to general, municipal, special and primary elections, the nomination of candidates, primary and election expenses and election contests are hereby codified, revised and consolidated as follows:

1937, June 3, P.L. 1333, § 1.

Historical and Statutory Notes

Title of Act:

An Act concerning elections, including general, municipal, special and primary elections, the nomination of candidates, primary and election expenses and election contests; creating and defining membership of county boards of elections; imposing duties upon the Secre-

tary of the Commonwealth, courts, county boards of elections, county commissioners; imposing penalties for violation of the act, and codifying, revising and consolidating the laws relating thereto; and repealing certain acts and parts of acts relating to elections. 1937, June 3, P.L. 1333.

Library References

Elections ⇐1.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 1, 2.
P.L.E. Elections § 1 et seq.

Notes of Decisions

Validity 1

1. Validity

Overall scheme of Pennsylvania Election Code does not so favor Democratic

and Republican parties as to be invalid in its totality. Patriot Party of Pennsylvania v. Mitchell, E.D.Pa.1993, 826 F.Supp. 926.

ARTICLE I. PRELIMINARY PROVISIONS

Library References

Elections ⇐1.
WESTLAW Topic No. 144.
C.J.S. Elections §§ 1, 2.

§ 2601. Short title

This act shall be known, and may be cited, as the "Pennsylvania Election Code."

1937, June 3, P.L. 1333, art. I, § 101.

§ 2602. Definitions

The following words, when used in this act, shall have the following meanings, unless otherwise clearly apparent from the context:

(a) The word "**candidate**" shall, unless the context otherwise requires, include both candidates for nomination and election.

(a.1) "**Canvass**" includes gathering the ballots after the election and counting, computing and tallying the votes.

(b) The word "**county**" shall mean any county of this Commonwealth.

(c) The words "**county board**" or "**board**" shall mean the county board of elections of any county herein provided for.

(d) The words "**district election board**" or "**election board**" shall mean the election officers required to conduct primaries and elections in any election district in accordance with the provisions of this act.

(e) The words "**district register**" shall mean the cards containing all or any part of the registry list of qualified electors of the same election district, as prepared by the registration commissions.

(f) The word "**election**" shall mean any general, municipal, special or primary election, unless otherwise specified.

(g) The words "**election district**" shall mean a district, division or precinct, established in accordance with the provisions of this act, within which all qualified electors vote at one polling place.

(h) The words "**general election**" shall mean the election which the Constitution of this Commonwealth requires to be held in even-numbered years.

(i) The words "**independent nomination**" shall mean the selection by an independent political body, in accordance with the provisions of this act, of a candidate for a public office authorized to be voted for at an election.

(j) The words "**municipal election**" shall mean the election which the Constitution of this Commonwealth requires to be held in odd-numbered years.

(k) The word "**nomination**" shall mean the selection, in accordance with the provisions of this act, of a candidate for a public office authorized to be voted for at an election.

(l) The words "**November election**" shall mean either the general or municipal election, or both, according to the context.

(m) The word "**oath**" shall include affirmation and the word "**swear**" shall include affirm.

(n) The word **“party”** shall mean a political party, as defined in section 801 of this act.¹

(o) The words **“party nomination”** shall mean the selection by a political party, in accordance with the provisions of this act, of a candidate for a public office authorized to be voted for at an election.

(p) The words **“political body”** shall mean an independent body of electors, as defined in section 801 of this act.

(q) The words **“polling place”** shall mean the room provided in each election district for voting at a primary or election.

(r) The words **“primary”** or **“primary election”** shall mean any election held for the purpose of electing party officers and nominating candidates for public offices to be voted for at an election.

(r.1) **“Public institution”** means institutions primarily maintained by the Federal, State or local governments and includes but is not limited to veterans' hospitals and homes, State hospitals, poor houses and county homes.

(s) The words **“public office”** shall include every public office to which persons can be elected by a vote of the electors under the laws of this State.

(t) The words **“qualified elector”** shall mean any person who shall possess all of the qualifications for voting now or hereafter prescribed by the Constitution of this Commonwealth, or who, being otherwise qualified by continued residence in his election district, shall obtain such qualifications before the next ensuing election.

(u) The words **“registered and enrolled member of a political party”** shall mean any qualified elector who shall be registered according to political designation, in accordance with the provisions of the registration acts.

(v) The words **“special election”** shall mean any election other than a regular general, municipal or primary election.

(w) The words **“qualified absentee elector”** shall mean:

(1) Any qualified elector who is or who may be in the military service of the United States regardless of whether at the time of voting he is present in the election district of his residence or is within or without this Commonwealth and regardless of whether he is registered or enrolled; or

(2) Any qualified elector who is a spouse or dependent residing with or accompanying a person in the military service of the United States if at the time of voting such spouse or dependent is absent from the State or county of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is

entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(3) Any qualified elector who is or who may be in the service of the Merchant Marine of the United States if at the time of voting he is absent from the State or county of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(4) Any qualified elector who is a spouse or dependent residing with or accompanying a person who is in the service of the Merchant Marine of the United States if at the time of voting such spouse or dependent is absent from the State or county of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(5) Any qualified elector who is or who may be in a religious or welfare group officially attached to and serving with the armed forces if at the time of voting he is absent from the state or county of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(6) Any qualified elector who is a spouse or dependent residing with or accompanying a person in a religious or welfare group officially attached to and serving with the armed forces if at the time of voting such spouse or dependent is absent from the State or county of his residence: Provided however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(7) Any qualified elector who expects to be or is outside the territorial limits of the several States of the United States and the District of Columbia because his duties, occupation or business require him to be elsewhere during the entire period the polls are open for voting on the day of any primary or election or who is or who may be a civilian employee of the United States outside the territorial limits of the several States of the United States and the District of Columbia, whether or not such elector is subject to civil-

service laws and the Classification Act of 1949 and whether or not paid from funds appropriated by the Congress, if at the time of voting he is absent from the State or county of his residence: Provided, however, That said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(8) Any qualified elector who is a spouse or dependent residing with or accompanying a person who expects to be or is outside the territorial limits of the several States of the United States and the District of Columbia because his duties, occupation or business require him to be elsewhere during the entire period the polls are open for voting on the day of any primary or election or who is a spouse or dependent residing with or accompanying a person who is a civilian employee of the United States outside the territorial limits of the several States of the United States and the District of Columbia whether or not such person is subject to civil-service laws and the Classification Act of 1949 and whether or not paid from funds appropriated by the Congress if at the time of voting such spouse or dependent is absent from the State or county of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(9) Any qualified war veteran elector who is bedridden or hospitalized due to illness or physical disability if he is absent from the Commonwealth or county of his residence and unable to attend his polling place because of such illness or physical disability regardless of whether he is registered and enrolled; or

(10) Any qualified, registered and enrolled elector who expects to be or is absent from the Commonwealth or county of his residence because his duties, occupation or business require him to be elsewhere during the entire period the polls are open for voting on the day of any primary or election; or

(11) Any qualified, registered and enrolled elector who is unable to attend his polling place because of illness or physical disability; or

(12) Any qualified, registered and enrolled elector who is a spouse or dependent accompanying a person employed in the service of this Commonwealth or in the service of the Federal Government within the territorial limits of the several States of the United States and the District of Columbia in the event the duties, profession or occupation

of such person require him to be absent from the Commonwealth or county of his residence; or

(13) Any qualified elector who is a county employe who cannot vote due to duties on election day relating to the conduct of the election; or

(14) Any qualified elector who will not attend a polling place because of the observance of a religious holiday:

Provided, however, That the words **“qualified absentee elector”** shall in nowise be construed to include persons confined in a penal institution or a mental institution nor shall it in anywise be construed to include a person not otherwise qualified as a qualified elector in accordance with the definition set forth in section 102(t) of this act.

(x) The words **“members of the merchant marine of the United States”** mean persons (other than persons in military service) employed as officers or members of crews of vessels documented under the laws of the United States or of vessels owned by the United States or of vessels of foreign flag registry under charter to or control of the United States, and persons (other than persons in military service) enrolled with the United States for employment or for training for employment or maintained by the United States for emergency relief service as officers or members of crews of any such vessels, but does not include persons so employed or enrolled for such employment or for training for employment or maintained for such emergency relief on the Great Lakes or the Inland waterways.

(y) The word **“dependent”** means any person who is in fact a dependent.

(z) The words **“person authorized to administer oaths”** shall mean any person who is a commissioned officer in military service or any member of the merchant marine of the United States designated for this purpose by the United States Secretary of Commerce or any civilian official empowered by any State or Federal law to administer oaths.

(z-1) The words **“in military service”** shall mean the uniformed services as defined in section 102 of the Career Compensation Act of 1949 (63 Stat. 804, U.S. Code, Title 37 Par. 231).²

(z-2) Repealed. 1968, Dec. 11, P.L. 1183, No. 375, § 2.

(z-3) The words **“duties, occupation or business”** shall include leaves of absence for teaching or education, vacations, sabbatical leaves, and all other absences associated with the elector’s duties, occupation or business, and also include an elector’s spouse who accompanies the elector.

1937, June 3, P.L. 1333, art. I, § 102. Amended 1941, Aug. 1, P.L. 672, § 1; 1945, March 9, P.L. 29, § 1; 1951, March 6, P.L. 3, §§ 1, 2; 1960, Jan. 8,

P.L. (1959) 2135, § 1; 1963, Aug. 13, P.L. 707, §§ 1, 2, effective Jan. 1, 1964; 1968, Dec. 11, P.L. 1183, No. 375, §§ 1 to 3; 1986, May 5, P.L. 150, No. 47, § 1, imd. effective; 1990, Dec. 17, P.L. 681, No. 169, § 1, effective in 60 days.

¹ 25 P.S. § 2831.

² 37 U.S.C.A. § 101.

Historical and Statutory Notes

The 1986 amendment in the definition of "qualified absentee elector" added subds. (13) and (14).

The 1990 amendment, in the definition of "qualified absentee elector", in subd. (7) inserted the provision relating to an elector who expects to be outside the

United States because of his duties, occupation or business, and in subd. (8) inserted the provision relating to an elector who is a spouse or dependent residing with or accompanying a person who expects to be outside the United States because of his duties, occupation or business.

United States Supreme Court

Convicted felons, disenfranchisement, equal protection, see *Richardson v. Ra-*

mirez, U.S.Cal.1974, 94 S.Ct. 2655, 418 U.S. 24, 41 L.Ed.2d 551.

Notes of Decisions

- Absentee electors** 4
- Candidate** 1
- Confined persons** 5
- Elector** 3
- Military service** 6
- Special election** 2
- Veterans** 7

that section. *Kram v. Kane*, 8 A.2d 398, 336 Pa. 113, 1939.

3. Elector

Word "elector" is used in the sense of one qualified to vote at the election and therefore one who at the time of signing the petition for the referendum was a registered voter, since otherwise the commissioners have no way of ascertaining whether the requisite number of signers are electors. *Aukamp v. Diehm*, 8 A.2d 400, 336 Pa. 118, 1939.

1. Candidate

"Candidate" includes one who is a candidate for nomination for President of the United States. *Rowland v. Smith*, 83 D. & C. 99, 1954.

2. Special election

Where a proposition, such as whether to discontinue use of voting machines, to which proposition statutory provision requiring a majority vote relates, is to be submitted at a general election, the submission of the proposition is regarded as a "special election" for that purpose, and votes cast thereon are considered separately and apart from any votes cast for candidates for office or upon other questions. *Munce v. O'Hara*, 16 A.2d 532, 340 Pa. 209, 1941.

This section, defining a "primary election" does not include within its definition a referendum of the question of granting liquor licenses; such referendum being a "special election" within

4. Absentee electors

Students in full time attendance at educational institutions may qualify as "absentee electors" under this section. 1960 Op.Att'y.Gen. No. 213.

5. Confined persons

Class action by pretrial detainees, unable to make bail or held on charges of nonbailable offenses, challenging Pennsylvania election laws which, as applied, prevented them from registering or voting by absentee ballot or otherwise, required convening of three-judge court, despite earlier Supreme Court decision that statutes of another state, denying prisoners' right to vote by absentee ballot, were valid. *Goosby v. Osser*, 93 S.Ct. 854, 409 U.S. 512, 35 L.Ed.2d 36, 1973.

Provisions of this section which required that absentee ballots not be made available to those confined in a penal institution or mental institution did not violate the equal protection clause. *Goosby v. Osser*, 452 F.2d 39, C.A.1971, reversed on other grounds 93 S.Ct. 854, 409 U.S. 512, 35 L.Ed.2d 36.

Sections 2602 and 3146.1 of this title which excepted those confined in penal institution from definition of "qualified absentee elector," do not violate Const. Art. 7, § 1 providing that every citizen who meets certain age and residency requirements shall be entitled to vote at all elections subject to laws requiring and regulating registration of electors as General Assembly may enact. *Martin v. Haggerty*, 548 A.2d 371, 120 Pa.Cmwlth. 134, 1988, appeal denied 554 A.2d 512, 520 Pa. 621.

Exclusion of "persons confined in a penal institution" from qualifying as absentee electors shall apply only to inmates convicted for felonies, but convicted misdemeanants and pretrial detainees shall be entitled to register and vote during confinement in penal institution. 1974 Op.Atty.Gen. No. 47.

Denial of an absentee ballot to a mentally disabled, institutionalized person does not prohibit that person from voting at his place of institutional residence. 1973 Op.Atty.Gen. No. 48.

6. Military service

A qualified elector in military service must be such at the time of the election in which he proposes to vote, to be included within the provisions of this section. *Appeal of Wenner*, 54 D. & C. 223, 22 Leh. L.J. 1, 1946.

7. Veterans

The Act of March 6, 1951, P.L. 3, passed under authority of Const. Art. 8, § 18, does not grant to disabled veterans the right to use an absentee ballot where their disability is not the direct result of their military service. *Franchise of Hospitalized Veterans*, 77 D. & C. 237, 99 P.L.J. 341, 1952.

Only those veterans who are hospitalized and bedridden directly as a result of military service, and who are unavoidably absent from the state or county of their residence are entitled to an absentee ballot. *In re Franchise of Hospitalized Veterans*, 77 D. & C. 237, 99 P.L.J. 341, 1951.

§ 2603. Construction

(a) The provisions of this act are severable, and if any article, section or clause of this act, or part thereof, is held to be unconstitutional, the decision shall not be construed to affect or invalidate any other provisions of this act, or the act as a whole. It is hereby declared as the legislative intent that this act would have been adopted had such unconstitutional provision not been included therein.

(b) The provisions of this act, so far as they are the same as those of existing laws, are intended as a continuation of such laws, and not as new enactments. The repeal by this act of any act of Assembly, or part thereof, shall not revive any act, or part thereof, heretofore repealed or superseded. The provisions of this act shall not affect any act done, liability or penalty incurred, right accrued or vested, or nomination made prior to the taking effect of this act, nor shall they affect any suit or prosecution then pending or to be instituted to enforce any right or penalty then accrued or to punish any offense theretofore committed. Any person holding office under any act of Assembly repealed by this act shall continue to hold such office until

the expiration of the term thereof, subject to the conditions attached to such office prior to the passage of this act.

(c) Whenever in this act reference is made to any other act by title, such reference shall be construed to apply to, and include any codification or other act of Assembly wherein the provisions of the act referred to are substantially re-enacted.

(d) Whenever the masculine gender is used in this act, it shall be construed to include the feminine.

(e) In determining or reckoning any period of time mentioned in this act, the day upon which the act is done, paper filed, or notice given, shall be excluded from, and the date of the primary, election, hearing or other subsequent event, as the case may be, shall be included in the calculation or reckoning: Provided, however, That if the last day upon which any act may be done, paper filed, or notice given, shall fall on a Sunday or a legal holiday, the next following ordinary business day shall be considered as the last day for said purpose.

1937, June 3, P.L. 1333, art. I, § 103.

Library References

Elections \supset 10.
WESTLAW Topic No. 144.

C.J.S. Elections § 7.
P.L.E. Elections § 3.

Notes of Decisions

In general 1
Construction with other laws 2
Repeals 3

1. In general

Election code should be liberally construed so as not to deprive a candidate of right to run for office or voters of right to elect candidate of their choice, given Pennsylvania's longstanding and overriding policy of protecting elective franchise. *Petition of Cioppa*, 626 A.2d 146, Sup.1993.

Election Code must be liberally construed so as not to deprive an individual of his right to run for office, or the voters of their right to elect a candidate of their choice. In re *Nomination Certificate of Luzerne County Democratic executive Committee*, 436 A.2d 263, 62 Pa.Cmwlt. 277, 1981.

The election code reflects a clear intention of the legislature to expeditiously dispose of objections and to provide for prompt certification of the vote, and this

is particularly true in primary elections where the results must be finalized in sufficient time to enable the election machinery to be readied for the general election. *Petition of Jones*, 346 A.2d 260, 464 Pa. 152, 1975.

To obtain freedom of choice between candidates, a fair election and an honest election return, were the purposes and objectives of the election code in accord with sound public policy. *Perles v. Hoffman*, 213 A.2d 781, 419 Pa. 400, 1965.

Technicalities of the Election Code are necessary for preservation of secrecy and purity of the ballot and must therefore be meticulously observed. In re *Election of Supervisor in Springfield Tp., Mercer County*, 159 A.2d 901, 399 Pa. 37, 1960.

Election laws will be strictly enforced to prevent fraud, but ordinarily will be construed liberally in favor of the right to vote. *Appeal of James*, 105 A.2d 64, 377 Pa. 405, 1954.

Elections and their regulations are exclusively for the legislature. In re *Elec-*

tion of Tax Collector, Horsham Tp., 51 A.2d 692, 356 Pa. 60, 1947.

The Legislature owes duty to provide regulations for elections to public office by appropriate legislation. *Thompson v. Morrison*, 44 A.2d 55, 352 Pa. 616, 1945.

The main purpose of Election Code of 1937 was to enact a general code governing all elections, general, municipal, special and primary, providing for machinery and modus operandi of such elections, where they are to be held, when they shall be held, selection of election officers, qualifications of electors, nomination of candidates, preparation of ballots, use of voting machines, preparation for and conduct of primaries and elections, returns of primaries and elections, primary and election expenses, recounts and contests, and all other matters relating to the holding and conducting of such elections. *Com. v. Brown*, 28 A.2d 259, 149 Pa.Super. 130, 1942, reversed on other grounds 29 A.2d 793, 346 Pa. 192.

Where words employed in a statute had, at the time of its enactment, acquired a definite meaning as result of judicial interpretation of prior statutes on the same subject, such words were to be given a similar interpretation in the new statute. *In re Laub*, 21 A.2d 575, 145 Pa.Super. 513, 1941.

The purpose of election laws is the obtaining of a fair election and an honest

election return. *Oncken v. Ewing*, 8 A.2d 402, 336 Pa. 43, 1939.

The law contained in general revision of Election Code would be deemed the same as it was prior to revision in absence of evidence of clear intention to change law. *In re Opening of Ballot Box in Third Election Dist. of Forty-First Ward*, 195 A. 890, 328 Pa. 535, 1938.

2. Construction with other laws

Ethics Act does not preempt the Election Code. *Com., State Ethics Com'n v. Cresson*, 597 A.2d 1146, 528 Pa. 339, 1991.

Aspects of the Election Code and Ethics Act which relate to the same subject matter, i.e., requirements for filing a nomination petition, are *in pari materia* and must be construed together. *Com., State Ethics Com'n v. Cresson*, 597 A.2d 1146, 528 Pa. 339, 1991.

3. Repeals

Section 12124 of Title 53, Municipal and Quasi-Municipal Corporations, insofar as it creates a right to vote for a successor upon the occurrence of a vacancy in the office of mayor of Philadelphia, is organic and substantive and is not repealed by this section et seq., which sets up machinery for the conduct of elections by way of consolidation and codification of earlier laws. *Watson v. Witkin*, 43 D. & C. 489, 1942, reversed on other grounds 22 A.2d 17, 343 Pa. 1.

§ 2604. Acts done on legal holidays and Sundays

No part of any day fixed for the performance of any duties by any person or official under this act shall be deemed a Sunday or a legal holiday so as to affect the legality of any work done for the purpose of carrying out the provisions hereof, or the right of any person to any compensation provided for herein for rendering any service required hereby, or so as to relieve any person from doing on such day whatever is necessary for such purposes, and such services are hereby declared to be necessary public services.

1937, June 3, P.L. 1333, art. I, § 104.

Library References

Time \Leftrightarrow 10(1).
WESTLAW Topic No. 378.

C.J.S. Time § 14(1).
P.L.E. Time § 21.

§ 2605. Effective date

Except as otherwise provided herein, this act shall be in force and take effect from and after its final enactment.

1937, June 3, P.L. 1333, art. I, § 105.

§ 2606. Publication of notices

Whenever under the provisions of this act ¹ notice is required to be given by newspaper publication in any county or in any municipal subdivision thereof, such notice shall be published in at least two and not more than three newspapers of general circulation as defined in the "Newspaper Advertising Act," approved May 16, 1929 (Pamphlet Laws 1784).² At least one of said newspapers shall represent the majority party, and at least one shall represent the minority party, if there be that many published within the limits of such county or municipal subdivision. If there are not two such newspapers, then publication shall be made in at least either one newspaper of general circulation representing the majority party or at least one newspaper of general circulation representing the minority party, whichever is published in such county, and at least one newspaper of general circulation representing the other party published in an adjacent county and circulating in such county or municipal subdivision in which such notice is required to be published: Provided, however, That if in any such county, or in any municipal subdivision thereof, there are at least three newspapers of general circulation published within the limits of such county or municipal subdivision, the foregoing provisions of this section shall be deemed complied with if publication shall be made in all of the said newspapers in the county or municipal subdivision, notwithstanding that all such newspapers may represent either the majority party or the minority party. Whenever such notice relates to any matter or proceeding in court or to the sale of bonds or increase of indebtedness, the same shall also be published in the legal newspaper, if any in the proper county, provided publication can be made therein on the same day or days as publication is made in newspapers of general circulation.

1937, June 3, P.L. 1333, art. I, § 106. Amended 1947, June 28, P.L. 1057, § 1.

¹ 25 P.S. § 2601 et seq.

² 45 P.S. § 2 et seq. (repealed; see, now, 45 Pa.C.S.A. § 301 et seq.).

Library References

Elections ⇨39.
WESTLAW Topic No. 144.

C.J.S. Elections § 71.
P.L.E. Elections § 10.

Notes of Decisions

In general 1

1. In general

A notice that an election will be held "at the usual polling places", while not in strict compliance with this section, is sufficient where the township polling place has been at the same location for more than 50 years. Appeal of Kimmell, 52 D. & C. 279, 1945, appeal dismissed 41 A.2d 436, 157 Pa.Super. 59.

A notice that "the question of local option" is to be voted on at an ensuing primary election "both as regards liquor and malt beverages" sufficiently informs the eligible voters as to the subject matter of the referendum, although the text of

the question to be submitted is not set forth in compliance with this section. Appeal of Kimmell, 52 D. & C. 279, 1945, appeal dismissed 41 A.2d 436, 157 Pa.Super. 59.

Notice of a local option referendum by publication once a week for two successive weeks more than 10 days before the election, although not during the two successive weeks immediately prior thereto, is in substantial compliance with this section; the time of publication is not so fundamentally of the essence of the statutory requirement as to invalidate an election because the notice appeared about seven weeks before. Appeal of Kimmell, 52 D. & C. 279, 1945, appeal dismissed 41 A.2d 436, 157 Pa.Super. 59.

ARTICLE II. THE SECRETARY OF THE COMMONWEALTH

§ 2621. Powers and duties of the secretary of the commonwealth

The Secretary of the Commonwealth shall exercise in the manner provided by this act all powers granted to him by this act, and shall perform all the duties imposed upon him by this act, which shall include the following:

(a) To determine, in accordance with the provisions of this act, the forms of nomination petitions and papers, expense accounts and all other forms and records, the form of which he is required to determine under the provisions of this act.

(b) To examine and reexamine voting machines, and to approve or disapprove them for use in this State, in accordance with the provisions of this act.

(c) To certify to county boards of elections for primaries and elections the names of the candidates for President and Vice-President of the United States, presidential electors, United States senators, representatives in Congress and all State offices, including senators, representatives, and judges of all courts of record, and delegates and alternate delegates to National conventions, and members of State committees, and the form and wording of constitutional amendments or other questions to be submitted to the electors of the State at large.

(d) To receive and determine, as hereinafter provided, the sufficiency of nomination petitions, certificates and papers of candidates for President of the United States, presidential electors, United States senators, representatives in Congress and all State offices, including senators, representatives and judges of all courts of record, and

delegates and alternate delegates to National Conventions and members of State committees.

(e) To receive such reports from county boards of elections as are required by this act, and to demand such additional reports on special matters as he may deem necessary.

(f) To receive from county boards of elections the returns of primaries and elections, to canvass and compute the votes cast for candidates and upon questions as required by the provisions of this act; to proclaim the results of such primaries and elections, and to issue certificates of election to the successful candidates at such elections, except in cases where that duty is imposed by law on another officer or board.

(g) To perform such other duties as may be prescribed by law. 1937, June 3, P.L. 1333, art. II, § 201.

Pennsylvania Code References

Political contributions, see 4 Pa. Code
§ 174.1 et seq.

Library References

Elections ⇨54.
WESTLAW Topic No. 144.

C.J.S. Elections § 54 et seq.
P.L.E. Elections § 6.

Notes of Decisions

Actions 1

1. Actions

Secretary of the Commonwealth was subject to suit by expelled member of State House of Representatives, who sought reinstatement and back pay, notwithstanding objection that secretary's duties on receipt of a writ of election are merely ministerial since central purpose of the equity action was to obtain an order voiding the writ of election; if that action succeeded and the writ be struck down, plaintiff would need relief against the secretary's continued actions, in reli-

ance on the writ. *Sweeney v. Tucker*, 351 A.2d 308, 22 Pa.Cmwlth. 642, 1976, affirmed 375 A.2d 698, 473 Pa. 493.

Equity has no jurisdiction to require Secretary of Commonwealth to reject nomination petitions of candidates for offices of Superior Court judges because of deviation of candidates' appended affidavits from form required by statute and prescribed by Secretary, in view of complete and adequate remedy under Election Code by presentation of petitions in common pleas court of county wherein nomination petitions were filed to set them aside. *Thompson v. Morrison*, 44 A.2d 55, 352 Pa. 616, 1945.

§ 2621.1. Explanation of ballot question

Whenever a proposed constitutional amendment or other State-wide ballot question shall be submitted to the electors of the Commonwealth in referendum, the Attorney General shall prepare a statement in plain English which indicates the purpose, limitations and effects of the ballot question on the people of the Common-

wealth. The Secretary of the Commonwealth shall include such statement in his publication of a proposed constitutional amendment as required by Article XI of the Constitution of Pennsylvania. The Secretary of the Commonwealth shall certify such statement to the county boards of elections who shall publish such statement as a part of the notice of elections required by section 1201¹ or any other provision of this act. The county board of elections shall also require that at least three copies of such statement be posted in or about the voting room outside the enclosed space with the specimen ballots and other instructions and notices of penalties. In election questions which affect only one county or portion thereof, the county board of elections shall fulfill these requirements in the place of the Attorney General and the Secretary of the Commonwealth.

1937, June 3, P.L. 1333, No. 320, § 201.1, added 1986, Feb. 19, P.L. 29, No. 11, § 1, imd. effective.

¹ 25 P.S. § 3041.

§ 2622. Records and documents to be open to public inspection

The records of the Secretary of the Commonwealth and all returns, nomination petitions, certificates and papers, other petitions, accounts, contracts, reports and other documents and records in his custody shall be open to public inspection, and may be inspected and copied by any qualified elector of the State during ordinary business hours at any time when they are not necessarily being used by the Secretary of the Commonwealth, or his deputy or employes having duties to perform in reference thereto: Provided, however, That such public inspection thereof shall only be in the presence of the Secretary of the Commonwealth, or his deputy or one of his authorized employes, and shall be subject to proper regulation for safekeeping of the records and documents, and subject to the further provisions of this act.

1937, June 3, P.L. 1333, art. II, § 202.

Library References

P.L.E. Records § 5.

§ 2623. Preservation of records

All documents and records in the office of the Secretary of the Commonwealth shall be preserved therein for a period of two years, unless otherwise provided in this act.

1937, June 3, P.L. 1333, art. II, § 203.

Library References

Records ☞ 13.
WESTLAW Topic No. 326.

C.J.S. Records §§ 38, 40.
P.L.E. Records § 8.

ARTICLE III. COUNTY BOARDS OF ELECTIONS

§ 2641. County boards of elections; membership

(a) There shall be a county board of elections in and for each county of this Commonwealth, which shall have jurisdiction over the conduct of primaries and elections in such county, in accordance with the provisions of this act.

(b) In each county of the Commonwealth, the county board of elections shall consist of the county commissioners of such county ex officio, or any officials or board who are performing or may perform the duties of the county commissioners, who shall serve without additional compensation as such. Except in counties of the first class, in counties which have adopted home rule charters or optional plans the board of elections shall consist of the members of the county body which performs legislative functions unless the county charter or optional plan provides for the appointment of the board of elections. In either case, there shall be minority representation on the board. The county body which performs legislative functions shall in the case where the board does not contain minority representation appoint such representation from a list submitted by the county chairman of the minority party.

(c) Whenever a member of the board of county commissioners is a candidate for nomination or election to any public office, the President Judge of the Court of Common Pleas shall appoint a judge or an elector of the county to serve in his stead. Whenever there appears on the ballot a question relating to the adoption of a Home Rule Charter for the county or amendments to an existing county Home Rule Charter, the President Judge of the Court of Common Pleas shall appoint judges or electors of the county to serve in the stead of the county commissioners. Appointees who are not currently elected office holders shall receive compensation for such service as determined by the salary board plus mileage as specified by the county for expenses incurred when performing election board business.

1937, June 3, P.L. 1333, art. III, § 301. Amended 1976, Dec. 2, P.L. 1221, No. 269, § 1, imd. effective; 1978, June 1, P.L. 456, No. 58, § 1, imd. effective; 1979, July 21, P.L. 189, No. 63, § 1, imd. effective; 1982, June 10, P.L. 458, No. 135, § 1, effective in 60 days.

Historical and Statutory Notes

The 1976 amendment added subsec. (c).

The 1978 amendment in subsec. (b) added the second, third and fourth sentences.

The 1979 amendment rewrote subsec. (c) which formerly read:

“Whenever the members of the board of county commissioners are candidates for nomination or election to any public office or whenever there appears on the ballot a question relating to the adoption of a Home Rule Charter for the county or amendments to an existing county Home

Rule Charter, the county commissioners shall not sit as the county board of elections. The President Judge of the Court of Common Pleas shall appoint judges to serve as the county board of elections or where an insufficient number of judges are present, the president judge shall appoint a reputable elector of the county to serve as a member, with the judges on the county board of elections.”

The 1982 amendment in subsec. (c) provided for compensation of appointees who are not currently elected office holders.

Library References

Elections ⇨49.
WESTLAW Topic No. 144.

C.J.S. Elections § 56.
P.L.E. Elections § 6.

Notes of Decisions

In general 1
Candidates as members 2

1. In general

Since plaintiffs as residents and electors of councilmanic districts of city of Philadelphia were attacking use of state party lever which was required to be used pursuant to state election code, and since the ballot included elections for both statewide and local offices, the Philadelphia county board of elections and its chairman and commissioners were performing a state function when they placed a state party lever on voting machines and hence they were “state officers” within meaning of 28 U.S.C.A. § 2281 requiring a three-judge court. *De Felice v. Philadelphia Bd. of Ed.*, 306 F.Supp. 1345, D.C.1969, affirmed 432 F.2d 1358.

2. Candidates as members

Where two county commissioners, who by this section were specifically designat-

ed to serve as members of county board of elections were candidates for nomination in coming primary election, court of common pleas, though it had limited power under § 3153 of this title to appoint two members of court to serve as return board to compute and canvass returns of elections, exceeded its authority in designating three members of court to act as county board of elections. *In re Primary Election, 1963, Delaware County*, 191 A.2d 96, 411 Pa. 154, 1963.

Where all three members of the existing board of county commissioners are candidates at a primary election to succeed themselves and the only additional law judge of the county is likewise a candidate for nomination to that office, the president judge of the county, not a candidate in the election, is constituted as acting return board and acting county board of elections. *Petition of Harer*, 49 D. & C. 344, 1944.

§ 2642. Powers and duties of county boards

The county boards of elections, within their respective counties, shall exercise, in the manner provided by this act, all powers granted to them by this act, and shall perform all the duties imposed upon them by this act, which shall include the following:

(a) To investigate and report to the court of quarter sessions their recommendations on all petitions presented to the court by electors

for the division, redivision, alteration, change or consolidation of election districts, and to present to the court petitions for the division, redivision, alteration, change or consolidation of election districts in proper cases.

(b) To select and equip polling places.

(c) To purchase, preserve, store and maintain primary and election equipment of all kinds, including voting booths, ballot boxes and voting machines, and to procure ballots and all other supplies for elections.

(d) To appoint their own employes, voting machine custodians, and machine inspectors.

(e) To issue certificates of appointment to watchers at primaries and elections.

(f) To make and issue such rules, regulations and instructions, not inconsistent with law, as they may deem necessary for the guidance of voting machine custodians, elections officers¹ and electors.

(g) To instruct election officers in their duties, calling them together in meeting whenever deemed advisable, and to inspect systematically and thoroughly the conduct of primaries and elections in the several election districts of the county to the end that primaries and elections may be honestly, efficiently, and uniformly conducted.

(h) To prepare and publish, in the manner provided by this act, all notices and advertisements in connection with the conduct of primaries and elections, which may be required by law.

(i) To investigate election frauds, irregularities and violations of this act, and to report all suspicious circumstances to the district attorney.

(j) To receive and determine, as hereinafter provided, the sufficiency of nomination petitions, certificates and papers of candidates for county, city, borough, township, ward, school district, poor district, election offices, and local party offices required by law or by party rules to be filed with the board.

(k) To receive from district election officers the returns of all primaries and elections, to canvass and compute the same, and to certify, no later than the third Monday following the primary or election, the results thereof to the Secretary of the Commonwealth, as may be provided by law, and to such other authorities as may be provided by law. The certification shall include the number of votes received in each election district by each candidate for the General Assembly.

(l) To publicly announce by posting at its office the results of primaries and elections for county, city, borough, township, ward,

school district, poor district, election offices, and party offices, if any, and to issue certificates of election to the successful candidates for said offices.

(m) To prepare and submit, not less than twenty days prior to each primary, municipal and general election, a report to the Secretary of the Commonwealth in the form prescribed by him, which shall contain a statement of the total number of electors registered in each election district, together with a breakdown by party registration. Copies of said statement shall be furnished, upon request, to the county chairman of each political party and political body.

(n) To annually prepare and submit to the county commissioners or other appropriating authorities of the county an estimate of the cost of primaries and elections and of the expenses of the board for the ensuing fiscal year.

(o) To perform such other duties as may be prescribed by law. 1937, June 3, P.L. 1333, art. III, § 302. Amended 1943, May 21, P.L. 353, § 1; 1961, June 7, P.L. 243, § 1; 1965, Oct. 13, P.L. 579, § 1; 1965, Dec. 15, P.L. 1109, § 1.

¹ So in enrolled bill.

Cross References

Time of filing of nomination for election of candidates for government study commission for adoption of home rule charter, see 53 P.S. § 1-203.

Library References

Elections ⇨54.
WESTLAW Topic No. 144.

C.J.S. Elections § 54 et seq.
P.L.E. Elections § 6.

Notes of Decisions

- Actions 5
- Canvassing votes 4
- Governmental functions 1
- Laches 6
- Nomination petitions and papers 2
- Nonbinding referendum 3

County Bd. of Elections, 306 F.Supp. 1202, D.C.1969.

Duties of county board of elections as prescribed by election code are purely ministerial and allow for no exercise of discretion by board. *Shroyer v. Thomas*, 81 A.2d 435, 368 Pa. 70, 1951.

1. Governmental functions

Whether county board of elections and its chairman and commissioners be de-nominated as state or local officers, crucial issue for purpose of deciding whether a three-judge Federal district court should be convened is whether these officials are performing a local or state function in carrying out the actions which plaintiffs seek to enjoin. *Gilhool v. Chairman and Com'rs, Philadelphia*

A county was exercising a "governmental function" in conducting election and hence was not liable to voter injured by stumbling on portion of garage door while entering the voting place. *Kraeling v. Borough of Dormont*, 44 A.2d 274, 352 Pa. 644, 1945.

Section 2601 et seq., of this title, makes the county board of elections more than a mere ministerial body; it clothes the board with quasi-judicial functions. In

25 P.S. § 2642

ELECTION CODE

Note 1

re Whitpain Tp. Election Case, 45 D. & C. 279, 58 Montg. 291, 1942.

2. Nomination petitions and papers

The provisions of the election code respecting nomination papers clothe county board of elections with quasi judicial functions, hence make such board more than a mere ministerial body. In re Nomination Papers of American Labor Party, 44 A.2d 48, 352 Pa. 576, 1945.

The word "paper" in subdivision (j) of this section, includes a paper purporting to withdraw a nomination for public office, so that board may refuse to accept such paper, if satisfied that it is spurious or was fraudulently obtained, and mere physical receipt or filing thereof is not per se a legal determination of its sufficiency. Boord v. Maurer, 22 A.2d 902, 343 Pa. 309, 1942; Boord v. Maurer, 22 A.2d 905, 343 Pa. 315, 1942.

3. Nonbinding referendum

Election Code does not give election board discretion to place nonbinding referendum on ballot. Hempfield School Dist. v. Election Bd. of Lancaster County, 574 A.2d 1190, 133 Pa.Cmwlt. 85, 1990, appeal denied 581 A.2d 575, 525 Pa. 650.

4. Canvassing votes

Where write-in candidate's petition to cumulate was filed within five-day period after compilation of computation, election board was duty bound to delay final certification of primary election results until appropriate proceedings ensued to determine questions presented, and when second candidate personally appeared, 3 days after filing of the petition, and requested cumulation of his votes and canvass of vote for that office was still in progress, second candidate's petition could be considered. Appeal of Antonelli, 174 A.2d 107, 405 Pa. 179, 1961.

In event of filing of petition to cumulate, election board must ascertain through appropriate proceedings candidate for whom write-in votes were cast in primary election, before final certification is recorded. Appeal of Antonelli, 174 A.2d 107, 405 Pa. 179, 1961.

Canvassing and computing election returns by County Board of Elections necessarily embrace acts of discretion. Appeal of McCracken, 88 A.2d 787, 370 Pa. 562, 1952.

5. Actions

Writ of mandamus would not issue to compel county commissioners acting as registration commission and as board of elections of county to inspect conduct of primaries and elections and to investigate election frauds since such inspection and investigation involves a long series of continuous acts. Dorris v. Lloyd, 100 A.2d 924, 375 Pa. 474, 1954, certiorari denied 74 S.Ct. 632, 347 U.S. 936, 98 L.Ed. 1086.

Where county election board of Philadelphia designated date for examination and investigation into signing and preparation of nomination paper and certain persons who appeared before the board in response to its subpoena refused to answer certain questions, the common pleas court could not punish the parties for contempt. County Election Bd. of Philadelphia v. Rader, 58 A.2d 187, 162 Pa.Super. 499, 1948.

6. Laches

Board's non-compliance with subsection (l) of this section relieved contestant of charge of laches. In re Twenty-Sixth Election Dist., Second Ward, Borough of Lehigh, 41 A.2d 657, 351 Pa. 544, 1945.

§ 2643. Decisions by majority vote; employes

(a) All actions of a county board shall be decided by a majority vote of all the members, except as may be otherwise provided herein.

(b) Each county board may appoint a chief clerk, who shall have authority to administer oaths and to sign vouchers, and such other employes and assistants as, from time to time, the board may deem necessary to carry out the provisions of this act. The county board may appoint the chief clerk and other employes of the county

commissioners to act as such for the county board of elections without any additional compensation as such.

1937, June 3, P.L. 1333, art. III, § 303.

Library References

Elections ⇨54.
WESTLAW Topic No. 144.

C.J.S. Elections § 54 et seq.
P.L.E. Elections § 6.

§ 2644. Regulation; subpoenas; witnesses; fees

(a) Each county board of elections may make regulations, not inconsistent with this act or the laws of this Commonwealth, to govern its public sessions, and may issue subpoenas, summon witnesses, compel production of books, papers, records and other evidence, and fix the time and place for hearing any matters relating to the administration and conduct of primaries and elections in the county under the provisions of this act. All subpoenas issued by the county board shall be in substantially the same form and shall have the same force and effect as subpoenas issued by the court of common pleas of such county, and, upon application, the board shall be entitled to the benefit of the process of such court if necessary to enforce any subpoena issued by them. Each member of the county board shall have the power to administer oaths and affirmations. Each person testifying before any county board shall be first duly sworn or affirmed.

(b) Any person filing any petition with a county board or opposing the same shall have the privilege of having subpoenas issued by the board to compel the attendance of witnesses, upon condition that all witnesses so subpoenaed shall be paid witness fees, in the manner herein provided.

(c) Witnesses subpoenaed by the county board shall each also be entitled to daily witness fees at the rate aforesaid, to be paid by the board: Provided, however, That election officers, clerks, machine inspectors, overseers and watchers, when subpoenaed by the county board to appear before the board, sitting for the computation and canvassing of votes cast at an election, shall not be entitled to witness fees.

(d) No subpoena shall be issued for the benefit of any person other than the county board until he shall have paid the board a fee of twenty-five (.25) cents for issuing the same and deposited with the board one day's witness fees for each witness to be summoned thereby, whose names shall be given to the board and entered by it in such subpoena and among its records, and no such subpoena shall be effective to require the further attendance of any witness after the day mentioned therein, unless the hearing be postponed or continued

by the board, and unless, before four o'clock P.M. of said day, the person for whose benefit it be issued shall have deposited with the board an additional day's witness fees for each witness whose further attendance is desired. As soon as convenient after any hearing is concluded, postponed or continued on any day, the county board shall disburse the fees deposited with it by any persons aforesaid, among those witnesses who have appeared in response to subpoenas issued as aforesaid, and shall return to the person who deposited the same any fees deposited for others who did not attend, and shall also pay like fees to any witnesses summoned by the board as aforesaid, taking their receipts therefor, so long as there are sufficient funds available for such payments. The county board shall pay over to the county treasurer all fees received for subpoenas.

1937, June 3, P.L. 1333, art. III, § 304. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

Historical and Statutory Notes

The 1978 amendment in subsec. (b) deleted specification of the actual amount of witness fees.

Library References

Elections ⇨ 54.

Witnesses ⇨ 8, 16, 24.

WESTLAW Topic Nos. 144, 410.

C.J.S. Elections § 54 et seq.

C.J.S. Witnesses §§ 13, 19 et seq., 25, 35 et seq.

P.L.E. Elections § 6.

P.L.E. Witnesses §§ 3, 4, 9.

Notes of Decisions

In general 1

Actions 2

1. In general

This section makes county board of elections more than a mere "ministerial body", and clothes it with "quasi judicial functions". *Boord v. Maurer*, 22 A.2d 902, 343 Pa. 309, 1942; *Boord v. Maurer*, 22 A.2d 905, 343 Pa. 315, 1942.

2. Actions

This section means only that attachment of common pleas is available to compel appearance of a witness, and

does not authorize common pleas to punish summarily contempt committed before board. *County Election Bd. of Philadelphia v. Rader*, 58 A.2d 187, 162 Pa.Super. 499, 1948.

Where county election board of Philadelphia designated date for examination and investigation into signing and preparation of nomination paper and certain persons who appeared before the board in response to its subpoena refused to answer certain questions, the common pleas court could not punish the parties for contempt. *County Election Bd. of Philadelphia v. Rader*, 58 A.2d 187, 162 Pa.Super. 499, 1948.

§ 2645. Expenses of county boards and of primaries and elections to be paid by county; expenses of special elections; boards to be provided with offices

(a) The county commissioners or other appropriating authorities of the county shall appropriate annually, and from time to time, to the

county board of elections of such county, the funds that shall be necessary for the maintenance and operation of the board and for the conduct of primaries and elections in such county, including the payment of the compensation of the employes of the board, custodians, election officers, and other assistants and employes herein provided for, and the fees of witnesses as herein provided; for the purchase or printing, under contracts made by the board, of all ballots and other primary and election supplies required by this act, or which the board shall consider necessary to carry out the provisions of this act; for the purchase, under contracts made by the board, and maintenance, of voting machines, when adopted as herein provided, and of all other primary and election equipment required by this act, or which the board shall consider necessary to carry out the provisions of this act; for the publication of notices authorized by this act, under contracts made by the board, and for all other necessary expenses hereunder: Provided, however, That bonds or other evidences of indebtedness, payable not later than thirty years from their dates of issuance, may be issued by the county commissioners or other appropriating authorities of the county in accordance with the provisions of law relating to the increase of indebtedness of such county, to meet all or any part of the cost of voting machines.

1. The county shall be liable for the expenses of holding special elections for any city, borough, township, school district or other municipality or incorporated district contained therein, which is held on the day of any general, municipal or primary election, and on any special question which is required by law to be, or which is, at the discretion of the county board, as hereinafter provided, printed on the regular ballot after the list of the candidates, or on the same voting machine as the list of candidates.

2. Any city, borough, township, school district or other municipality or incorporated district contained in any county, holding a special election, as authorized by law, on the question of increase of indebtedness or any other question to be voted on by the electors of such subdivision, which special election is held on the day of any general, municipal or primary election and which is required by law to be conducted or at the discretion of the county board, as hereinafter provided, is conducted by special ballots for such question, shall be liable to the county for the expenses necessarily incurred in the printing of such special ballots.

3. If any other day than the day of any general, municipal or primary election be fixed by the corporate authorities of any municipality, school district or incorporated district for the holding of a special election on the question of increase of indebtedness or any

other question, as authorized by law, such municipality, school district or incorporated district shall be liable for and pay the entire expense of holding such election, including the cost of printing ballots and supplies, pay of election officers, the rental of polling places, and the cost of canvassing and computing the votes cast.

4. The Department of State shall reimburse county boards of election for those additional costs incurred by the county for any special election held to fill a vacancy in the Pennsylvania General Assembly. Only those costs which are attributable solely to the special election shall be reimbursed. Reimbursement shall not be denied because the special election is held on the same day as a general, municipal or primary election if the county can show that additional costs were incurred attributable solely to the special election. The Governor may, from time to time, allocate to the Department of State as much money from the General Fund as he deems necessary to permit the department to reimburse the counties for costs incurred in the special elections.

(b) The county commissioners or other appropriating authorities of the county shall provide the county board with suitable and adequate offices at the county seat, property furnished for keeping its records, holding its public sessions and otherwise performing its public duties, and shall also provide, such branch offices for the board in cities other than the county seat, as may be necessary.

(c) The Commonwealth shall reimburse each city of the first class and county for election expenses incurred in and incidental to preparing, handling, mailing, delivering, counting and storing official absentee ballots requested by any elector in military service, Federal employment overseas, Merchant Marine, and in any religious group or welfare agency assisting the Armed Forces, including spouses and dependents, and bedridden and hospitalized veterans as herein provided in the sum of sixty cents (60¢) for each such ballot mailed or delivered.

Each county board of elections shall file in the Department of State, not later than thirty days after every election, on a form prescribed by the Department of State, a statement of the number of ballots mailed or delivered in such manner as is now or may hereafter be provided by law to electors in actual military service, Federal employment overseas, Merchant Marine, and in any religious group or welfare agency assisting the Armed Forces, including spouses and dependents, and to bedridden or hospitalized veterans.

The Department of State shall ascertain and fix the amount due, as herein provided, to each city of the first class and county for election expenses incurred, and by requisition in the usual course shall provide for payment of such amounts so found due from moneys

appropriated to the Department of State for such purpose, or shall prorate the moneys so appropriated among the several cities of the first class and counties to be reimbursed, if the amount so appropriated shall not be sufficient for the payment in full to each city of the first class and county of the amount found to be due.

1937, June 3, P.L. 1333, art. III, § 305. Amended 1941, Aug. 1, P.L. 672, § 2; 1945, March 9, P.L. 29, § 2; 1951, March 6, P.L. 3, § 3; 1963, Aug. 13, P.L. 707, § 3, effective Jan. 1, 1964; 1965, Dec. 27, P.L. 1226, § 1; 1982, May 5, P.L. 374, No. 108, § 1, imd. effective; 1990, Dec. 17, P.L. 681, No. 169, § 1, effective in 60 days.

Historical and Statutory Notes

The 1982 amendment added subsec. (a)4. bursement amount from forty cents to sixty cents.

The 1990 amendment in the first paragraph of subsec. (c) increased the reim-

Library References

Counties ⇨158.
WESTLAW Topic No. 104.

C.J.S. Counties § 198.
P.L.E. Counties § 95.

Notes of Decisions

In general 1

1. In general

Under this section the county board of elections is more than a mere ministerial

body, and is empowered to hear testimony as to the identity of the candidate for whom votes have been cast under different names and upon proper evidence to cumulate those votes. *Petition of Harer*, 49 D. & C. 344, 1944.

§ 2646. Counsel; compensation; duties

The county solicitor shall serve as counsel for the county board in the several counties of the Commonwealth, and shall receive no compensation therefor in addition to his compensation as county solicitor. Such counsel shall advise the county board, from time to time, regarding its powers and duties, and the rights of candidates and electors, and concerning the best methods of legal procedure for carrying out the various provisions of this act, and shall appear for and represent the county board on all appeals taken from its decisions or orders to the court of common pleas, as herein provided.

1937, June 3, P.L. 1333, art. III, § 306.

Library References

District and Prosecuting Attorneys ⇨5(4), 8.
WESTLAW Topic No. 131.

C.J.S. District and Prosecuting Attorneys §§ 10, 14, 22, 23.
P.L.E. District Attorneys §§ 5, 6.

§ 2647. Acts of employes

The amending of any records by any employe of any county board of elections by order of such board shall be construed to have been done by the board itself, which shall likewise be responsible for the correction of any errors in the doing thereof.

1937, June 3, P.L. 1333, art. III, § 307.

Library References

Elections Ⓒ54.

WESTLAW Topic No. 144.

C.J.S. Elections § 54 et seq.

P.L.E. Elections § 6.

§ 2648. Records and documents to be open to public inspection; proviso

The records of each county board of elections, general and duplicate returns, tally papers, affidavits of voters and others, nomination petitions, certificates and papers, other petitions, appeals, witness lists, accounts, contracts, reports and other documents and records in its custody, except the contents of ballot boxes and voting machines and records of assisted voters, shall be open to public inspection, except as herein provided, and may be inspected and copied by any qualified elector of the county during ordinary business hours, at any time when they are not necessarily being used by the board, or its employes having duties to perform thereto: Provided, however, That such public inspection thereof shall only be in the presence of a member or authorized employe of the county board, and shall be subject to proper regulation for safekeeping of the records and documents, and subject to the further provisions of this act: And provided further, That general and duplicate returns, tally papers, affidavits of voters and others, and all other papers required to be returned by the election officers to the county board sealed, shall be open to public inspection only after the county board shall, in the course of the computation and canvassing of the returns, have broken such seals and finished, for the time, their use of said papers in connection with such computation and canvassing.

1937, June 3, P.L. 1333, art. III, § 308.

Library References

P.L.E. Records § 5.

Notes of Decisions

Actions 2
Records 1

2. Actions

1. Records

While voters' certificates are open to public inspection, they may not be so inspected until the County Election Board has finished its needed use of them in connection with the tabulation of votes. *Austin v. Dauphin County Bd. of Elections*, 79 D. & C. 562, 1953.

District election registers, required by paragraph (c) of § 3065 of this title to be sealed and locked, do not constitute records which are open to public inspection, although there may be instances when they should be unlocked and exhibited to parties having an appropriate interest. *Austin v. Dauphin County Bd. of Elections*, 79 D. & C. 562, 1953.

Court of common pleas had power to direct its prothonotary to permit counsel for election contestants to inspect and make copies of certain papers and records relating to contested election. In re Allegheny County Election, 171 A. 694, 314 Pa. 183, 1934.

Where complaint, requesting right to inspect voters' certificates and district registers, avers that they are not in constant use by the County Election Board which is tabulating the votes, and contest is a close one, court will, under the unusual circumstances, grant the request subject to right of county board to have order opened upon cause shown. *Austin v. Dauphin County Bd. of Elections*, 79 D. & C. 562, 1953.

§ 2649. Preservation of records

All documents, papers and records in the office of the county board of elections of each county shall be preserved therein for a period of at least eleven (11) months, and all official ballots and the contents of ballot boxes shall be preserved therein for a period of at least four (4) months; in the event the county board has been notified in writing by the district attorney of the county, or by a judge of a court of record, to preserve said papers or contents of ballot boxes for a longer period of time, for the purposes of pending prosecution or litigation, said records shall be preserved accordingly.

1937, June 3, P.L. 1333, art. III, § 309. Amended 1961, July 14, P.L. 648, § 1.

Library References

Records ↻13.
WESTLAW Topic No. 326.

C.J.S. Records §§ 34, 40.
P.L.E. Records § 8.

Notes of Decisions

In general 1

1. In general

The court of common pleas has no jurisdiction to direct the county board of elections to preserve the records relating to assisted voters at an election held more than 11 months previously, upon petition of an elector who states that an examination revealed numerous failures to return

the required records of assisted voters, and that he proposes to institute prosecutions against those judges of election who failed to make such returns. In re Primary Election of 1938, 36 D. & C. 631, 1940.

The county board of elections has a right to destroy all records of an election 11 months thereafter unless within that period it has been notified in writing by the district attorney or by a judge to

Note 1

preserve the records for the purpose of litigation or prosecution which is then actually pending. In re Primary Election of 1938, 36 D. & C. 631, 1940.

§ 2650. Watchers or attorneys at sessions of county board; candidates may be present

(a) Any party or political body or body of citizens which now is, or hereafter may be, entitled to have watchers at any registration, primary or election, shall also be entitled to appoint watchers who are qualified electors of the county or attorneys to represent such party or political body or body of citizens at any public session or sessions of the county board of elections, and at any computation and canvassing of returns of any primary or election and recount of ballots or recanvass of voting machines under the provisions of this act. Such watchers or attorneys may exercise the same rights as watchers at registration and polling places, but the number who may be present at any one time may be limited by the county board to not more than three for each party, political body or body of citizens.

(b) Every candidate shall be entitled to be present in person or by attorney in fact duly authorized, and to participate in any proceeding before any county board whenever any matters which may affect his candidacy are being heard, including any computation and canvassing of returns of any primary or election or recount of ballots or recanvass of voting machines affecting his candidacy.

(c) Any candidate, attorney or watcher present at any recount of ballots or recanvass of voting machines shall be entitled to examine the ballots, or the voting machine and to raise any objections regarding the same, which shall be decided by the county board, subject to appeal, in the manner provided by this act.

1937, June 3, P.L. 1333, art. III, § 310.

Library References

Elections § 54, 210.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 54 et seq., 200.

P.L.E. Elections §§ 8, 86.

§ 2651. Immunity from arrest

Members of county boards of elections, and custodians of voting machines shall be privileged from arrest while performing their duties as such under this act, except upon warrant of a court of record or judge thereof, for felony, for wanton breach of the peace or for a criminal violation of this act.

1937, June 3, P.L. 1333, art. III, § 311.

Library References

Arrest ⇨60.
WESTLAW Topic No. 35.

C.J.S. Arrest §§ 6, 10, 11.
P.L.E. Arrest § 36.

**§ 2652. Repealed. 1978, April 28, P.L. 202, No. 53,
§ 2(a)[1193], effective June 27, 1978**

Historical and Statutory Notes

The repealed section related to intervention in suits and was derived from act 1937, June 3, P.L.1333, § 312.

42, Judiciary and Judicial Procedure, of the Pennsylvania Consolidated Statutes Annotated.

For disposition of repealed subject matter, see Disposition Table preceding Title

ARTICLE IV. DISTRICT ELECTION OFFICERS**Cross References**

Election officers, see Const. Art. 7, § 11.

§ 2671. District election boards; election

All primaries and elections shall be conducted in each election district by a district election board consisting of a judge of election, a majority inspector of election and a minority inspector of election, assisted by clerks and machine inspectors in certain cases, as hereinafter provided. The judge and inspectors of election of each election district shall be elected by the electors thereof at the municipal election, and shall hold office for a term of four years from the first Monday of January next succeeding their election. Each elector may vote for one person as judge and for one person as inspector, and the person receiving the highest number of votes for judge shall be declared elected judge of election, the person receiving the highest number of votes for inspector shall be declared elected majority inspector of election, and the person receiving the second highest number of votes for inspector shall be declared elected minority inspector of election.

1937, June 3, P.L. 1333, art. IV, § 401. Amended 1947, May 9, P.L. 186, § 1; 1956, Feb. 10, P.L. (1955) 1019, § 1.

Library References

Elections ⇨51, 197.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 57 et seq., 192, 196.
P.L.E. Elections §§ 6, 7, 81 et seq.

Notes of Decisions

Removal of election officers 1

In re Carbondale Dist. Election Bd., 62 D. & C. 49, 49 Lack.Jur. 145, 1948.

1. Removal of election officers

District election officers are constitutional officers and are subject to removal from office only in the manner provided by the Constitution, and a court of quarter sessions has no jurisdiction to remove such an officer in a summary proceeding, however, such a court does have the power to declare that an individual may be disqualified as an election officer if he does not possess the requisite qualifications and to then declare the existence of a vacancy in the office. In re Removal of Minority Dist. Election Inspector, 1 D. & C.2d 783, 55 Lack.Jur. 253, 1954.

Evidence of past irregularity in conduct of elections primarily relating to illegal assistance was insufficient to persuade court to remove officers prior to an election, even if it had jurisdiction to do so.

Neither courts of quarter sessions nor courts of common pleas had jurisdiction summarily to remove district election officers, though court did have power to declare an officer disqualified or to cause an officer's arrest for violation of election laws and thus create a vacancy which court had power to fill to carry on election. In re Carbondale Dist. Election Bd., 62 D. & C. 49, 49 Lack.Jur. 145, 1948.

It was intention of act of 1945, April 3, P.L. 114, expired, to provide a two-year term for district election officers elected at municipal elections, and such officers were to be removed only in conformity with law as applied to duly elected officials. In re Carbondale Dist. Election Bd., 62 D. & C. 49, 49 Lack.Jur. 145, 1948.

§ 2672. Qualifications of election officers

Election officers shall be qualified registered electors of the district in which they are elected or appointed. No person shall be qualified to serve as an election officer who shall hold, or shall within two months have held, any office, appointment or employment in or under the Government of the United States or of this State or of any city or county or poor district, of any municipal board, commission or trust in any city, save only district justices, notaries public and persons in the militia service of the state; nor shall any election officer be eligible to any civil office to be voted for at a primary or election at which he shall serve, except that of an election officer. 1937, June 3, P.L. 1333, art. IV, § 402. Amended 1982, May 5, P.L. 374, No. 108, § 2, imd. effective.

Historical and Statutory Notes

The 1982 amendment substituted "or county or" for " , county, borough, township, incorporated town, school district,"

and substituted "district justices" for "justices of the peace and aldermen".

Library References

Elections ⇨51.
WESTLAW Topic No. 144.

C.J.S. Elections § 57 et seq.
P.L.E. Elections §§ 6 to 8.

Notes of Decisions

In general 1
 Candidates as officers 3
 Officers 2

1. In general

Where a district election officer lives and has been employed in another district for 12 years, his home is in the district of his employment, notwithstanding his intention not to give up his formal residence in the district in which he was elected, his owning property in the district in which his mother resides, or fact that his Federal income tax notices are sent to and returns filed from his address within the election district. In re Removal of Minority Dist. Election Inspector, 1 D. & C.2d 783, 55 Lack.Jur. 253, 1954.

2. Officers

A clerk for an election inspector is not "an election officer". Election of Lehigh-ton Borough, 71 D. & C. 31, 1950.

3. Candidates as officers

If election board officer were nominated for civil office at election for which officer was to serve as election officer,

officer would be ineligible to be candidate for election and objector could contest nomination as provided by Election Code. In re Ganzman, 574 A.2d 732, 133 Pa. Cmwlt. 33, 1990.

Political party office of ward executive committee person was not part of governmental structure and was not "civil office" as that term is employed in this section prohibiting election board officer from seeking "civil office" to be voted for at primary or election at which election officer shall serve, and thus election board officer was not barred by this section from seeking office. In re Ganzman, 574 A.2d 732, 133 Pa.Cmwlt. 33, 1990.

A petition to set aside the election of a township tax collector was granted where tax collector sat as a minority inspector in the polling place at the time of her election. Armstrong Tp. Tax Collector Election, 27 D. & C.2d 333, 1963.

Clerk of election board is not eligible to run for office to be filled at election at which he serves, and where he is elected as supervisor, election will be declared invalid at suggestion of district attorney. Com. v. Meeker, 15 D. & C. 189, 1930.

§ 2673. Tie votes for judge and inspector

If at any municipal election in any district there shall be a tie vote for the office of judge of election, the majority inspector of election elected at said election shall decide the tie vote. If at any municipal election in any district there is a tie vote for inspectors, the two candidates who receive the same number of votes shall determine by lot which of them shall be the majority inspector, and the other candidate shall be the minority inspector, and in case of a tie vote also for judge of election at said election, the tie shall be decided by the person so determined to be majority inspector. The county board shall be notified immediately upon the determination of any such tie vote.

1937, June 3, P.L. 1333, art. IV, § 403.

Library References

Elections ⇨51.
 WESTLAW Topic No. 144.

C.J.S. Elections § 57 et seq.
 P.L.E. Elections § 6.

§ 2674. Clerks of election, machine inspectors

Prior to the opening of the polls at each primary and election in districts in which voting machines are not used, each inspector shall

appoint one clerk to serve at such primary or election. One clerk shall be appointed by the minority inspector in each district in which a voting machine or machines are used, and in each district in which more than one voting machine is used, the county board of elections shall, prior to each primary and election, appoint for each additional voting machine to be used in such district, one qualified registered elector of the county to serve as machine inspector therein for such primary or election. The qualifications of clerks and machine inspectors shall be the same as herein provided for election officers. 1937, June 3, P.L. 1333, art. IV, § 404.

Library References

Elections \Rightarrow 126(3).
WESTLAW Topic No. 144.

C.J.S. Elections § 116.
P.L.E. Elections § 42.

§ 2675. Vacancies in election boards; appointment; judge and majority inspector to be members of majority party; minority inspector to be member of minority party

(a) Vacancies in election boards existing by reason of the disqualification, removal, resignation or death of an election officer, or from any other cause occurring prior to the day of any primary or election, shall, in all cases, be filled by appointment, by the court of the proper county, of competent persons, qualified in accordance with the provisions of this act, who shall serve for the unexpired term of the person whose place he is appointed to fill: Provided, however, That any district election officer who, after his election or appointment, changes his political affiliation, shall not thereby become disqualified to serve on said election board, and shall not thereby be subject to removal. In making such appointments, the court shall receive and consider any petitions filed by qualified electors of the district affected, and shall make no appointment to fill any vacancy occurring more than five days before any primary or election, unless notice of the time at which they will make such appointment shall have been posted on the polling place of such district, and in the immediate vicinity thereof, at least five days prior thereto. In the appointment of inspectors in any election district, both shall not be of the same political party at the time of said appointment, but one shall be of the party having the largest number of votes and the other shall be of the party having the second largest number of votes in said district at the last preceding November election, as nearly as the judge or judges can ascertain the fact. The judge of election shall, in all cases of appointment, be of the political party having the majority of votes in said district at the last preceding November election, as nearly as the judge or judges can ascertain the fact. Immediately upon the entry of an order of court filling any vacancy on an election board, the

clerk of said court shall forthwith transmit a certified copy of said order to the county board, giving the name and address of said appointee. Notwithstanding any provisions to the contrary, in counties which have adopted home rule charters or optional plans and which appoint the members of the county election board under section 301(b),¹ vacancies in the county board of elections shall be filled consistent with the provisions for appointment of county election board members under that section.

(b) The first election board for any new district shall be selected, by the court of the proper county, of competent persons, qualified in accordance with the provisions of this act, who shall serve until the next municipal election at which all election officials are elected under the provisions of section 401 of this act.²

1937, June 3, P.L. 1333, art. IV, § 405. Amended 1959, April 22, P.L. 55, § 1. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978. Amended 1978, June 1, P.L. 456, No. 58, § 2, imd. effective.

¹ 25 P.S. § 2641.

² 25 P.S. § 2671.

Historical and Statutory Notes

Act 1978, April 28, P.L.202, deleted references to the court of quarters sessions.

Act 1978, June 1, P.L. 456, deleted references to the court of quarter sessions

and in subsec. (a) added the provision for filling vacancies in counties which have adopted home rule charters or optional plans.

Cross References

Election officers to be appointed by the court of quarter sessions, on formation, alteration, etc., of district, see 25 P.S. § 2705.

Library References

Elections ⇄51, 52.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 57 to 60.

P.L.E. Elections § 7.

§ 2676. Election officers to be sworn

All judges, inspectors, clerks of election and machine inspectors shall, before entering upon their duties at any primary or election, be duly sworn in the presence of each other and of the watchers and overseers, if any. The judge shall first be sworn by the minority inspector or by a magistrate, alderman or justice of the peace, and the inspectors, clerks and machine inspectors shall then be sworn by the judge. Each of them shall forthwith sign in duplicate the oath taken by him upon forms to be furnished by the county board, and the same shall be attested by the officer who administered the oath.

1937, June 3, P.L. 1333, art. IV, § 406.

Historical and Statutory Notes

Section 3(d) of Act 1978, April 28, P.L. 202, No. 53 (the Judiciary Act Repealer Act) [42 P.S. § 20003(d)], provides:

"An express reference in any statute or other law to a justice of the peace or to the office of justice of the peace shall hereafter be deemed a reference to a dis-

trict justice or to the office of district justice. Any person appointed or elected to judicial office in a magisterial district shall be known as and hereafter shall be commissioned as the 'district justice' in and for the appropriate magisterial district."

Library References

Elections ⇨51, 126(3).
WESTLAW Topic No. 144.

C.J.S. Elections §§ 57 et seq., 116.
P.L.E. Elections § 6 et seq.

Notes of Decisions**In general 1****1. In general**

A minority candidate will not be declared elected by throwing out the vote of a district because one or more of the judges of election were not duly sworn or duly chosen, or did not possess all the necessary qualifications. In re Krickbaum's Contested Election, 70 A. 852, 221 Pa. 521, 1908.

Primary election officers are required to take an oath or affirmation as well as

to subscribe thereto and the taking must appear or be shown as well as the subscribing. Connell's Nomination, 27 C.C. 305, 1902.

The mere signing a blank form of oath without a jurat or any proof that an oath was actually taken is not sufficient. Connell's Nomination, 27 C.C. 305, 1902.

If the election officer neglect or refuse to take the oath required, the voters present at the polling place may elect others, and proceed with the election. Connell's Nomination, 27 C.C. 305, 1902.

§ 2677. Oath of judge of election

The following shall be the oath of each judge of election:

"I (John Doe) do swear (or affirm) that I will as judge duly attend the ensuing election (or primary) during the continuance thereof, and in cooperation with the inspectors, faithfully carry on the same; that I will not give my consent to the admission of any person to vote, except such as I firmly believe to be registered and entitled to vote at such election (or primary), according to the provisions of the Constitution and laws of this Commonwealth, and that I will use my best endeavors to prevent any fraud, deceit or abuse in carrying on the same, and that I will make a true and perfect return of the said election (or primary), and will at all times impartially and faithfully perform my duty respecting the same, to the best of my judgment and ability; and that I am not directly or indirectly interested in any bet or wager on the result of this election (or primary)."

1937, June 3, P.L. 1333, art. IV, § 407.

Library References

Elections ⇨51.
WESTLAW Topic No. 144.

C.J.S. Elections § 57 et seq.
P.L.E. Elections § 6.

§ 2678. Oaths of inspectors of election

The following shall be the form of the oath to be taken by each inspector:

“I (John Doe) do swear (or affirm) that I will as an inspector duly attend the ensuing election (or primary) during the continuance thereof, and that I will not admit any person to vote, except such as I shall firmly believe to be registered and entitled to vote at such election (or primary), according to the provisions of the Constitution and laws of this Commonwealth, that I will not vexatiously delay or refuse to permit any person to vote whom I shall believe to be entitled to vote as aforesaid, that I will make a true and perfect return of the said election (or primary), and that I will in all things truly, impartially and faithfully perform my duties therein, to the best of my judgment and ability; and that I am not directly or indirectly interested in any bet or wager on the result of this election (or primary).”

1937, June 3, P.L. 1333, art IV, § 408.

Library References

Elections ⇨51.
WESTLAW Topic No. 144.

C.J.S. Elections § 57 et seq.
P.L.E. Elections § 7.

Notes of Decisions

In general 1

1. In general

Minority inspector at primary election violated oath by admitting certain per-

sons to vote who, she had every reason to believe, were not entitled to vote at such primary, and by joining in making false return of votes cast. *Com. v. Grear*, 76 A.2d 491, 168 Pa.Super. 32, 1950.

§ 2679. Oaths of clerk of election

The following shall be the form of the oath to be taken by each clerk:

“I (John Doe) do swear (or affirm) that I will as a clerk attend the ensuing election (or primary) during the continuance thereof, that I will carefully and truly record the number of votes that shall be given for each candidate at the election (or primary) as often as his name shall be read to me by the judge or inspectors thereof, and in all things truly and faithfully perform my duty respecting the same to the best of my judgment and ability; and that I am not directly or indirectly interested in any bet or wager on the result of this election (or primary).”

1937, June 3, P.L. 1333, art. IV, § 409.

§ 2680. Oath of machine inspectors

The following shall be the form of the oath to be taken by each machine inspector:

"I (John Doe) do swear (or affirm) that I will as a machine inspector attend the ensuing election (or primary) during the continuance thereof, that I will in all things truly and faithfully perform my duty respecting the same to the best of my judgment and ability; and that I am not directly or indirectly interested in any bet or wager on the result of this election (or primary)."

1937, June 3, P.L. 1333, art. IV, § 410.

§ 2681. Power of election officers to administer oaths

The judge and inspectors of election shall each have the power to administer oaths to any person claiming the right to vote, or to his witnesses, or in any matter or thing required to be done or inquired into by them under this act.

1937, June 3, P.L. 1333, art. IV, § 411.

Library References

Elections ⇨54.

Oath ⇨2.

WESTLAW Topic Nos. 144, 280.

C.J.S. Elections § 54 et seq.

C.J.S. Oaths and Affirmations §§ 3, 5, 6.

P.L.E. Elections § 7.

§ 2682. Repealed. 1982, May 5, P.L. 374, No. 108, § 3, effective in 60 days**Historical and Statutory Notes**

Prior to repeal, this section was amended by Act 1963, July 17, P.L. 274, § 1; 1968, July 20, P.L. 451, No. 211, §§ 1 to 3; 1972, Oct. 6, P.L. 895, No. 211, § 1; 1974, June 19, P.L. 366, No. 122, § 1; 1976, Dec. 2, P.L. 1221, No. 269, § 2. See, now, § 2682.1 of this title.

§ 2682.1. Compensation of election officers

(a) In all counties, the compensation of judges, inspectors, clerks and machine inspectors shall be fixed by the county board of elections of the county at not less than the following: judge of elections, forty-five dollars (\$45.00); inspectors and clerks, forty dollars (\$40.00); and machine operators, forty dollars (\$40.00); and not more than the following: judge of elections, seventy dollars (\$70.00); inspectors and clerks, sixty-five dollars (\$65.00) and machine operators sixty-five dollars (\$65.00); for each primary and election. The county board of elections may, in its discretion, establish different per diem rates within the above mentioned minima and maxima

based on the number of votes cast for the following groups: 150 votes or less, 151 to 300 votes, 301 to 500 votes, 501 to 750 votes, 751 and over.

(b) For transmitting returns of primaries and elections and the ballot box or boxes, all judges of elections shall each be entitled to receive the additional sum of six dollars (\$6.00).

(c) In counties of the second through eighth classes, the county board of elections may require the minority inspector of elections to accompany the judge of elections in transmitting returns of primaries and elections, in which case the minority inspector of elections shall be entitled to receive the additional sum of six dollars (\$6.00).

(d) The person furnishing transportation to the judge of election and the minority inspector in transmitting returns and ballot boxes, shall be entitled to a minimum of twenty cents (20¢) per mile circular from the polling place to the county courthouse. The name of such person shall appear on the voucher of the judge of election and only one person shall receive mileage compensation.

(e) When a primary and special election or a special and general or municipal election take place on the same day, they shall be construed as one election for the purpose of receiving compensation. 1937, June 3, P.L. 1333, art. IV, § 412.1, added 1982, May 5, P.L. 374, No. 108, § 4, effective in 60 days.

Library References

Elections ⇨53.
WESTLAW Topic No. 144.

C.J.S. Elections § 63.
P.L.E. Elections § 7.

§ 2683. Election officers, clerks, machine inspectors, and overseers privileged from arrest

District election officers, clerks, machine inspectors and overseers shall be privileged from arrest upon days of primaries and elections, and while engaged in making up and transmitting returns, except upon the warrant of a court of record, or judge thereof, for an election fraud, for felony, or for wanton breach of the peace.

1937, June 3, P.L. 1333, art. IV, § 413.

Library References

Arrest ⇨60.
WESTLAW Topic No. 35.

C.J.S. Arrest §§ 6, 10, 11.
P.L.E. Arrest § 36.

§ 2684. Instruction of election officers in voting machine districts; unqualified officers not to serve

In districts in which voting machines are to be used, the county board of elections, or the custodians appointed by them, shall in-

struct in the use of the machines, and in their duties in connection therewith, all judges and inspectors of election and machine inspectors who are to serve at the primary or election, and who have not been previously instructed and found qualified, and they shall give to each judge, inspector and machine inspector, who has received such instruction and is found qualified to conduct such primary or election with the voting machine, a certificate to that effect. For the purpose of giving such instructions, the county boards shall call such meeting or meetings of election officers as shall be necessary. Each judge, inspector and machine inspector shall, upon notice, attend such meeting or meetings called for his instruction and receive such instruction as shall be necessary for the proper conduct of the primary or election with voting machines, and, as compensation for the time spent in receiving such instruction, each judge, inspector and machine inspector who shall qualify for and serve at such primary or election, shall receive the sum of five (\$5.00) dollars, to be paid to him at the same time and in the same manner as compensation is paid to him for his services on election day. No judge, inspector or machine inspector shall serve at any primary or election at which a voting machine is used, unless he shall have received such instructions, shall have been found qualified to perform his duties in connection with the machine, and shall have received a certificate to that effect from the county board or one of the custodians appointed by them: Provided, however, That this shall not prevent the appointment of a judge or inspector of election or machine inspector to fill a vacancy arising on the day of election or on the preceding day. 1937, June 3, P.L. 1333, art. IV, § 414.

Library References

Elections ¶222.
WESTLAW Topic No. 203.

C.J.S. Elections § 203.
P.L.E. Elections § 87.

§ 2685. Overseers of election

On the petition of five or more duly registered electors of any election district, setting forth that the appointment of overseers is a reasonable precaution to secure the purity and fairness of any primary or election in said district, it shall be the duty of the court of common pleas of the proper county, all the law judges of the said court able to act at the time concurring, to appoint two judicious, sober and intelligent electors of the said district belonging to different political parties, overseers of election to supervise the proceedings of election officers thereof and to make report of the same as they may be required by such court. Said overseers shall be persons qualified to serve upon election boards, but shall not be required to

comply with the provisions of section 414 of this act.¹ They shall be sworn or affirmed by the judge of election, to the faithful discharge of their duties, and each shall sign said oath in duplicate, and shall have the right to be present with the officers of such primary or election within the enclosed space during the entire time the same is held, the votes counted, and the returns made out and signed by the election officers; to keep a list of voters if they see proper; to challenge any person offering to vote and interrogate him and his witnesses under oath in regard to his right of suffrage at said primary or election, and to examine his papers produced. Overseers shall sign returns of elections as hereinafter required. Whenever the members of an election board shall differ in opinion, the overseers, if they shall be agreed thereon, shall decide the question of difference.

1937, June 3, P.L. 1333, art. IV, § 415.

¹ 25.P.S. § 2684.

Library References

Elections ⇨210.
WESTLAW Topic No. 144.

C.J.S. Elections § 200.
P.L.E. Elections § 8.

Notes of Decisions

Petition 1

1. Petition

Petition for appointment of overseers of election, under act of 1874, Jan. 30, P.L.

31, § 4, repealed, should not request appointment of named persons but only of two overseers of election of different political parties, though it may propose duly qualified appointees. Overseers of Election Case, 22 D. & C. 603, 1934.

§ 2686. Driving away overseers; effect

Election officers are required to afford to said overseers, so selected and appointed, every convenience and facility for the discharge of their duties. If said election officers shall refuse to permit said overseers to be present and to perform their duties, as aforesaid, or if the overseers shall be driven away from the polls by violence or intimidation, all the votes polled in such election district may be rejected by the proper tribunal trying a contest of the said primary or election, or a part or portion of such votes aforesaid may be counted, as such tribunal may deem necessary to a just and proper disposition of the case.

1937, June 3, P.L. 1333, art. IV, § 416.

Library References

Elections ⇨271.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 249, 250.
P.L.E. Elections § 121.

§ 2687. Appointment of watchers

(a) Each candidate for nomination or election at any election shall be entitled to appoint two watchers in each election district in which such candidate is voted for. Each political party and each political body which has nominated candidates in accordance with the provisions of this act, shall be entitled to appoint three watchers at any general, municipal or special election in each election district in which the candidates of such party or political body are to be voted for. Such watchers shall serve without expense to the county.

(b) All watchers so appointed shall serve in only one district and must be qualified registered electors of the municipality or township in which the district where they are authorized to act is located. Only one watcher for each candidate at primaries, or for each party or political body at general, municipal or special elections, shall be allowed to remain in the polling place at any one time prior to the close of the polls, and all watchers in the room shall remain outside the enclosed space. After the close of the polls and while the ballots are being counted or voting machine canvassed, all the watchers shall be permitted to be in the polling place outside the enclosed space. Each watcher shall be provided with a certificate from the county board of elections, stating his name and the name of the candidate, party or political body he represents. Watchers shall be required to show their certificates when requested to do so. Watchers allowed in the polling place under the provisions of this act, shall be permitted to keep a list of voters and shall be entitled to challenge any person making application to vote and to require proof of his qualifications, as provided by this act. All watchers so appointed as set forth above, who are to serve in a district other than the one from which they are registered electors, are to be appointed on petition to the court of common pleas. Said petition shall set forth that the watcher is a qualified voter of the municipality or township in which the district is located and that said watcher is a law abiding citizen and of good repute, and the court shall consider all factors relevant to said petition before granting or refusing same.

(c) No candidate or committee of a political party or of a political body, nor any other person or persons shall pay to any watcher compensation in excess of twenty (\$20.00) dollars per diem.

1957, June 3, P.L. 1333, art. IV, § 417. Amended 1947, June 28, P.L. 1054, § 1; 1963, Aug. 1, P.L. 434, § 1; 1963, Aug. 14, P.L. 1048, § 1; 1980, July 12, P.L. 649, No. 134, § 1, imd. effective.

Historical and Statutory Notes

The 1980 amendment in subsec. (a) deleted "primary" following "any" in the first sentence.

Cross References

Watchers at registration, see 25 P.S. §§ 623-14, 951-13.

Library References

Elections ¶52.
WESTLAW Topic No. 144.

C.J.S. Elections § 60.
P.L.E. Elections § 8.

Notes of Decisions**Conduct of watchers 1
Qualifications 2****1. Conduct of watchers**

Violation of this section by a watcher for a candidate at a primary election, in seating himself at the table with the election board and refusing to leave until forcibly ejected, is not ground for rejecting any ballots deposited in the ballot box. In re Morganroth Election Contest, 50 D. & C. 143, 1944.

2. Qualifications

Registered electors, to be eligible to serve as nonresident watchers for a can-

didate at a primary election, must be registered electors of the same political party as the candidate. In re Appointment of Nonresident Democratic Watchers, 34 D. & C.2d 69, 1965.

Registered Republicans and nonpartisan electors are disqualified to act as watchers for candidates for nomination in the Democratic primary. Democratic County Executive Committee of Philadelphia v. County Bd. of Elections of Philadelphia, 31 D. & C.2d 434, 1964.

ARTICLE V. ELECTION DISTRICTS AND POLLING PLACES**(A) ELECTION DISTRICTS****Cross References**

Fixing election districts, see Const. Art. 7, § 9.

§ 2701. Townships, boroughs and wards to constitute election districts

Each borough and township, not divided into wards, and each ward of every city, borough and township now existing or hereafter created, shall constitute a separate election district, unless divided into two or more election districts or formed into one election district, as hereinafter provided.

1937, June 3, P.L. 1333, art. V, § 501. Amended 1945, April 4, P.L. 143; 1980, July 11, P.L. 600, No. 128, § 1, imd. effective.

Historical and Statutory Notes

The 1980 amendment inserted "or formed into one election district".

Cross References

School directors, election, see 24 P.S. § 3-301 et seq.

Library References

Elections ⇨48.
WESTLAW Topic No. 144.

C.J.S. Elections § 54.
P.L.E. Elections § 5.

§ 2702. Court to create new election districts

Subject to the provisions of section 501 of this act,¹ the court of common pleas of the county in which the same are located, may form or create new election districts by dividing or redividing any borough, township, ward or election district into two or more election districts of compact and contiguous territory, having boundaries with clearly visible physical features and wholly contained within any larger district from which any Federal, State, county, municipal or school district officers are elected, or alter the bounds of any election district, or form an election district out of two or more adjacent districts or parts of districts, or consolidate adjoining election districts or form an election district out of two or more adjacent wards, so as to suit the convenience of the electors and to promote the public interests. Election districts so formed shall contain between six hundred (600) and eight hundred (800) registered electors as nearly as may be. No election district shall be formed that shall contain less than one hundred (100) registered electors. When a school district crosses county lines, the regions of the school district shall be composed of contiguous election districts.

1937, June 3, P.L. 1333, art. V, § 502. Amended 1945, April 4, P.L. 143; 1961, Sept. 2, P.L. 1228, § 1; 1976, July 1, P.L. 523, No. 124, § 1, imd. effective. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978. Amended 1980, July 11, P.L. 600, No. 128, § 2, imd. effective; 1986, Feb. 19, P.L. 29, No. 11, § 2, imd. effective.

¹ 25 P.S. § 2701.

Historical and Statutory Notes

The 1976 amendment added a provision that when a school district crosses county lines, the regions of the school district shall be composed of contiguous election districts.

Section 6 of Act 1976, July 1, P.L. 523, No. 124, provides as follows:

"Any school district which crosses county lines and in which regions are composed of non-contiguous election districts shall be reapportioned. If a school district is not reapportioned within six months after enactment hereof, the court of common pleas of the county in which the largest part in land area of the school district is located shall form new regions in the manner provided for the formation of election districts. School directors

elected in 1975 and incumbent school directors shall serve the terms for which they were elected; their successors shall be elected in accordance with the reapportioned regions."

The 1978 amendment deleted a reference to the court of quarter sessions.

The 1980 amendment inserted "of common pleas" and inserted "or form an election district out of two or more adjacent wards".

The 1986 amendment inserted "having boundaries with clearly visible physical features and wholly contained within any larger district from which any Federal, State, county, municipal or school district officers are elected,".

Library References

Elections ⇨48.
WESTLAW Topic No. 144.

C.J.S. Elections § 54.
P.L.E. Elections § 5.

Notes of Decisions

Considerations, generally 2
Contiguous territory 3
Evidence 6
Number of electors 4
Polling place 5
Review 7
Validity 1

1. Validity

This section requiring each voting region in multicounty school district to be contiguous to avoid gerrymandering did not violate equal protection clause. Petition of the Bd. of Directors of Hazleton Area School Dist., 524 A.2d 1083, 105 Pa.Cmwlt. 565, 1987, appeal after remand 527 A.2d 1091, 107 Pa.Cmwlt. 110.

2. Considerations, generally

Trial court did not abuse its discretion or commit error of law in granting petition to restructure 23 election districts of township into 36 election districts; court took into consideration factors pertaining to expenditures to maintain election administration, township topography, and cyclical nature of voter turnout in county as well as convenience to electorate in approving realignment plan which created 12 election districts with 600 or more voters and 24 elections district with no more than 600 and no less than 450 voters. In re Petition for Redistricting Voting Districts of Ross Tp., 557 A.2d 59, 125 Pa.Cmwlt. 191, 1989.

Avoidance of disruption of electoral process is factor of great importance in determination by court of equity as to timing of relief from invalid apportionment. *Newbold v. Osser*, 230 A.2d 54, 425 Pa. 478, 1967.

Inquiry into compactness, preservation of historical or physical boundaries, or gerrymandering is proper when population deviation is substantial. *Newbold v. Osser*, 230 A.2d 54, 425 Pa. 478, 1967.

Where shown that a ward in city is large in extent with many hundreds of voters and that the many must go some distance to vote, a division into two elec-

tion districts will be decreed and where a plan of division of petitioners is met by a contrasting plan of division of others the line will be drawn to best serve the convenience of the electorate. In re Division of 13th Ward, Hazleton, 53 D. & C. 612, 38 Luz.L.Reg.Rep. 261, 1946.

3. Contiguous territory

"Contiguous," as used in this section prohibited any break in physical territory, no matter how small. Petition of the Bd. of Directors of Hazleton Area School Dist., 524 A.2d 1083, 105 Pa.Cmwlt. 565, 1987, appeal after remand 527 A.2d 1091, 107 Pa.Cmwlt. 110.

4. Number of electors

Election districts formed during redistricting under this section, are not required to contain between 600 and 800 registered voters as long as the voting districts are convenient to voters to encourage greater voter participation. In re Petition for Redistricting Voting Districts of Ross Tp., 2 D. & C.4th 447, 1988, affirmed 557 A.2d 59, 125 Pa.Cmwlt. 191.

This section required that 600 to 800 registered voters be a minimum standard for the size of an individual election district, rather than the absolute maximum number permissible after division of the district. In re Cheltenham Tp., Division of West Third North Ward of, 25 D. & C.2d 104, 1962.

5. Polling place

The court of quarter sessions when it divides a borough ward into election districts may designate the polling place. In re Waynesburg Borough's North Ward, 29 Pa.Super.Ct. 525, 1905; In re Franklin Tp.'s Election Districts, 29 Pa.Super.Ct. 534, 1905.

6. Evidence

Use of registration figures from primary that occurred in year that city commissioners realigned election districts was appropriate as basis for revision of election district boundaries, where those

Note 6

figures were latest then available. *Committee of Seventy v. City Com'rs of City of Philadelphia*, 533 A.2d 1083, 111 Pa. Cmwlth. 205, 1987.

7. Review

Appellate court cannot review the division of an election district on its merits. *In re Boggs Township*, 5 A. 224, 112 Pa. 145, 1886.

§ 2703. Petitions for new election districts; reference to county board of elections; report

Upon the petition of twenty registered electors of any township, borough, ward or election district, to the court of the proper county, praying for the division or redivision of such township, borough, ward or election district into two or more election districts, or for the alteration of the bounds of any election district, or for the formation of one or more election districts out of two or more existing election districts, or parts thereof, or for the consolidation of adjoining election districts, the said court shall refer the said petition to the county board of elections, which shall make a full investigation of the facts, and shall report to the court its findings and recommendations as to the division, redivision, alteration, formation or consolidation of election districts prayed for. If the county board shall find that a division, redivision, alteration, formation or consolidation of election districts will promote the convenience of the electors and the public interests, it shall recommend a proper division, redivision, alteration, formation or consolidation of election districts, which must have clearly visible physical boundaries, and shall accompany its report with a map and a verbal description of the boundaries. Such petitions may specify the boundaries desired by the petitioners, and may be accompanied by a map setting forth such boundaries.

1937, June 3, P.L. 1333, art. V, § 503. Amended 1945, April 4, P.L. 143. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978. Amended 1986, Feb. 19, P.L. 29, No. 11, § 3, imd. effective.

Historical and Statutory Notes

The 1978 amendment deleted reference to the court of quarter sessions.

The 1986 amendment substituted "which must have clearly visible physical boundaries and shall accompany its re-

port with a map and a verbal description of the boundaries" for "and shall accompany its report with a map, plot or draft of the new election district or districts proposed by it, if the same cannot be fully designated by natural lines".

Library References

Elections ⇨48.
WESTLAW Topic No. 144.

C.J.S. Elections § 54.
P.L.E. Elections § 5.

Notes of Decisions

Amendment of petition 2
 Denial of petition 3
 Grounds for change 1

3. Denial of petition

The court may refuse the petition, though the commissioners have reported for division, and the time for filing exceptions has expired. In re Bern Township, 9 A. 62, 115 Pa. 615, 1887; West Brunswick Election Districts, 5 Dist. 598, 1896; see New Garden Election District, 3 Dist. 375, 1892.

A petition for the division of an election district under this section and § 2704 of this title was denied where an investigation by County Board of Elections indicated that some 1,464 of the 1,600 registered electors voted at the last general election, that throughout election day voting was orderly and without undue delay, and that no one desirous of exercising his franchise was disenfranchised in the district. In re Cheltenham Tp., Division of West Third North Ward of, 25 D. & C.2d 104, 1962.

1. Grounds for change

In order to justify the division of an election district, especially where the number of registered electors is a moderate one, some material hardship upon the electors must be shown justifying the change, and the bare statement that it will promote the convenience of the electors is insufficient. In re Jackson Tp. Election Dist., 41 D. & C. 1, 1941.

2. Amendment of petition

When a petition is fatally defective the court may allow an amended petition to be filed. North Chester Election Dist., 3 C.C. 247, 3 Del. 154, 1887.

§ 2704. Petitions by county board; action by court on petition or report

The county board of elections may also petition the court for the division or redivision of any township, borough, ward or election district into two or more election districts, or for the alteration of the bounds of any election district, or for the formation or one or more election districts out of two or more existing election districts, or parts thereof, or for the consolidation of adjoining election districts, accompanying its petition with a map and a verbal description of the boundaries of the proposed new election districts which must have clearly visible physical features. Upon the presentation of any such petition by the county board, or upon the filing by the board of its report and recommendations as to any petition presented by qualified electors under the provisions of section 503 of this act,¹ the court may make such order for the division, redivision, alteration, formation or consolidation of election districts, as will, in its opinion, promote the convenience of electors and the public interests: Provided, however, That the court shall not make any final order for the division, redivision, alteration, formation or consolidation of election districts until at least ten days after notice shall have been posted in at least five public and conspicuous places in the district or districts to be affected thereby, one of which notices shall be posted on or in the immediate vicinity of the polling place in each such district. Such notice shall state in brief form the division, redivision, alteration, formation or consolidation of election districts recommended by the county board, and the date upon which the same will be consid-

ered by the court, and shall contain a warning that any person objecting thereto must file his objections with the clerk of the court prior to such date. Upon the making of any such final order by the court, a copy thereof shall be certified by the clerk to the county board of elections. .

1937, June 3, P.L. 1333, art. V, § 504. Amended 1945, April 4, P.L. 143. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978. Amended 1986, Feb. 29, P.L. 29, No. 11, § 3, imd. effective.

¹ 25 P.S. § 2703.

Historical and Statutory Notes

The 1978 amendment deleted reference to the court of quarter sessions.

The 1986 amendment substituted "with a map and a verbal description of the boundaries of the proposed new election

districts which must have clearly visible physical features" for "by a description of the proposed new election districts and by a map, plot or draft thereof, if the same cannot be fully designated by natural lines".

Library References

Elections ⇄48.
WESTLAW Topic No. 144.

C.J.S. Elections § 54.
P.L.E. Elections § 5.

Notes of Decisions

Convenience 1
Denial of petition 2
Jurisdiction 3
Time 4

1. Convenience

Standard to be applied by trial court in acting upon petition for realignment of election districts is promotion of convenience of electors and the public interest. *In re* Petition for Redistricting Voting Districts of Ross Tp., 557 A.2d 59, 125 Pa.Cmwlth. 191, 1989.

Standard to be applied in ruling on petition for realignment of election districts is promotion of the convenience of electors and the public interest. *In re* Alignment of 6th, 9th, 12th, 15th, and 16th Election Districts of 14th Ward of City of Philadelphia, 327 A.2d 56, 458 Pa. 607, 1974.

2. Denial of petition

A petition for the division of an election district under this section and § 2703 of this title was denied where an investigation by County Board of Elections indicated that some 1,464 of the 1,600 registered electors voted at the last general election, that throughout election day vot-

ing was orderly and without undue delay, and that no one desirous of exercising his franchise was disenfranchised in the district. *In re* Cheltenham Tp., Division of West Third North Ward of, 25 D. & C.2d 104, 1962.

3. Jurisdiction

Statutory limitations on court's power to consider petitions for consolidation and realignment of election districts are jurisdictional requirements and can not be waived. *In re* Alignment of 6th, 9th, 12th, 15th, and 16th Election Districts of 14th Ward of City of Philadelphia, 327 A.2d 56, 458 Pa. 607, 1974.

4. Time

Trial court's consideration of petitions for consolidation and realignment of election districts only four days after their filing, and entry of final orders granting petitions only seven days after filing was in contravention of provisions of this section even though orders were entered more than ten days after posting of notices concerning proposed consolidation of the districts. *In re* Alignment of 6th, 9th, 12th, 15th, and 16th Election Districts of 14th Ward of City of Philadelphia, 327 A.2d 56, 458 Pa. 607, 1974.

§ 2705. Court in its order to appoint election officers

In all cases in which any court shall make a final order for the division, redivision, alteration, formation or consolidation of an election district or districts, said court shall, within a reasonable time thereafter, make an order appointing the district election board or boards for holding elections in said district or districts, until an election board shall have been elected according to law.

1937, June 3, P.L. 1333, art. V, § 505. Amended 1945, April 4, P.L. 143; 1961, July 25, P.L. 871, § 1. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

Historical and Statutory Notes

The 1978 amendment deleted reference to the court of quarter sessions.

Library References

Elections ⇨48, 51.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 54, 57 et seq.
P.L.E. Elections §§ 5, 6.

§ 2706. Repealed. 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1979**Historical and Statutory Notes**

The repealed section related to costs of proceedings for new election districts and was derived from act 1937, June 3, P.L. 1333, § 506, and act 1945, April 4, P.L. 143, § 1.

For disposition of repealed subject matter, see Disposition Table preceding Title 42, Judiciary and Judicial Procedure, of the Pennsylvania Consolidated Statutes Annotated.

(B) POLLING PLACES**§ 2726. Polling places to be selected by county board**

(a) The county board of elections shall select and fix the polling place within each new election district and may, at any time, for any reason that may seem proper to it, either on its own motion or on petition of ten qualified registered electors of an election district, change the polling place within any election district. Except in case of an emergency or unavoidable event occurring within ten days of a primary or election, which renders any polling place unavailable for use at such primary or election, the county board shall not change any polling place until at least five days after notice of the proposed change shall have been posted on the existing polling place and in the immediate vicinity thereof, and until at least five days after written notice of the proposed change shall have been given to the occupant or owner of said polling place, or their agent.

(b) Except in case of emergency or unavoidable event, occurring within ten days of a primary or election, which renders any polling

place unavailable for use, if a petition be presented to the county board on or before the day set for hearing of the petition for change of polling place, signed by a majority of the registered electors of the district, objecting to the proposed change, said change shall not be ordered.

1937, June 3, P.L. 1333, art. V, § 526.

Law Review Commentaries

An excursion into the uncharted waters of the Seventeenth Amendment. Laura E. Little, 64 Temp.L.Rev. 629 (1991).

Library References

Elections ☞203.
WESTLAW Topic No. 144.

C.J.S. Elections § 193.
P.L.E. Elections § 84.

Notes of Decisions

Review 1

by the county board is that which is best for that electorate. *Bredbenner v. Miller*, 82 D. & C. 313, 1953.

1. Review

A court has no jurisdiction to determine whether the polling place selected

§ 2727. Public buildings to be used where possible; portable polling places

(a) In selecting polling places, the county board of elections shall, wherever possible and practicable, select schoolhouses, municipal buildings or rooms, or other public buildings for that purpose. Any board of public education or school directors, or county or the municipal authorities shall, upon request of the county board, make arrangements for the use of school property, or of county or municipal property for polling places.

In the event no available public building as contemplated under this section is situated within the boundaries of any election district, the county board of elections may, not less than ten days prior to any election, designate as the polling place for such election district any such public building situated in another election district within the same ward, or, if there are no wards, then within the same borough or township as the case may be, provided such other building is located in an election district which is immediately adjacent to the boundary of the election district for which it is to be the polling place and is directly accessible therefrom by public street or thoroughfare. Two or more polling places may be located in the same public building under this section. A polling place may be selected and

designated hereunder less than ten days prior to any election, with the approval of a court of competent jurisdiction.

(b) In the event no available public building as contemplated under subsection (a) is situated within the boundaries of a borough which constitutes a single election district, the county board of elections may, not less than ten days prior to any election, designate as the polling place for such election district a municipal building owned by that borough and located in an adjoining second class township: Provided, That the municipal building which is to serve as the polling place is located in an election district immediately adjacent to the boundary of such borough and is directly accessible from the borough by public street or thoroughfare. Such municipal building may be designated as the polling place for an election less than ten days prior to that election, with the approval of a court of competent jurisdiction.

(c) The board, in its discretion, may procure and provide portable or movable polling places of adequate size and facilities for any or all election districts.

1937, June 3, P.L. 1333, art. V, § 527. Amended 1957, June 21, P.L. 389, No. 211, § 1; 1961, July 14, P.L. 642, No. 331, § 1; 1987, July 1, P.L. 178, No. 20, § 1, imd. effective.

Historical and Statutory Notes

The 1987 amendment inserted subsec. (b) and designated former subsec. (b) as subsec. (c).

Library References

Elections ⇨203.
WESTLAW Topic No. 144.

C.J.S. Elections § 193.
P.L.E. Elections § 84.

Notes of Decisions

State college 1

1. State college

State colleges and community colleges are lawful locations for voter registration. 1972 Op.Atty.Gen. No. 144.

§ 2728. Temporary polling places

If, in any election district, no proper polling place can be obtained, the county board of elections shall cause to be constructed for such district, a temporary room of adequate size to be used as a polling place.

1937, June 3, P.L. 1333, art. V, § 528.

§ 2729. Polling places in buildings or rooms where malt or brewed beverages or liquors sold prohibited

No election shall be held in any room or building, any part of which is used for the sale or serving of malt or brewed beverages or liquors.

1937, June 3, P.L. 1333, art. V, § 529.

§ 2730. Equipment and arrangement of polling places; guard rail; number of voting compartments or voting machines

(a) The county board of elections shall cause all rooms used as polling places to be suitably provided with heat and light, and, in districts in which ballots are used, with a sufficient number of voting compartments or booths with proper supplies, in which electors may conveniently mark their ballots, with a curtain, screen or door in the upper part of the front of each compartment or booth so that in the marking thereof they may be screened from the observation of others. Every polling place shall consist of a single room, every part of which is within the unobstructed view of those present therein, and shall be furnished with a guard rail or barrier enclosing the inner portion of the said room, which guard rail or barrier shall be so constructed and placed that only such persons as are inside said rail or barrier can approach within six feet of the ballot box and voting compartments, or booths, or voting machines, as the case may be. The ballot box and voting compartments or booths shall be so arranged in the voting room within the enclosed space as to be in full view of those persons in the room outside the said guard rail or barrier. The voting machine or machines shall be so placed in the voting room within the enclosed space that, unless its construction shall otherwise require, the ballot labels on the face of the machine can be plainly seen by the election officers, overseers and watchers when the machine is not occupied by an elector.

(b) The number of voting compartments to be furnished to each polling place shall not be less than one for every 100 voters, or fraction thereof, and in no case less than three. The number of voting machines to be furnished in districts in which voting machines are used shall be not more than one machine for each three hundred and fifty (350) registered voters, or fraction thereof, nor less than one machine for each six hundred (600) registered voters, or fraction thereof, in such election district.

(c) The county board may make such arrangements as it deems proper for the storage of election equipment in the various election districts of the county at such times of the year that it will not be

used for election purposes, and may fix reasonable compensation therefor.

1937, June 3, P.L. 1333, art. V, § 530.

Library References

Elections 201, 222.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 195, 203.
P.L.E. Elections § 84.

Notes of Decisions

Guard rail 2
Presence of unauthorized persons 3
Prior laws 1

1. Prior laws

Unexcused violations of the provisions of act of 1893, June 10, P.L. 419, § 19, repealed, relating to arrangement of rooms, will require that returns from wards wherein such violations occurred be excluded in the general count. In re Cramer's Election Case, 93 A. 937, 248 Pa. 208, 1915.

Where in an election contest it appeared that in violation of this section, two separate rooms were employed for holding the election one being occupied by the election board and containing the ballot box and the other containing the booths, and that, instead of a guard rail, a rope was employed which did not exclude from the space reserved for voters all but the election board and the persons actually engaged in voting, and that votes cast for an office other than that contested had been purchased, the court should

have declared that all votes cast under such circumstances were invalid, though no actual fraud was shown as to the vote for the office in contest. In re Cramer's Election Case, 93 A. 937, 248 Pa. 208, 1915.

2. Guard rail

Failure of county commissioners to provide a guard rail, is a mere irregularity and does not constitute ground for declaring void the election. In re Morganroth Election Contest, 50 D. & C. 143, 1944.

3. Presence of unauthorized persons

Failure of an election Board to prevent persons from circulating in a polling place in close proximity to the ballot box and the voting compartments, or to exercise any restraint upon interference with voters while marking their ballots in the voting compartments is a mere irregularity and does not constitute ground for declaring void the election there held. In re Morganroth Election Contest, 50 D. & C. 143, 1944.

§ 2731. Compensation for rent, heat and light

(a) The county board of elections shall fix the compensation for rent, heat, light and janitorial services to be paid for the use of polling places other than public buildings for primaries and elections.

(b) No compensation for rent, heat, water, custodial service, janitorial services, other services, or light shall be paid in the case of municipal buildings or rooms, or other public buildings used as polling places and as limited voter registration centers.

(c) No compensation for rent, heat, water, or light shall be paid in the case of schoolhouses, but the county board of elections shall fix the compensation for custodial services and janitorial services for

schoolhouses used as polling places or as limited voter registration centers.

1937, June 3, P.L. 1333, art. V, § 531. Amended 1939, May 25, P.L. 215, § 1; 1976, Nov. 30, P.L. 1221, No. 269, § 3, imd. effective; 1978, Oct. 4, P.L. 995, No. 207, § 1, imd. effective.

Historical and Statutory Notes

The 1976 amendment inserted “, water, custodial service, janitorial services, other services,” and inserted “and as limited voter registration centers”.

The 1978 amendment rewrote the section which formerly read:

“The county board of elections shall fix the compensation for rent, heat, light and janitorial services to be paid for the use of

polling places for primaries and elections: Provided, however, That no compensation for rent, heat, water, custodial service, janitorial services, other services, or light shall be paid in the case of schoolhouses, municipal buildings or rooms, or other public buildings used as polling places and as limited voter registration centers.”

Library References

Elections ⇄200.
WESTLAW Topic No. 144.

C.J.S. Elections § 193.
P.L.E. Elections § 84.

(C) CREATION, DIVISION, REALIGNMENT AND CONSOLIDATION OF WARDS IN CITIES OF THE FIRST CLASS

§ 2742. Wards in cities of the first class may be created, divided, realigned or consolidated

(a) Wards in a city of the first class may be created, divided, realigned or consolidated, along clearly visible physical boundaries, by the court of common pleas of the county in which said city is located, upon application thereto for those purposes by the petition of at least a total of one hundred qualified electors from the ward or wards sought to be affected, or of the council of such city.

(b) Upon such petition, the said court shall appoint five impartial persons as a commission to inquire into and consider the merits of said petition, by such procedure as said court shall direct, to inspect the ward or wards sought to be affected, and to prepare a plan of the ward or wards proposed to be created, divided, realigned or consolidated.

(c) Said commission shall submit its report and plan within such time as shall be fixed by the said court.

(d) Unless at least four of said commissioners report favorably upon said petition and agree upon an implementing plan, said petition shall be dismissed by said court and the subject or subjects of said petition shall not be reconsidered for at least two years from the date of such dismissal.

(e) No final plan shall be entered until at least ten days after notice to the electors in the wards to be affected thereby. Such notice shall

be in the manner, form and means directed by the commission, shall state the date of consideration by the commission and shall contain a warning that all objections to said report and plan must be set forth in writing and filed with the commission prior to such date.

(f) On or after such given date, the commission shall prepare a final plan which will best serve the public interest, shall number the new ward or wards and shall cause a certified copy of the whole proceedings to be placed of record among the minutes of the city council and with the Mayor of said city.

(g) In the event that any final plan shall affect less than fifty (50) per centum of the wards in existence prior to the preparation of said plan, the city council, upon receipt of said plan from the commission, shall cause the same to be placed upon the ballot for the purpose of approval or rejection by vote of the qualified electors of the ward or wards divided, created, consolidated or realigned by said plan at the primary election next following the preparation of said plan.

(h) In the event that any final plan shall affect fifty (50) per centum or more of the wards in existence prior to the preparation of said plan, the city council upon receipt of said plan from the commission, shall cause the same to be placed upon the ballot for the purpose of approval or rejection by vote of the qualified electors of the city at the primary election next following the preparation of said plan.

(i) No plan dividing, creating, consolidating or realigning any ward shall be valid or take effect unless approved by the vote of the qualified electors as provided by subsections (g) or (h) of this act, whichever is applicable.

(j) Upon the appointment of said commission, it shall prepare and submit to the said court, for consideration and approval, a proposed budget of the expenses involved in connection with its duties and functions. After the filing of its report, the commission shall prepare and submit to said court for consideration and approval, its request for allowance of fees and any supplemental expenses. Upon approval of these items, said court shall enter an order directing payment by said city.

1937, June 3, P.L. 1333, art. V, § 532, added 1965, April 2, P.L. 7, § 2. Amended 1976, Nov. 23, P.L. 1124, No. 236, § 1, imd. effective; 1986, Feb. 19, P.L. 29, No. 11, § 4, imd. effective.

Repealed in Part

This section has been repealed insofar as it is inconsistent with Act 1974, Dec. 13, P.L. 947, No. 312, §§ 1 to 8 (53 P.S. §§ 11601 to 11608).

Historical and Statutory Notes

The 1976 amendment in subsec. (a) substituted "court of common pleas" for "Court of Quarter Sessions"; rewrote subsecs. (e) and (f), inserted subsecs. (g), (h) and (i), and designated former subsec. (g) as subsec. (j).

Prior to amendment, subsecs. (e) and (f) read:

"(e) In the event at least four of said commissioners shall report favorably upon said petition and agree upon an implementing plan, said court shall enter a preliminary order effectuating same: Provided, however, That no final order shall be entered until at least ten days after notice to the electors in the wards to be affected thereby. Such notice shall be

in the manner, form and means directed by said court, shall state the date of consideration by the court and shall contain a warning that all objections to said report and plan must be set forth in writing and filed with the clerk of the court prior to such date.

"(f) On or after such given date, the court shall enter such final order as to it appears just and reasonable and will best serve the public interest, shall number the new ward or wards and shall cause a certified copy of the whole proceedings to be placed of record among the minutes of the city council and with the Mayor of said city."

Library References

Municipal Corporations \Leftrightarrow 40.
WESTLAW Topic No. 268.

C.J.S. Municipal Corporations §§ 81,
82.
P.L.E. Municipal Corporations § 28.

Notes of Decisions

In general 2
Realignment 3
Validity 1

1. Validity

This section providing for the realignment of wards in cities of the first class, is constitutional. In re Philadelphia Ward Realignment, 37 D. & C.2d 757, 1966.

2. In general

Avoidance of disruption of electoral process is factor of great importance in determination by court of equity as to timing of relief from invalid apportionment. Newbold v. Osser, 230 A.2d 54, 425 Pa. 478, 1967.

Court order directing that all district councilmen be nominated and elected to city at large pending enactment of valid city reapportionment was abuse of discretion where, under Election Code, no new reapportionment legislation could in fact have been utilized as basis for imminent forthcoming elections. Newbold v. Osser, 230 A.2d 54, 425 Pa. 478, 1967.

3. Realignment

Ordinance redistricting city council, with ratio between most and least populated districts of 1.15 to 1, did not deviate enough from substantial equality of population tests to require inquiry into compactness, preservation of historical or physical boundaries, or gerrymandering. Newbold v. Osser, 230 A.2d 54, 425 Pa. 478, 1967.

Report of commission was approved where court was satisfied that it acted impartially and used its best judgment in the realignment of wards after providing ample opportunity for witnesses affected thereby to be heard, and where commission gave consideration to growth factors in wards of large areas as well as the possibility of nongrowth in wards of relatively high population density. In re Philadelphia Ward Realignment, 37 D. & C.2d 757, 1966.

Since this act does not set forth specific criteria for realignment of the wards, realignment must rest with the honest judgment and sound discretion of the commission and the court. In re Philadelphia Ward Realignment, 37 D. & C.2d 757, 1966.

**ARTICLE VI. DATES OF ELECTIONS AND PRIMARIES
AND SPECIAL ELECTIONS**

(A) NOVEMBER ELECTIONS AND PRECEDING PRIMARIES

Cross References

Election of officers, see Const. Art. 6, § 1.
General election day, see Const. Art. 7, § 2.

§ 2751. General election; officers to be elected

The general election shall be held biennially on the Tuesday next following the first Monday of November in each even-numbered year. Electors of President and Vice-President of the United States, United States Senators, Representatives in Congress, the Governor, the Lieutenant Governor, the Secretary of Internal Affairs, the Auditor General, the State Treasurer and Senators and Representatives in the General Assembly shall be elected at the general election.

1937, June 3, P.L. 1333, art. VI, § 601. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

Historical and Statutory Notes

The 1978 amendment deleted a provision relating to the election of judges of the supreme and superior courts.

Library References

Elections ⇨38.	C.J.S. Judges §§ 12 to 14.
Judges ⇨3.	C.J.S. States §§ 42, 43, 61, 80 to 90,
States ⇨28(1), 41, 42, 46.	102, 130, 131.
United States ⇨11, 25.	C.J.S. United States §§ 11, 13 to 15, 28.
WESTLAW Topic Nos. 144, 227, 360,	P.L.E. Elections §§ 9, 42.
393.	P.L.E. State Government §§ 4, 7.
C.J.S. Elections §§ 76, 77.	

§ 2752. Municipal election; officers to be elected

The municipal election shall be held biennially on the Tuesday next following the first Monday of November in each odd-numbered year. All judges of courts of record of the various judicial districts and counties, and all counties, city, borough, township, ward, school district, poor district and election officers shall be elected at the municipal election. Judges may be elected at the municipal election.

1937, June 3, P.L. 1333, art. VI, § 602. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

Historical and Statutory Notes

The 1978 amendment deleted a provision relating to the election of judges of the supreme and superior courts.

Cross References

Municipal election day, see Const. Art. 7, § 3.

Library References

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| Counties ⇨62. | C.J.S. Municipal Corporations § 468 et seq. |
| Elections ⇨38. | C.J.S. Schools and School Districts § 107 et seq., 146 to 148. |
| Judges ⇨3. | C.J.S. Towns §§ 61 to 70. |
| Municipal Corporations ⇨128. | P.L.E. Counties §§ 41 to 43. |
| Schools ⇨63(1). | P.L.E. Elections §§ 9, 85. |
| Towns ⇨28. | P.L.E. Judges § 3. |
| WESTLAW Topic Nos. 104, 144, 227, 268, 345, 381. | P.L.E. Municipal Corporations § 116. |
| C.J.S. Counties § 98. | P.L.E. Schools § 43. |
| C.J.S. Elections §§ 76, 77. | P.L.E. Townships § 31. |
| C.J.S. Judges §§ 12 to 14. | |

Notes of Decisions

In general 1
Vacancies 2

this title. *Kerns v. Kane*, 69 A.2d 388, 363 Pa. 276, 1950.

1. In general

Ordinance which reduced compensation for office of elected tax collector and which was properly enacted 4 days prior to last day fixed for candidates to withdraw their names from nomination and 85 days prior to date of November municipal election was not void as to collector nominated before enactment of ordinance, in view of 72 P.S. § 5511.36a requiring enactment of taxing district's ordinance increasing or reducing salary at least two days prior to last day for candidates to withdraw their names previous to day of municipal election. *Costello v. Borough of North Braddock*, 237 A.2d 236, 428 Pa. 264, 1968.

Although there may be delays in the determination of the successful candidate, an officer is elected on the day the ballots are cast notwithstanding that he does not take his oath or assume the duties of the office until a later date. *Goodwin v. Allegheny County*, 125 A.2d 640, 182 Pa.Super. 28, 1956.

In view of this section, there are no offices within any county for which nominations may not be made on the primary ballots of a political party qualified as a party within the State under § 2831 of

2. Vacancies

Philadelphia Home Rule Charter provision that when vacancy occurs in office of mayor, election to fill such vacancy for mayor's unexpired term shall be filled by election at next general election is invalid. *Cali v. City of Philadelphia*, 177 A.2d 824, 406 Pa. 290, 1962.

Provision of this section that election of all city officers shall be at municipal elections, to be held in odd-numbered years, is mandatory and refers to election for regular term of service as well as election to fill vacancy and other special elections and governs election to fill vacancy in office of mayor. *Cali v. City of Philadelphia*, 177 A.2d 824, 406 Pa. 290, 1962.

Mayor of Philadelphia can be nominated and elected only in accordance with provisions of Pennsylvania Election Code, and that Code requires that an election for mayor, whether for a full regular term or to fill a vacancy in office, must be held in odd-numbered year. *Cali v. City of Philadelphia*, 177 A.2d 824, 406 Pa. 290, 1962.

Where charter act provided for filling of vacancies in office of councilman at next general municipal or special election but later Election Code made no provi-

sion for special elections to fill vacancies in office of councilman of Philadelphia, the general constitutional provision for elections must prevail. *Com. ex rel. Maurer v. Witkin*, 25 A.2d 317, 344 Pa. 191, 1942.

The fact that Election Code of 1937, which expressly purported to "codify, revise and consolidate the laws relating to general, municipal, special and primary elections", made no provision for special elections on general election days or in general election years or at any other time to fill vacancies in the office of mayor of Philadelphia, indicated legislative

intent that mayor of Philadelphia should be elected only at municipal elections held in odd-numbered years. *Watson v. Witkin*, 22 A.2d 17, 343 Pa. 1, 1941.

While the Election Code makes no provision for a special election to fill a vacancy in the office of mayor, this section prohibits a municipality from holding a special election under its home rule charter in an even-numbered year to fill a vacancy in the office of mayor. *Zolitor v. Election Bd. of Montgomery Cty.*, 48 D. & C.3d 544, 1988, appeal dismissed 540 A.2d 266, 518 Pa. 56.

§ 2753. General primary; candidates to be nominated and party officers to be elected

(a) There shall be a General primary preceding each general election which shall be held on the third Tuesday of May in all even-numbered years, except in the year of the nomination of a President of the United States, in which year the General primary shall be held on the fourth Tuesday of April. Candidates for all offices to be filled at the ensuing general election shall be nominated at the General primary. The vote for candidates for the office of President of the United States, as provided for by this act, shall be cast at the General primary.

(b) Deleted by amendment. 1990, Oct. 12, P.L. 534, No. 131, § 1, eff. in 60 days.

(b.1) Notwithstanding subsection (a), the General primary for 1994 shall be held on May 10, 1994.

1937, June 3, P.L. 1333, art. VI, § 603. Amended 1952, Jan. 14, P.L. (1951) 1937, § 1; 1971, Dec. 22, P.L. 613, No. 165, § 1; 1983, Nov. 3, P.L. 208, No. 59, § 1, effective Jan. 1, 1984; 1990, Oct. 12, P.L. 534, No. 131, § 1, effective in 60 days.

Historical and Statutory Notes

The 1983 amendment designated subsec. (a) and added subsec. (b).

The 1990 amendment deleted subsec. (b), which provided for the 1984 general primary, and added subsec. (b.1).

Law Review Commentaries

An excursion into the uncharted waters of the Seventeenth Amendment. *Laura E. Little*, 64 *Temp.L.Rev.* 629 (1991).

Library References

Elections ⇨126(1).
WESTLAW Topic No. 144.

C.J.S. Elections § 111 et seq.
P.L.E. Elections §§ 41 et seq., 85.

Notes of Decisions

In general 1

1. In general

Legal status of party committees is not such as to give the court general jurisdiction over them, as their duties are pre-

scribed entirely by party rules and are not of interest to the public generally, and only where party officers are selected by use of the public election machinery may controversies arise over which the court must exercise limited jurisdiction. *Com. ex rel. Koontz v. Dunkle*, 50 A.2d 496, 355 Pa. 493, 1947.

§ 2754. Municipal primary; officers to be nominated

There shall be a Municipal primary preceding each municipal election which shall be held on the third Tuesday of May in all odd-numbered years. Candidates for all offices to be filled at the ensuing municipal election shall be nominated at the Municipal primary. 1937, June 3, P.L. 1333, art. VI, § 604. Amended 1945, March 9, P.L. 29, § 3; 1947, March 5, P.L. 35, § 1; 1951, March 6, P.L. 3, § 4; 1952, Jan. 14, P.L. (1951) 1937, § 2.

Library References

Elections ⇨126(1).
WESTLAW Topic No. 144.

C.J.S. Elections § 111 et seq.
P.L.E. Elections §§ 41 et seq., 85.

Notes of Decisions

In general 1
Compensation 2
Indictment 3

1. In general

This section prescribes the date of the September primary preceding the municipal election date fixed by Const. Art. 8, § 3. *Kram v. Kane*, 8 A.2d 398, 336 Pa. 113, 1939.

2. Compensation

Ordinance which reduced compensation for office of elected tax collector and which was properly enacted 4 days prior to last day fixed for candidates to withdraw their names from nomination and 85 days prior to date of November municipal election was not void as to collector nominated before enactment of ordi-

nance, in view of 72 P.S. § 5511.36a requiring enactment of taxing district's ordinance increasing or reducing salary at least two days prior to last day for candidates to withdraw their names previous to day of municipal election. *Costello v. Borough of North Braddock*, 237 A.2d 236, 428 Pa. 264, 1968.

3. Indictment

In view of the act of 1913, July 12, P.L. 719, § 3, as amended, repealed, an indictment of an election officer for fraud in conduct of his duties as such officer which charges that the primary in question was held in a certain place on Sept. 20, 1927, cannot be deemed insufficient as not setting forth the nature or purpose of the primary election. *Com. v. Blackwell*, 25 Luz. 50, 1927.

§ 2755. Elections on proposed constitutional amendments

Unless the General Assembly shall prescribe otherwise with respect to any particular proposed amendment or amendments and the manner and time of submitting to the qualified electors of the State any proposed amendment or amendments to the Constitution for the

purpose of ascertaining whether the same shall be approved by a majority of those voting thereon, the said amendment or amendments which have heretofore, or which may hereafter be proposed, and which have not been submitted to the qualified electors of the State, shall be submitted to the qualified electors of the State for the purpose aforesaid, at the first municipal or general election at which such amendment or amendments may be legally submitted to the electors, which election shall occur at least three months after the date upon which such proposed amendment or amendments shall have been agreed to for the second time by a majority of the members elected to each house of the General Assembly, as provided in Article Eighteen, section one of the Constitution. Said election shall be conducted on said election day in the manner prescribed by the provisions of this act. Such proposed constitutional amendments shall be printed on the ballots or ballot labels in brief form to be determined by the Secretary of the Commonwealth with the approval of the Attorney General.

1937, June 3, P.L. 1333, art. VI, § 605.

Library References

Constitutional Law ¶9.
WESTLAW Topic No. 92.

C.J.S. Constitutional Law §§ 7, 12, 14.
P.L.E. Constitutional Law §§ 3, 4.

Notes of Decisions

Validity of prior law 1

1. Validity of prior law

Under Const. Art. 18, § 1, relating to amendments, act of 1923, April 3, P.L. 55, No. 34, repealed, prescribing that, unless otherwise provided, proposed constitutional amendments should thereafter be submitted at either the municipal or

general election occurring at least three months after the date when the amendment in question shall have been agreed to for the second time, was valid, and authorized the submission of a proposed amendment, after a second legislative approval, at a municipal election held in an odd-numbered year, and submission is not required to be deferred until the next general election. *Com. v. King*, 122 A. 279, 278 Pa. 280, 1923.

(B) SPECIAL ELECTIONS

§ 2776. Special elections for United States Senator; nominations

Whenever a vacancy shall occur in the office of United States Senator, said vacancy shall be filled for the unexpired term by the vote of the electors of the State at a special election to be held at the time of the next general or municipal election, occurring at least ninety (90) days after the happening of such vacancy, and it shall be the duty of the Governor to issue writs of election to the various county boards of elections and to the Secretary of the Commonwealth within ten (10) days after the happening of said vacancy. Candidates to fill vacancies in the office of United States Senator

shall be nominated by political parties, in accordance with the party rules relating to the filling of vacancies, by means of nomination certificates, in the form prescribed in section 630 of this act;¹ and by political bodies, by means of nomination papers in accordance with the provisions of sections 951, 952 and 954 of this act.² Said nomination certificates and nomination papers shall be filed in the office of the Secretary of the Commonwealth at least sixty (60) days prior to the date of said special election. Until such time as said vacancy shall be filled by an election as herein provided, the Governor of the Commonwealth may make a temporary appointment to fill said vacancy.

1937, June 3, P.L. 1333, art. VI, § 626. Amended 1963, Aug. 13, P.L. 707, § 4, effective Jan. 1, 1964.

¹ 25 P.S. § 2780.

² 25 P.S. §§ 2911, 2912 and 2914.

Law Review Commentaries

An excursion into the uncharted waters of the Seventeenth Amendment. Laura E. Little, 64 Temp.L.Rev. 629 (1991).

Library References

United States ☞ 11.
WESTLAW Topic No. 393.

C.J.S. United States §§ 11, 13 to 15.
P.L.E. Elections § 42.

Notes of Decisions

Independent party candidates 3
Primary election 2
Validity 1

1. Validity

Pennsylvania statute governing filling of vacant senate seats, leaving nomination procedure to political party rules that effectively disenfranchised party's members, did not violate equal protection. *Trinsey v. Com. of Pa.*, C.A.3 (Pa.)1991, 941 F.2d 224, certiorari denied 112 S.Ct. 658, 116 L.Ed.2d 750.

Pennsylvania's scheme of selecting nominees for senatorial vacancies, by requiring candidates to be nominated by political parties or file nomination paper signed by requisite number of voters, served legitimate interest in promptly filling vacancies and was permissible exercise of discretion. *Trinsey v. Com. of Pa.*, C.A.3 (Pa.)1991, 941 F.2d 224, certiorari denied 112 S.Ct. 658, 116 L.Ed.2d 750.

Requirement that independent party candidate seeking position on special

election ballot file nomination papers bearing signature of at least two percent of qualified electors who voted for winning candidate in last state-wide election did not violate equal protection, though major party candidates were not required to make similar showing of voter support, in that major parties, by definition, had already demonstrated certain level of voter support. *Perry v. Grant*, M.D.Pa.1991, 775 F.Supp. 821.

Statute requiring independent party candidate seeking position on special election ballot to file nomination papers bearing signatures of at least two percent of qualified electors who voted for winning candidate in last state-wide election did not impose unreasonable or undue burden on candidate, in violation of due process; to satisfy requirement by filing deadline, candidate would have had to average 277 signatures per day. *Perry v. Grant*, M.D.Pa.1991, 775 F.Supp. 821.

Statute requiring independent party candidates seeking position on special election ballot to file nomination papers

bearing signatures of at least two percent of qualified voters who voted for winning candidate in last state-wide election is not unreasonably burdensome, in violation of due process, merely because number of signatures required fluctuates with election results. *Perry v. Grant*, M.D.Pa. 1991, 775 F.Supp. 821.

Pennsylvania's special election statute permitting two major political parties to choose, according to party rules, nominees to fill partial term for United States Senate infringes on fundamental right to vote and, therefore, must be carefully scrutinized and can survive constitutional scrutiny only if Commonwealth shows that it advances compelling governmental interest and is narrowly tailored to serve that interest. *Trinsey v. Com. of Pa., Dept. of State, Bd. of Elections*, E.D.Pa. 1991, 766 F.Supp. 1338, reversed 941 F.2d 224, certiorari denied 112 S.Ct. 658, 116 L.Ed.2d 750.

2. Primary election

Pennsylvania's scheme of selecting nominees for senatorial vacancies, by requiring candidates to be nominated by political parties or file nomination paper signed by requisite number of voters, served legitimate interest in promptly fill-

ing vacancies and was permissible exercise of discretion. *Trinsey v. Com. of Pa., C.A.3 (Pa.)1991, 941 F.2d 224*, certiorari denied 112 S.Ct. 658, 116 L.Ed.2d 750.

Seventeenth Amendment did not require State of Pennsylvania to hold primary election before holding general election to fill senatorial vacancy. *Trinsey v. Com. of Pa., C.A.3 (Pa.)1991, 941 F.2d 224*, certiorari denied 112 S.Ct. 658, 116 L.Ed.2d 750.

3. Independent party candidates

Independent party candidate seeking position on special election ballot was not entitled to injunction extending deadline for filing nominating papers; election was not stayed by court judgment, subsequently reversed, that primary election was required, and party was on notice that judgment might be overturned and election held as scheduled. *Perry v. Grant*, M.D.Pa.1991, 775 F.Supp. 821.

Independent party candidates do not have constitutional entitlement to gather signatures for nominating papers after nomination of major party candidates. *Perry v. Grant*, M.D.Pa.1991, 775 F.Supp. 821.

§ 2777. Special elections for Representative in Congress

Whenever a vacancy shall occur or exist in the office of Representative in Congress from this State during a session of Congress, or whenever such vacancy shall occur or exist at a time when the members of Congress shall be required to meet at any time previous to the next general election, the Governor shall issue, within ten days after the happening of said vacancy, or after the calling of an extraordinary session of Congress during the existence of said vacancy, a writ of election to the proper county board or boards of election and to the Secretary of the Commonwealth, for a special election to fill said vacancy, which election shall be held on a date named in said writ, which shall not be less than sixty (60) days after the issuance of said writ. In all other cases no such special election to fill said vacancy shall be held. The Governor may fix, in such writ of election, the date of the next ensuing primary or municipal election as the date for holding any such special election.

1937, June 3, P.L. 1333, art. VI, § 627. Amended 1963, Aug. 13, P.L. 707, § 4, effective Jan. 1, 1964.

Library References

United States § 11.
WESTLAW Topic No. 393.

C.J.S. United States §§ 11, 13 to 15.
P.L.E. Elections § 42.

§ 2778. Special elections for Senator and Representative in the General Assembly

Whenever a vacancy shall occur in either house of the General Assembly whether or not it then be in session, the presiding officer of such house shall issue a writ of election to the proper county board or boards of election and to the Secretary of the Commonwealth, for a special election to fill said vacancy, which election shall be held on a date named in the writ, which shall be not less than sixty (60) days after the issuance of said writ. The presiding officer may fix, in such writ of election, the date of the next ensuing primary, municipal or general election as the date for holding any such special election: Provided, however, That should the Governor after the issuance of the said writ of election advise the presiding officer that the General Assembly will be called into extraordinary session prior to the date set for such special election, the presiding officer may countermand the writ theretofore issued and shall issue a new writ of election, fixing therein such earlier date therefor as is deemed expedient, but which shall not be less than sixty (60) days after the issuance of said writ.

1937, June 3, P.L. 1333, art. VI, § 628. Amended 1940, Ex.Sess., May 16, P.L. (1941) 948, § 1; 1942, Ex.Sess., April 13, P.L. 20, § 1; 1963, Aug. 13, P.L. 707, § 5, effective Jan. 1, 1964.

Library References

States § 28(1).
WESTLAW Topic No. 360.
C.J.S. States §§ 42, 43.

P.L.E. Elections §§ 9, 10.
P.L.E. State Government § 4.

Notes of Decisions

In general 2
Partisan politics 3
Validity 1

1. Validity

Rational basis standard of review applied in scrutinizing constitutionality, under the due process and equal protection clauses, of Pennsylvania statute allowing presiding officer of each house in the General Assembly to issue writ for special election to fill vacancy in respective house without requiring that election be scheduled within specified period of time, as all qualified voters have equal opportu-

nity to select representatives and senators and special election provision applies uniformly to all vacancies. *Greenwood v. Singel*, E.D.Pa.1993, 823 F.Supp. 1207.

Pennsylvania statute granting discretion to presiding officer of each house of General Assembly to issue writ for special election to fill vacancy without requiring that election be scheduled within specified period of time is constitutional under due process and equal protection clauses despite contention that it does not require prompt filling of vacancies without unnecessary expense and inconvenience, as it is rationally related to legitimate state interest of insuring that there be some

flexibility in setting date of special election. *Greenwood v. Singel*, E.D.Pa.1993, 823 F.Supp. 1207.

Delay of two months in scheduling special election to fill vacancy in state Senate did not unconstitutionally deny representation to residents of Senate district; additional two months without representation was not fundamental imperfection in functioning of democracy so as to deny due process, and did not violate equal protection clause. *Greenwood v. Singel*, E.D.Pa.1993, 823 F.Supp. 1207.

Pennsylvania statute granting discretion to presiding officer of each house of General Assembly to issue writ for special election without requiring election be scheduled within specified period of time was not unconstitutional as promoting purposeful discrimination against citizens of particular senatorial district based on political beliefs and affiliations, where voter's choices were not being limited even though election in which they might vote was being postponed. *Greenwood v. Singel*, E.D.Pa.1993, 823 F.Supp. 1207.

2. In general

The court has no authority to substitute its discretion for that of presiding officer of state senate with reference to date of issuance of a writ of election for a special election. In re *Petition to Set Aside Spe-*

cial Election in Thirty-second Senatorial Dist., 15 D. & C.2d 271, 1959.

This section not only contains a mandate to the Speaker to issue the writ, but it places in him the power to determine the date on which the election shall be held. *Spangler v. Fiss*, 54 Dauph. 288, 49 D. & C. 366, 1944.

3. Partisan politics

Delay by Lieutenant Governor of Pennsylvania in scheduling special election to fill vacancy in state Senate, from date of municipal election on May 18, 1993, to July 13, 1993, did not deny due process or equal protection despite additional cost of \$150,000 to \$200,000 and depriving residents of district of representation in current session, and though delay might involve partisan political considerations; maintaining working majority in Senate that could pass legislation sponsored by Governor and Senate Democrats was rationally related to legitimate state interest even though it involved political considerations. *Greenwood v. Singel*, E.D.Pa.1993, 823 F.Supp. 1207.

Public official's motive in enforcing statute is relevant in determining whether there has been discriminatory application of law, but this does not mean that state cannot constitutionally rely on political concerns in scheduling special elections. *Greenwood v. Singel*, E.D.Pa.1993, 823 F.Supp. 1207.

§ 2778.1. Special elections for members of councils or legislative bodies of cities, boroughs, towns and townships

In all cases where under any law now or hereafter enacted, a special election is required to fill any vacancy in the office of member of the council or legislative body of any city, borough, town or township, such election shall be held on the day fixed in the writ for the special election or on such day as may be otherwise provided by such law, which day shall be within sixty (60) days after the issuance of the writ or after the happening of the vacancy, as the case may be, notwithstanding any provisions in such law requiring the special election to be held on an earlier day. This section shall not be construed as requiring a special election in any case where such election is not required under any law now or hereafter enacted.

1937, June 3, P.L. 1333, art. VI, § 628.1, added 1949, May 23, P.L. 1656, § 1. Amended 1963, Aug. 13, P.L. 707, § 6, effective Jan. 1, 1964.

Library References

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| Municipal Corporations ⇨149(1). | C.J.S. Towns §§ 53 to 59. |
| Towns ⇨26. | P.L.E. Elections §§ 9, 10. |
| WESTLAW Topic Nos. 268, 381. | P.L.E. Municipal Corporations § 116. |
| C.J.S. Municipal Corporations § 495 et seq. | P.L.E. Townships § 23. |

§ 2779. Nominations for special election for representative in Congress, Senator and Representative in the General Assembly and member of council or legislative body of cities, boroughs, towns and townships

Candidates to fill vacancies in the offices of Representative in Congress, Senator and Representative in the General Assembly and member of the council or legislative body of any city, borough, town or township shall be nominated by political parties, in accordance with the party rules relating to the filling of vacancies, by means of nomination certificates, in the form prescribed in section 630 of this act;¹ and by political bodies, by means of nomination papers, in accordance with the provisions of sections 951, 952 and 954 of this act.² Said nomination certificates and nomination papers for the office of Representative in Congress, Senator and Representative in the General Assembly shall be filed in the office of the Secretary of the Commonwealth not later than fifty (50) days prior to the date of the special election, and for the office of member of the council or legislative body of a city, borough, town or township, in the office of the county board of elections wherein such city, borough, town or township is situate, not later than fifteen (15) days after the issuance of the writ of election.

1937, June 3, P.L. 1333, art. VI, § 629. Amended 1942, Ex.Sess., April 13, P.L. 20, § 2; 1949, May 23, P.L. 1656, § 2; 1963, Aug. 13, P.L. 707, § 7, effective Jan. 1, 1964; 1971, Oct. 28, P.L. 493, No. 112, § 1.

¹ 25 P.S. § 2780.

² 25 P.S. §§ 2911, 2912 and 2914.

Law Review Commentaries

An excursion into the uncharted waters of the Seventeenth Amendment. Laura E. Little, 64 Temp.L.Rev. 629 (1991).

Library References

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| Elections ⇨123. | C.J.S. Elections § 89 et seq. |
| WESTLAW Topic No. 144. | P.L.E. Elections §§ 9, 10, 41. |

Notes of Decisions

In general 1
Discretion of court 3
Pleading 2

1. In general

Democratic State Executive Committee's nomination of candidate in special election for office of Representative in General Assembly did not violate state Election Code, as state Election Code authorizes political parties to nominate in accordance with party rules relating to filling vacancies for Office of Representative in General Assembly and State Democratic Party Rules provide that State Executive Committee shall have authority to make and certify nomination for Office of representative in General Assembly. In re Certificate of Nomination for 143rd Legislative Dist., 634 A.2d 155, Sup.1993.

Since this section provides for nominations of candidates by the political parties, through committee, caucus or a convention, and not by a primary election, a mandamus action requesting the court to direct the president of city council to set a primary election for a councilmanic vacancy must be dismissed. Meigs v. Tate, 27 D. & C.2d 641, 1963.

The political party, and not the electors of the election district had right to nominate party's candidate for a vacancy to be filled at a special election. In re Objec-

tions to Democratic Certificate of Nomination, 15 D. & C.2d 268, 1959.

2. Pleading

Electors' complaint, challenging lawfulness of special election to fill state senate vacancy, which was filed 28 days before the date scheduled for the special election and 41 days after issuance of writ of election was subject to dismissal on ground of laches. Marston v. Kline, 301 A.2d 393, 8 Pa.Cmwlt. 143, 1973.

An averment that the Democratic State Executive Committee nominated a candidate for office of state senator upon recommendation of presiding officer of senate whose purpose was to prevent the free and equal selection of another individual, fails to state with clearness and precision those facts, which if sustained by proof, would require court to set aside the results of the election, where the nominating certificate was made in compliance with the Election Code. In re Petition to Set Aside Special Election in Thirty-second Senatorial Dist., 15 D. & C.2d 271, 1959.

3. Discretion of court

If, in discretion of the court, justice and practical considerations deem it appropriate to proceed with pending election, the court may permit an election to proceed even though it be technically unlawful or unconstitutional. Marston v. Kline, 301 A.2d 393, 8 Pa.Cmwlt. 143, 1973.

§ 2780. Number, form and requirements of nomination certificates

Each political party shall be entitled to nominate and to file nomination certificates for as many candidates as will be voted for at such special election. Every nomination certificate for a special election to be held under the provisions of this article¹ shall be in form prescribed by the Secretary of the Commonwealth, and shall set forth the following:

- (a) The office and district, if any, for which it is filed;
- (b) The cause of the vacancy;
- (c) The rule or rules of the political party, setting forth the provisions applicable to the nomination of a candidate or candidates to fill said vacancy;
- (d) That a quorum of the committee, caucus or convention as provided by the party rules, duly convened, and the names of those

present at said meeting, or their proxies; that said persons are the duly appointed or elected members of said committee, caucus or convention;

(e) The name, residence and occupation of the candidate duly nominated at said meeting.

Every such certificate of nomination shall be signed by the presiding officer and the secretary or secretaries of the committees, caucus or convention, and shall be sworn or affirmed to by them before any officer qualified to administer oaths.

1937, June 3, P.L. 1333, art. VI, § 630. Amended 1949, May 23, P.L. 1656, § 3.

¹ 25 P.S. § 2751.

Library References

Elections ⇨123.
WESTLAW Topic No. 144.

C.J.S. Elections § 89 et seq.
P.L.E. Elections §§ 9, 10, 41.

Notes of Decisions

In general 1 Jurisdiction 2

1. In general

A certificate of nomination of a political party naming a candidate for a vacancy to be filled at a special election will not be set aside for failure to comply with this section, where certificate complies substantially and where shortness of time before election makes it impractical to permit a more specific amendment. In re Objections to Democratic Certificate of Nomination, 15 D. & C.2d 268, 1959.

A candidate's affidavit, which must be affixed to a nominating petition for a regular election, is not required on a certificate of nomination of a political party for a special election. In re Objections to Democratic Certificate of Nomination, 15 D. & C.2d 268, 1959.

A certificate for a special election need not contain the candidate's affidavit required on a petition for a regular election, nor must the members of the party committee, caucus or convention who nominate the candidate be electors of the election district in question. In re Kalman Nomination Certificate, 69 Dauph. 319, 1958.

2. Jurisdiction

The assumption of duties which bear a direct and substantial relationship to selection of public officials by the electoral process by political party organization has marked the entry by such organizations into an area of public activity which renders their activities in such area amenable to judicial supervision. Bentman v. Seventh Ward Democratic Executive Com., 218 A.2d 261, 421 Pa. 188, 1966.

§ 2780.1. Affidavits of candidates

Each candidate for any state, county, city, borough, incorporated town, township, school district or poor district office, or for the office of United States Senator or Representative in Congress, selected as provided in section 630 of this act,¹ shall file with the nomination certificate an affidavit stating—(a) his residence, with street and number, if any, and his post-office address; (b) his election district, giving city, borough, town or township; (c) the name of the office for

which he consents to be a candidate; (d) that he is eligible for such office; (e) that he will not knowingly violate any provision of this act, or of any law regulating and limiting election expenses and prohibiting corrupt practices in connection therewith; (f) unless he is a candidate for judge of a court of common pleas, the Philadelphia Municipal Court or the Traffic Court of Philadelphia, or for the office of school board in a district where that office is elective or for the office of justice of the peace, that he is not a candidate for the same office of any party or political body other than the one designated in such certificate; and (g) that he is aware of the provisions of section 1626 of this act² requiring election and post-election reporting of campaign contributions and expenditures. In cases of certificates for candidates for the General Assembly, the candidate's affidavit shall state (1) that the candidate will satisfy the eligibility requirements contained in sections 5 and 7 of Article II of the Constitution of Pennsylvania; (2)(i) that, in the case of a candidate for the office of Senator in the General Assembly, the candidate will be twenty-five (25) years of age on or before the first day of the term for which the candidate seeks election or (ii) that, in the case of a candidate for the office of Representative in the General Assembly, the candidate will be twenty-one (21) years of age on or before the first day of the term for which the candidate seeks election; (3) that the candidate shall have been a citizen and an inhabitant of Pennsylvania four (4) years and an inhabitant of the respective district one (1) year next before the election (unless absent on the public business of the United States or of this State); and (4) that the candidate has not been convicted of embezzlement of public moneys, bribery, perjury or other infamous crime.

1937, June 3, P.L. 1333, No. 320, art. VI, § 630.1, added 1985, April 18, P.L. 5, No. 4, § 1, imd. effective. Amended 1986, Feb. 19, P.L. 29, No. 11, § 5, imd. effective.

¹ 25 P.S. § 2780.

² 25 P.S. § 3246.

Historical and Statutory Notes

The 1986 amendment, in cl. (f), substituted "court of common pleas, the Philadelphia Municipal Court or the Traffic Court of Philadelphia" for "court of record".

§ 2781. Examination of nomination certificates and nomination papers by the secretary of the commonwealth and county board of elections; review

It shall be the duty of the Secretary of the Commonwealth or the proper county board of elections, as the case may be, to examine, as to legal sufficiency, in the manner and under the provisions of

section 976 of this act,¹ all nomination certificates and nomination papers brought to his or its office for the purpose of filing, for the nomination of candidates for a special election, as herein provided, and if manifestly defective, they shall not be filed. The action of the Secretary of the Commonwealth or the county board of election, in refusing to accept and file any such certificate or paper may be reviewed by the court upon an application to compel its reception and filing as of the date when it was brought to said office. No such certificate of nomination or nomination paper shall be refused by the Secretary of the Commonwealth or the county board of elections, except for any of the reasons provided for in section 976 of this act. 1937, June 3, P.L. 1333, art. VI, § 631. Amended 1949, May 23, P.L. 1656, § 3. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

¹ 25 P.S. § 2936.

Historical and Statutory Notes

The 1978 act, in the second sentence, county" following "court" and "for man- repealed "of common pleas of the proper damus" following "application".

Library References

Elections ⇨ 156.
WESTLAW Topic No. 144.

C.J.S. Elections § 135.
P.L.E. Elections §§ 9, 10, 53.

§ 2782. Objections to certificate of nomination and nomination papers filed for a special election; hearing; determination

All certificates of nomination and nomination papers to fill a vacancy as herein provided, which have been accepted and filed shall be deemed to be valid, unless objections thereto are duly made in writing and filed in the court and with the officer or board with whom said nomination certificates or papers were filed, and within three (3) days next succeeding the last day for filing such certificates or papers. For purposes of this section, a certificate shall include all affidavits required to be filed with such certificate under this act. Any objections shall set forth specifically the matters objected to. Upon the filing of the objections, the court shall make an order fixing a time for hearing, which shall not be later than seven (7) days after the last day for filing nomination certificates or papers, and specifying the time and manner of notice that shall be given to the candidate named in the nomination certificate or paper objected to. On the day fixed for said hearing, the court shall proceed without delay to hear said objections, and shall give such hearing precedence over any other business before it, and shall finally determine said matter not later than twelve (12) days after the last day for filing said nomina-

tion certificates or papers. In determining such matter, the court shall be governed in its order or decree by the provisions of section 977 of this act.¹

1937, June 3, P.L. 1333, art. VI, § 632. Amended 1949, May 23, P.L. 1656, § 3. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978. Amended 1985, April 18, P.L. 5, No. 4, § 2, imd. effective.

¹ 25 P.S. § 2937.

Historical and Statutory Notes

The 1978 act, in the first sentence, repealed "of common pleas of the county in which the nomination certificates or papers were filed" following "court".

The 1985 amendment inserted the second sentence, providing that, for pur-

poses of this section, a certificate shall include all affidavits required to be filed with such certificate under this act.

Library References

Elections ⇨150.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 120, 143.
P.L.E. Elections §§ 9, 10, 50.

Notes of Decisions

In general 1

on ground of laches. *Marston v. Kline*, 301 A.2d 393, 8 Pa.Cmwth. 143, 1973.

1. In general

Electors' complaint, challenging lawfulness of special election to fill state senate vacancy, which was filed 28 days before the date scheduled for the special election and 41 days after issuance of writ of election was subject to dismissal

If, in discretion of the court, justice and practical considerations deem it appropriate to proceed with pending election, the court may permit an election to proceed even though it be technically unlawful or unconstitutional. *Marston v. Kline*, 301 A.2d 393, 8 Pa.Cmwth. 143, 1973.

§ 2783. Withdrawals of candidates nominated for a special election

Any person who has been nominated by any political party or political body for a special election as herein provided, may withdraw his name from nomination by a request in writing signed by him and acknowledged before an officer qualified and empowered to administer oaths, and filed in the office of the officer or board with whom the nomination certificate or nomination paper was filed within seven (7) days next succeeding the last day for filing nomination certificates or papers. Such withdrawals to be effective must be received at the office of the Secretary of the Commonwealth or county board of elections, as the case may be, not later than five (5) o'clock P.M. on the last day for filing same. No name, so withdrawn, shall be printed on the ballot or ballot labels. No candidate may

withdraw any withdrawal notice already received and filed, and thereby reinstate his nomination.

1937, June 3, P.L. 1333, art. VI, § 633. Amended 1949, May 23, P.L. 1656, § 3; 1980, July 11, P.L. 591, No. 127, § 1, imd. effective.

Historical and Statutory Notes

The 1980 amendment extended the period for filing a written request withdrawing a name from nomination from within three days to within seven days next succeeding the last day for filing nomination certificates or papers.

Library References

Elections ⇨ 146.
WESTLAW Topic No. 144.

C.J.S. Elections § 95.
P.L.E. Elections §§ 9, 10, 51.

§ 2784. Substituted nominations for special elections

(a) Any vacancy happening or existing in any party nomination for a special election by reason of the death or withdrawal of any candidate, may be filled by a substituted nomination made by such committee as is authorized by the rules of the party to make nominations in the event of vacancies on the party ticket in the form prescribed by section 630 of this act.¹

(b) In case of the death or withdrawal of any candidate nominated by a political body for a special election, the committee named in the original nomination papers may nominate a substitute in his place by filing a substituted nomination certificate in the form and manner prescribed by section 980 of this act.² In the case of a vacancy caused by the death of any candidate, said nomination certificate shall be accompanied by a death certificate properly certified: Provided, however, That no substitute nomination certificate shall nominate any person who has already been nominated by any political party or by any other political body for any office to be filled at the same special election.

(c) Substituted nomination certificates to fill vacancies caused by the withdrawal of candidates nominated for a special election shall be filed with the officer or board with whom the original nomination certificates or papers were filed not later than seven (7) days after the last day for filing the original nomination certificates or papers.

(d) Substituted nomination certificates to fill vacancies caused by the death of candidates nominated for a special election shall be filed in the office of the officer or board with whom the original nomination certificates or papers were filed at any time prior to the day in which the printing of ballots is started.

1937, June 3, P.L. 1333, art. VI, § 634. Amended 1947, July 5, P.L. 1358, § 1; 1949, May 23, P.L. 1656, § 4.

¹ 25 P.S. § 2780.

² 25 P.S. § 2940.

Library References

Elections ⇨146.
WESTLAW Topic No. 144.

C.L.S. Elections § 95.
P.L.E. Elections §§ 9, 10, 52.

Notes of Decisions

Validity 1

1. Validity

"Party raiding" provisions of election code, limiting nominations to one politi-

cal party, do not constitute an unconstitutional interference with freedom of elections. *Krull v. City and County of Philadelphia*, 114 A.2d 119, 382 Pa. 1, 1955.

§ 2785. Objections to substituted nomination certificates for special elections

All substituted nomination certificates for special elections may be objected to, as provided in section 977 of this act,¹ except that objections to substituted nomination certificates must in any case be filed within three (3) days after the filing of the substituted nomination certificate: Provided, however, That no objections as to form and conformity to law shall be received after the day on which the printing of ballots is started.

1937, June 3, P.L. 1333, art. VI, § 635.

¹ 25 P.S. § 2937.

Library References

Elections ⇨151.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 123, 142.
P.L.E. Elections § 50.

§ 2786. Certification by Secretary of the Commonwealth of candidates for special elections

The Secretary of the Commonwealth shall, not later than the thirtieth (30th) day next preceding the day fixed for any special election to fill a vacancy in the offices of United States Senator, Representative in Congress, Senator and Representative in the General Assembly, certify to the proper county board or boards the names and residences of, and parties or political bodies represented by, all candidates whose nomination certificates or papers have been filed with him, as herein provided, for such election, and have not been found and declared invalid, and to be voted for in the county or any district or districts thereof, substantially in the form of the ballots to be used therein.

1937, June 3, P.L. 1333, art. VI, § 636. Amended 1949, May 23, P.L. 1656, § 5; 1963, Aug. 13, P.L. 707, § 7, effective Jan. 1, 1964.

Library References

Elections ⇨156.
WESTLAW Topic No. 144.

C.J.S. Elections § 135.
P.L.E. Elections §§ 9, 10, 53.

§ 2787. Conduct of special elections

Every special election, held under the provisions of this article, shall be held and conducted in all respects in accordance with provisions of this act relating to November elections, and the provisions of this act relating to November elections shall apply thereto in so far as applicable, and not inconsistent with any other provisions of this act. All such special elections held at the time of a regular primary or November election shall be conducted by the election officers by the use of the same equipment and facilities, so far as practicable, as are used for such primary or November election. 1937, June 3, P.L. 1333, art. VI, § 637.

Cross References

Questions submitted to voters, special elections, conduct of, see 25 P.S. § 3069.

Library References

Elections ⇨197.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 192, 196.
P.L.E. Elections §§ 9, 10, 81 et seq.

Notes of Decisions**In general 1****Local option referendum 2****1. In general**

Where charter act provided for filling of vacancies in office of councilman at next general municipal or special election but later Election Code made no provision for special elections to fill vacancies in office of Councilman of Philadelphia, the general constitutional provision for elections must prevail. *Com. ex rel. Maurer v. Witkin*, 25 A.2d 317, 344 Pa. 191, 1942.

The fact that Legislature, while providing for special elections to fill vacancies in certain offices, made no provision for a special election to fill vacancy in the office of mayor of Philadelphia, indicated legislative intent that vacancy in office of mayor may not be filled at a special election to be held at the time of a general election. *Watson v. Witkin*, 22 A.2d 17, 343 Pa. 1, 1941.

Candidates for special election are not entitled to have the ballot therefor segregated and set apart from all other offices being voted upon in the general election by having such candidates placed upon adjacent or contiguous lines with a separate key by which a vote could be cast for each. *In re Petition to Set Aside Special Election in Thirty-second Senatorial Dist.*, 15 D. & C.2d 271, 1959.

2. Local option referendum

A local option referendum is "special election" within this section and § 2600 et seq. of this title, requiring such elections to be held in accordance with code provisions respecting November elections, which, under § 3041 of this title, must be advertised by newspaper publications of notice thereof at least ten days before election. *Appeal of Frederick H. Harper, Jr., Inc.*, 29 A.2d 236, 150 Pa.Super. 569, 1943.

A local option referendum is a special election within this section, and the procedures of the election code must be strictly complied with. *Petition of Rock-*

dale Tp. Local Option, 76 D. & C. 137, 1952.

A local option referendum on the question of granting liquor licenses is a special election within the contemplation of this section, and is therefore subject to

the provisions of § 3041 of this title; notice of the holding of such referendum is a fundamental preliminary thereof. Appeal of Kimmell, 52 D. & C. 279, 1945, appeal dismissed 41 A.2d 436, 157 Pa.Super. 59.

ARTICLE VII. QUALIFICATIONS OF ELECTORS

Library References

Elections ⇨59.
WESTLAW Topic No. 144.

C.J.S. Elections § 16.
P.L.E. Elections § 21 et seq.

§ 2811. Qualifications of electors

Every citizen of this Commonwealth eighteen years of age, possessing the following qualifications, shall be entitled to vote at all elections, provided he or she has complied with the provisions of the acts requiring and regulating the registration of electors:

(1) He or she shall have been a citizen of the United States at least one month.

(2) He or she shall have resided in the State ninety days immediately preceding the election.

(3) He or she shall have resided in the election district where he or she shall offer to vote at least thirty days immediately preceding the election, except that if qualified to vote in an election district prior to removal of residence, he or she may, if a resident of Pennsylvania, vote in the election district from which he or she removed his or her residence within thirty days preceding the election.

1937, June 3, P.L. 1333, art. VII, § 701. Amended 1959, Dec. 30, P.L. 2085, § 1; 1971, July 9, P.L. 197, No. 29, § 1; 1974, July 3, P.L. 443, No. 153, § 1, imd. effective.

Historical and Statutory Notes

The 1974 amendment, in subdivision (3), substituted "thirty" in lieu of "sixty" in two places.

Cross References

Constitutional provision as to electors, see Const. Art. 9, § 1.
Right to vote as dependent on registration, see 25 P.S. §§ 623-38, 951-36.

Library References

Elections ⇨68.
WESTLAW Topic No. 144.

C.J.S. Elections § 18.
P.L.E. Elections §§ 21, 22.

United States Supreme Court

Convicted felons, disenfranchisement, equal protection, see *Richardson v. Ramirez*, U.S. Cal. 1974, 94 S.Ct. 2655, 418 U.S. 24, 41 L.Ed.2d 551.

Voter residency requirements, see *Dunn v. Blumstein*, 1972, 92 S.Ct. 995, 405 U.S. 330, 31 L.Ed.2d 274.

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1. Validity

The legislature can confer the right to vote only upon those designated by the fundamental law and subject to the limitations therein fixed. In re *Contested Election in Fifth Ward of Lancaster City*, 126 A. 199, 281 Pa. 131, 1924.

Durational residency requirements in this section regarding registering and qualifying electors are unenforceable. 1972 Op. Atty. Gen. No. 121.

2. Citizenship

Under Pennsylvania statutory and constitutional provisions making United States citizenship prerequisite to right to vote and requiring registrants to certify that they are United States citizens and legally qualified to vote, alien who voted in Pennsylvania was placed on notice that citizenship was essential to qualify as an elector, so that indictment charging false representation of United States citizenship by voting in Pennsylvania was not subject to dismissal on ground that alien did not know that citizenship was necessary for voting. *U.S. v. Martinez*, 73 F.Supp. 403, D.C., 1947.

3. Residence—In general

A "home" is a person's dwelling place, distinguished from other dwelling places of such person by intimacy of relation between him and such place and the fact that a man has his family living with him in a dwelling place is strong evidence that such place is his home. In re *Stabile*, 36 A.2d 451, 348 Pa. 587, 1944.

"Domicile" ordinarily means place where person lives or has his home, and, in strict legal sense, place where person has his true, fixed, permanent home and principal establishment, to which, whenever absent therefrom, he intends to return, is his domicile, while elector's "residence" means place where he makes his permanent or true home, his principal place of business, and his family residence, if any, and indicates permanency of abode as distinguished from mere lodging or boarding. In re *Stabile*, 36 A.2d 451, 348 Pa. 587, 1944.

A man's "legal residence" for any legal purpose, whether for voting, holding office or taxation, is not wherever he says it is or says he intends it to be, but is a fact question, in determining which the state brushes aside all colorable pretences and finds reality behind the guise. In re *Stabile*, 36 A.2d 451, 348 Pa. 587, 1944.

The "legal residence" of voter, living with his wife, was in township wherein his family home, in which his children resided all the year around and family kept house, was located, not in city district, wherein he owned dwelling house occupied permanently by tenant and his family, though such voter occasionally lodged, ate and entertained in leased dwelling house. In re *Stabile*, 36 A.2d 451, 348 Pa. 587, 1944.

Where a man having his home and family in one town goes to another town where he stays at a hotel over a weekend, thereafter allowing some articles of clothing to remain at the hotel to which he returns occasionally, his residence has not been changed to the town in which the hotel is situated. *Petition of Daniels*, 30 D. & C. 439, 1938.

"Residence", within the meaning of § 2600 et seq., of this title and Const. Art. 8, § 1, is the place where a person's habitation is fixed and to which, whenever he is absent, he intends to return. *Petition of Daniels*, 30 D. & C. 439, 1938.

4. — Election district, residence

Requirement that voting age students who wished to register to vote in county meet a more stringent test of residency than other voter registration applicants, in that requirements that an applicant produce a Pennsylvania driver's license containing a county address or two or more credit cards showing charge account with a county commercial establishment, checking or savings account with a county bank or savings and loan association, lease, passport or other similar indicia of business or commercial activity within county were consistently applied to students, as opposed to other applicants, was unjustifiable and violated equal protection. *Sloane v. Smith*, 351 F.Supp. 1299, D.C.1972.

Even if policy of requiring applicants, seeking to register to vote in county, to produce a Pennsylvania driver's license containing a county address or two or more credit cards showing a charge account with a county commercial establishment, checking or savings account with a county bank or savings and loan association, lease, passport or other similar indicia of business or commercial activity within county were applied uniformly, it could not survive test of reasonableness and operated as a chilling effect on First Amendment rights. *Sloane v. Smith*, 351 F.Supp. 1299, D.C.1972.

5. — Prison inmates, residence

Prisoner, whose sentence did not specifically provide for forfeiture of voting rights, was not entitled under Fifteenth Amendment of the federal constitution to require that election officials set up voting procedure and equipment to permit him and other prisoners to vote. *Rav v. Com. of Pa.*, 263 F.Supp. 630, D.C.1967.

An inmate of a state penitentiary acquires no "residence" therein for voting purposes. *Com. ex rel. Walden v. Brown*, 85 D. & C. 581, 1954, 64 Dauph. 375.

6. Proof of qualifications

Proof must be made at the time the right to vote is claimed, or the vote will be illegal; it is too late to prove the right at the trial of a contest. *McDonough's Contested Election*, 105 Pa. 488, 1884.

7. Imposter

A citizen duly qualified to vote cannot be deprived of his right to vote, by the act of an impostor in voting under the name of the citizen before the latter attempts to vote. *Com. v. Weiserth*, 47 Pa.Super. 592, 1911; *Com. v. Burton*, 47 Pa.Super. 600, 1911.

8. Jury duty

Fact that defendant, who was 26 years of age, was not member of group excluded from jury panel consisting of citizens from ages of 18 to 23 would not deny him standing to object to jury selection process claiming process denied him his right to a jury drawn from a fair cross section of community. *Com. v. Loccisano*, 366 A.2d 276, 243 Pa.Super. 522, 1976.

Although period of two years elapsed before voter registration list containing youngest voters from Twenty-Sixth Amendment, U.S.C.A. Const. Amend. 26, became basis for selection of jury panel, where method of jury selection was followed each year, so that each year there would be identical time gap between list used and actual drawing of jury, and where there was no showing of any deliberate discrimination against youthful voters, jury selection process, which excluded voters under 23 years of age, did not violate defendant's right to trial by impartial jury representing fair cross section of community. *Com. v. Loccisano*, 366 A.2d 276, 243 Pa.Super. 522, 1976.

The right to vote does not necessarily confer the right to sit on a jury. *Com. v. Cobbs*, 305 A.2d 25, 452 Pa. 397, 1973.

Even if conferring on 18-year-olds the right to vote also conferred right to sit on jury in those counties requiring jurors to be "qualified electors," it would have been unreasonable to require, during five days between enactment of this section implementing the 26th Amendment and the date of defendant's trial, the discharge and replacement of already existing and validly selected jury panels, despite contention that, following adoption of 26th Amendment, statutory requirement that jurors in Allegheny County be 21 years of age denied equal protection to defendant tried in that county in light of statutes requiring only, as to other counties, that jurors be electors. *Com. v. Cobbs*, 305 A.2d 25, 452 Pa. 397, 1973.

Note 9

9. Limitations

Where more than three years had elapsed since alleged violation of statute making it an offense for one to represent falsely and willfully that he is a citizen of

the United States, by alien who signed and filed a Pennsylvania Voter's Registration Card, prosecution was barred by three-year limitations. *U.S. v. Anzalone*, 197 F.2d 714, C.A., 1952.

§ 2812. Qualifications of electors at primaries

The qualifications of electors entitled to vote at primaries shall be the same as the qualifications of electors entitled to vote at elections within the election district where the primary is held, provided that no elector who is not registered and enrolled as a member of a political party, in accordance with the provisions of this act, shall be permitted to vote the ballot of such party or any other party ballot at any primary.

1937, June 3, P.L. 1333, art. VII, § 702.

Library References

Elections ⇨ 126(4).
WESTLAW Topic No. 144.

C.J.S. Elections §§ 115, 130.
P.L.E. Elections § 21.

Notes of Decisions

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Validity 1

3. — Citizenship, qualifications

Under Pennsylvania statutory and constitutional provisions making United States citizenship prerequisite to right to vote and requiring registrants to certify that they are United States citizens and legally qualified to vote, alien who voted in Pennsylvania was placed on notice that citizenship was essential to qualify as an elector, so that indictment charging false representation of United States citizenship by voting in Pennsylvania was not subject to dismissal on ground that alien did not know that citizenship was necessary for voting. *U.S. v. Martinez*, 73 F.Supp. 403, D.C., 1947.

1. Validity

"Party raiding" provisions of election code, limiting nominations to one political party, do not constitute an unconstitutional interference with freedom of elections. *Krull v. City and County of Philadelphia*, 114 A.2d 119, 382 Pa. 1, 1955.

2. Qualifications—In general

Under §§ 744-501 and 744-502 of Title 47, Liquor (repealed), providing for local option, referendum election at primary preceding municipal election, every qualified voter is entitled to vote on the local option whether or not he also votes for party officers or candidates to be voted for at a subsequently held municipal election, and it is the duty of the commissioners to provide a ballot for the purpose, as voters' right to vote is not limited by party requirements regulating the right to vote for limited purposes of primary election. *Kram v. Kane*, 8 A.2d 398, 336 Pa. 113, 1939.

4. — Party membership, qualifications

Where the law says that the signers must be members of the party, and that the qualification for membership in a party is a vote for "a majority of the candidates of the party" at the preceding election, the word "candidates" is used in the sense of representatives of the party and not in the sense of the individuals who may happen to be such representative; that is, if he voted in a party column, he must have voted for the candidates of the party claimed by him in the column designated for that party and not in some other party column. *Supper v.*

Strauss, 39 Pa.Super. 388, 394, 1909, affirming 17 Dist. 333, 1908.

The intention of act of 1906, Feb. 17, P.L. 36, § 10, repealed, defining the qualifications of electors entitled to vote at a primary is to credit each candidate with each vote cast in his favor, no matter on what ticket, to the end that it may be ascertained whether or not he has received a plurality of votes; and it is equally important that a political party or organized body of electors that has made a nomination, is entitled to have an accurate computation made of the number of votes cast in its name, so that its rights with respect to the making of nomination may be ascertained. *Supper v. Strauss*, 39 Pa.Super. 388, 393, 1909, affirming 17 Dist. 333, 1908.

A candidate may be voted for by more than one party but he does not thereby lose his relation to a party, from the mere fact that his name appears in a column of another party. *Supper v. Strauss*, 39

Pa.Super. 388, 393, 1909, affirming 17 Dist. 333, 1908.

Elector in election district in city of first class who enrolls as member of particular political party at fall enrollment, thereby secures right to vote for its candidates at following spring primaries and to sign nomination papers for candidates on party primary ballot, irrespective of whether or not he votes for majority of candidates of another political party at November election following his enrollment. *Johnson's Nom.*, 27 Dist. 710, 46 C.C. 535, 1918.

5. Election judge

An election judge must administer the oath to an elector requiring to be sworn at a primary election, and his powers in this respect are the same as those conferred upon him as to general elections by the acts of 1840, June 30, P.L. 683, and 1839, July 2, P.L. 519, repealed. *Supper v. Strauss*, 39 Pa.Super. 388, 392, 1909, affirming 17 Dist. 333, 1908.

§ 2813. Residence of electors

For the purpose of registration and voting, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while employed in the service, either civil or military, of this State or of the United States, nor while engaged in the navigation of the waters of the State or of the United States, or on the high seas, nor while a student of any institution of learning, nor while kept in any poorhouse or other asylum at public expense, nor while confined in public prison, except that any veteran who resides in a home for disabled and indigent soldiers and sailors, operated and maintained by the Commonwealth of Pennsylvania, and who possesses all the qualifications for voting, may gain a residence for registration and voting at the home for disabled and indigent soldiers and sailors. The provisions of this amendment shall not be construed to affect the voting rights of bedridden or hospitalized veterans who choose to vote as absentee electors by the use of veteran's official ballots.

1937, June 3, P.L. 1333, art. VII, § 703. Amended 1959, Sept. 9, P.L. 851, § 1.

Library References

Elections ⇄ 74 to 76
WESTLAW Topic No. 144.

C.J.S. Elections §§ 19, 22, 24.
P.L.E. Elections § 22.

Notes of Decisions

In general	1
County home residents	5
State employees	3
State hospital patients	4
Students	2

1. In general

Fact that voter had employment and that he married and moved in with his parents-in-law while continuing his studies, did not affect his residence. Case of Schrum Election, 36 D. & C.2d 784, 57 Mun. 51, 79 York 57, 1966.

Where a voter leaves the home of one of his wife's relatives in which he and his wife have been living, to seek employment elsewhere, the wife at the same time going to live with another relative, but leaving their furniture, and, having been unsuccessful in finding work, joins his wife where she is then living, remaining there through an election at which he voted as of his original residence, to which he and his wife return shortly thereafter, while the question of his residence is a close one, the court will not disqualify his vote. In re Sokach's Election, 35 D. & C. 435, 1940.

"Residence", within the meaning of § 2600 et seq. of this title and Const. Art. 8 § 1, is the place where a person's habitation is fixed and to which, whenever he is absent, he intends to return. Petition of Daniels, 30 D. & C. 439, 1938.

2. Students

Requirement that voting age students who wished to register to vote in county meet a more stringent test of residency than other voter registration applicants, in that requirements that an applicant produce a Pennsylvania driver's license containing a county address or two or more credit cards showing charge account with a county commercial establishment, checking or savings account with a county bank or savings and loan association, lease, passport or other similar indicia of business or commercial activity within county were consistently applied to students, as opposed to other applicants, was unjustifiable and violated equal protection. Sloane v. Smith, 351 F.Supp. 1299, D.C.1972.

Even if policy of requiring applicants, seeking to register to vote in county, to

produce a Pennsylvania driver's license containing a county address or two or more credit cards showing a charge account with a county commercial establishment, checking or savings account with a county bank or savings and loan association, lease, passport or other similar indicia of business or commercial activity within county were applied uniformly, it could not survive test of reasonableness and operated as a chilling effect on First Amendment rights. Sloane v. Smith, 351 F.Supp. 1299, D.C.1972.

College students are permitted to register to vote in locality at which they are attending college or university. 1971 Op. Atty.Gen. No. 64.

3. State employees

Provision of Const. Art. 8, § 13, that for voting purposes no person shall be deemed to have gained a residence by reason of his presence while in the employ of the state did not preclude state employees, who were permitted to and did live in state owned quarters from which they were required to move upon cessation of their employment, from establishing domicile where they worked. In re Contest of Election for Office of Tax Collector in Newport Tp., Luzerne County, 121 A.2d 141, 384 Pa. 474, 1956.

Constitutional provision that for voting purposes no person shall be deemed to have gained a residence by reason of his presence while in the employ of the state means that such employees' residence cannot be changed merely by reason of their employment. In re Contest of Election for Office of Tax Collector in Newport Tp., Luzerne County, 121 A.2d 141, 384 Pa. 474, 1956.

A person employed by the Commonwealth may, if he sees fit, establish his domicile and gain residence at the place of his employment by taking the proper and appropriate steps to do so. In re Contest of Election for Office of Tax Collector in Newport Tp., Luzerne County, 121 A.2d 141, 384 Pa. 474, 1956.

Provision that the residence of a State employee shall not necessarily change by reason of his presence or absence at or from his residence while employed in the service of the State, does not give such an employee the right to elect his voting residence without becoming a resident in

fact. Petition of Daniels, 30 D. & C. 439, 1938.

4. State hospital patients

A person who resides at institution for the mentally ill or mentally retarded in the state cannot lawfully be denied the right to register as a qualified elector in the voting district in which the institution is located. 1973 Op.Atty.Gen. No. 48.

5. County home residents

Absentee ballots cast by virtue of medical disability by residents of the county home will be disallowed where the electors were residents of different voting districts prior to coming to the home. In re Absentee Ballots Cast at Election of April 28, 1964, 34 D. & C.2d 504, 1965.

§ 2814. Rules for determining residence

In determining the residence of a person desiring to register or vote, the following rules shall be followed so far as they may be applicable:

(a) That place shall be considered the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

(b) A person shall not be considered to have lost his residence who leaves his home and goes into another state or another election district of this State for temporary purposes only, with the intention of returning.

(c) A person shall not be considered to have gained a residence in any election district of this State into which he comes for temporary purposes only, without the intention of making such election district his permanent place of abode.

(d) The place where the family of a married man or woman resides shall be considered and held to be his or her place of residence, except where the husband and wife have actually separated and live apart, in which case the place where he or she has resided for two months or more shall be considered and held to be his or her place of residence.

(e) If a person removes to another state with the intention of making such state his permanent residence, he shall be considered to have lost his residence in this State.

(f) If a person removes to another state with the intention of remaining there an indefinite time and making such state his place of residence, he shall be considered to have lost his residence in this State, notwithstanding he may entertain an intention to return at some indefinite future period.

(g) If a person removes to the District of Columbia or other Federal territory or foreign country to engage in the government service, he shall not be considered to have lost his residence in this State during the period of such service, and the place where the

person resided at the time of his removal shall be considered and held to be his place of residence.

(h) If a person goes into another state and while there exercises the right of a citizen by voting, he shall be considered to have lost his residence in this State.

1937, June 3, P.L. 1333, art. VII, § 704.

Library References

Elections ⇨72.
WESTLAW Topic No. 144.

C.J.S. Elections § 20.
P.L.E. Elections § 22.

Notes of Decisions

Residence 1-4

In general 1

Domicile 4

Home 3

Intention of voter 2

Students 5

1. Residence—In general

Fact that candidate for ward executive committee of the Democratic Party maintained a room in mother's house, visited his mother and aunt frequently and occasionally slept in the house did not make mother's home his "residence" within meaning of this section; nor did fact that candidate was elected to city council from voting district wherein mother's residence was located and that he always voted in that district satisfy residency requirements of the code. *In re Carabello*, 516 A.2d 784, 102 Pa.Cmwth. 129, 1984.

The "legal residence" of voter, living with his wife, was in township wherein his family home, in which his children resided all the year around and family kept house, was located, not in city district, wherein he owned dwelling house occupied permanently by tenant and his family, though such voter occasionally lodged, ate and entertained in leased dwelling house. *In re Stabile*, 36 A.2d 451, 348 Pa. 587, 1944.

A man's "legal residence" for any legal purpose, whether for voting, holding office or taxation, is not wherever he says it is or says he intends it to be, but is a fact question, in determining which the state brushes aside all colorable pretences and finds reality behind the guise. *In re Stabile*, 36 A.2d 451, 348 Pa. 587, 1944.

2. — Intention of voter, residence

Mere assertion of intention to consider one address as against another as a legal domicile is insufficient to determine residence for the purpose of qualifying as an elector. *In re Removal of Minority Inspector, 1st Dist., 2nd Ward, Borough of Dunmore*, 1 D. & C.2d 783, 55 Lack.Jur. 253, 1955.

Where a district election officer lives and has been employed in another district for 12 years, his home is in the district of his employment, notwithstanding his intention not to give up his formal residence in the district in which he was elected, his owning property in the district in which his mother resides, or fact that his Federal income tax notices are sent to and returns filed from his address within the election district. *In re Removal of Minority Dist. Election Inspector*, 1 D. & C.2d 783, 55 Lack.Jur. 253, 1954.

Under this section, registration as a voter is properly denied to a Federal employe who established a residence in the city where he is employed at the time and because of removal to that city by the agency employing him, but who has stated under oath that it is not his intention to make that city his permanent home irrespective of his employment and on the contrary has declared his wish to leave the city as soon as possible. *Hull v. Shoyer*, 52 D. & C. 222, 1945.

3. — Home, residence

A "home" is a person's dwelling place, distinguished from other dwelling places of such person by intimacy of relation between him and such place and the fact that a man has his family living with him in a dwelling place is strong evidence

that such place is his home. In re Stabile, 36 A.2d 451, 348 Pa. 587, 1944.

4. — Domicile, residence

"Domicile" ordinarily means place where person lives or has his home, and, in strict legal sense, place where person has his true, fixed, permanent home and principal establishment, to which, whenever absent therefrom, he intends to return, is his domicile, while elector's "residence" means place where he makes his permanent or true home, his principal place of business, and his family residence, if any, and indicates permanency of abode as distinguished from mere lodging or boarding. In re Stabile, 36 A.2d 451, 348 Pa. 587, 1944.

5. Students

Requirement that voting age students who wished to register to vote in county meet a more stringent test of residency than other voter registration applicants, in that requirements that an applicant produce a Pennsylvania driver's license containing a county address or two or more credit cards showing charge account with a county commercial estab-

lishment, checking or savings account with a county bank or savings and loan association, lease, passport or other similar indicia of business or commercial activity within county were consistently applied to students, as opposed to other applicants, was unjustifiable and violated equal protection. *Sloane v. Smith*, 351 F.Supp. 1299, D.C.1972.

Even if policy of requiring applicants, seeking to register to vote in county, to produce a Pennsylvania driver's license containing a county address or two or more credit cards showing a charge account with a county commercial establishment, checking or savings account with a county bank or savings and loan association, lease, passport or other similar indicia of business or commercial activity within county were applied uniformly, it could not survive test of reasonableness and operated as a chilling effect on First Amendment rights. *Sloane v. Smith*, 351 F.Supp. 1299, D.C.1972.

College students are permitted to register to vote in locality at which they are attending college or university. 1971 Op. Atty.Gen. No. 64.

ARTICLE VIII. PARTY ORGANIZATION

§ 2831. Definition of political parties and political bodies

(a) Any party or political body, one of whose candidates at the general election next preceding the primary polled in each of at least ten counties of the State not less than two per centum of the largest entire vote cast in each of said counties for any elected candidate, and polled a total vote in the State equal to at least two per centum of the largest entire vote cast in the State for any elected candidate, is hereby declared to be a political party within the State, and shall nominate all its candidates for any of the offices provided for in this act, and shall elect its delegates and alternate delegates to the National convention as party rules provide. State committee members, and also such party officers, including members of the National committee, as its rules provide, shall be elected by a vote of the party electors, in accordance with the provisions of this act and party rules.

(b) Any party or political body, one of whose candidates at either the general or municipal election preceding the primary polled at least five per centum of the largest entire vote cast for any elected candidate in any county, is hereby declared to be a political party within said county; and shall nominate all its candidates for office in such county and in all political districts within said county, or of

which said county forms a part, and shall elect such party officers as its rules provide shall be elected therein, by a vote of the party electors, in accordance with the provisions of this act.

(c) Any political body which is not a political party, as hereinabove defined, but which has nominated candidates for such general or municipal election by nomination papers in the manner provided by this act, shall be deemed to be a political body within the meaning of this act, but such political body shall not be entitled to nominate its candidates or elect its party officers at primaries held under the provisions of this act.

(d) Provided, however, That the words "political party" and the words "political body", as hereinabove defined, shall not include any political party, political organization or political body composed of a group of electors, whose purposes or aims, or one of whose purposes or aims, is the establishment, control, conduct, seizure or overthrow of the Government of the Commonwealth of Pennsylvania or the United States of America by the use of force, violence, military measures, or threats of one or more of the foregoing.

1937, June 3, P.L. 1333, art. VIII, § 801. Amended 1941, July 28, P.L. 526, § 1; 1971, Dec. 22, P.L. 613, No. 165, § 2.

Library References

Elections ⇨121(1).
WESTLAW Topic No. 144.

C.J.S. Elections § 83 et seq.
P.L.E. Elections § 41.

Notes of Decisions

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Distinctions in Election Code between candidates showing certain minimum public support, and thus entitled to place on ballot, and those not showing such support, and thus not entitled to place on ballot, and between county and other local elections, where showing of minimum support for candidate is required, and state elections, where the name of any candidate of legal party will be placed on the ballot, constitute reasonable classifications, and, therefore, do not violate equal protection clause of United States Constitution. *Shankey v. Staisey*, 257 A.2d 897, 436 Pa. 65, 1969, certiorari denied 90 S.Ct. 684, 396 U.S. 1038, 24 L.Ed.2d 682.

1. Validity

Requirement that every candidate who desires to appear on general election ballot must show support by set number of people by petition or by primary election victory, does not violate requirement of State Constitution that elections be free and equal. *Shankey v. Staisey*, 257 A.2d 897, 436 Pa. 65, 1969, certiorari denied 90 S.Ct. 684, 396 U.S. 1038, 24 L.Ed.2d 682.

2. Purpose

Election code does not impose any duty on political group to actively register voters in party name once party status is achieved pursuant to § 2831 of this title granting such status upon party's candidates receiving five-percent of largest en-

tire vote cast for any elective candidate in any county; fair reading of related sections makes clear that legislature intended to make nomination of candidates significantly easier once a political group had demonstrated its viability through performance of its candidates in a general election. *Fraenzl v. Secretary of Com. of Pa.*, 478 A.2d 903, 83 Pa.Cmwlth. 539, 1984.

3. Definitions, generally

A political group which receives more than a certain number of votes at the preceding general or municipal election is deemed a "political party" and permitted to select its candidates by primary election method pursuant to which a prospective candidate places his name on the primary ballot by filing a nomination petition; any other political group is deemed a "political body" and must select its candidates by the more difficult process of filing nomination papers. *Packrall v. Quail*, 192 A.2d 704, 411 Pa. 555, 1963.

4. Political body

Limitations placed upon substituted nominations by political bodies by § 2940 of this title, were inapplicable to substituted nominations made by political party, and therefore Republican County Committee was at liberty to substitute as nominees for vacancies on ticket for November election individuals who had filed nomination petitions as candidates on Democratic ticket at May primary election and had been there defeated. *Martonick v. Beattie*, 117 A.2d 715, 383 Pa. 168, 1956.

5. Political party—In general

Candidate for United States Representative nominated by political party which gained "party" status by attracting sufficient number of voters in preceding year was not required by the election code to submit nomination petitions signed by 200 registered party electors in order to be nominated for primary ballot, and consequently, to have her name placed on general election ballot, where such party had only three registered voters in district. *Fraenzl v. Secretary of Com. of Pa.*, 478 A.2d 903, 83 Pa.Cmwlth. 539, 1984.

Where there are not sufficient numbers of registered party electors to comply with § 2872 of this title requiring nomi-

nation petitions signed by 200 registered party electors nominate candidates for primary ballot, provisions of election code should not operate to bar nomination of candidates under party name as to political party which has achieved party status due to its candidates receiving required percentage of votes in previous election. *Fraenzl v. Secretary of Com. of Pa.*, 478 A.2d 903, 83 Pa.Cmwlth. 539, 1984.

Where a statutory political party failed to receive the minimum number of votes necessary to give such party the right to nominate its candidates at a primary election, thereby becoming a statutory political body, the political party was required to nominate its candidates by nomination papers under the statute providing a method for nomination of candidates for public office in addition to party nominations made at primaries. *Com. v. Weiner*, 25 A.2d 844, 148 Pa.Super. 577, certiorari denied 63 S.Ct. 56, 317 U.S. 631, 87 L.Ed. 509, 1942.

The combination that is a party places its candidates in nomination by a proceeding wholly different from that which a combination less than a party must follow to accomplish the same object; the former files certificates of nomination, the latter nomination papers. *In re Citizens' Party Nominations*, 21 C.C. 417, 1898.

6. — Party within state, political party

Whether a body of electors constitutes a political party in the state is to be tested by the vote at the general election next preceding the primary in question. *Foster's Nomination Papers*, 41 C.C. 696, 1914; *Keystone Party*, 23 Dist. 250, 1914.

7. — Party within county, political party

Whether a body of electors constitutes a political party in a county is to be tested by the vote at either the general or municipal election preceding the primary in question. *Foster's Nomination Papers*, 41 C.C. 696, 1914; *Keystone Party*, 23 Dist. 250, 1914.

Where at general election of 1948 in the state, the Progressive Party polled sufficient votes to constitute it a political party within the state, the Progressive Party was entitled to nominate its candidates in 1949 for office at September

Note 7

primary in every one of the sixty-seven counties of the state, even in those counties in which the Progressive Party did not poll a number of votes sufficient to have qualified the Progressive Party in those counties separately as a political party within those counties, and therefore board of election of one of those counties properly refused to receive and file nomination papers of those who designated themselves as candidates of the Progressive Party. *Kerns v. Kane*, 69 A.2d 388, 363 Pa. 276, 1950.

In order to be declared a political party under this section, a political party's candidate had to receive at least five percent of the largest entire vote cast for any elected candidate within the county in which political party status was sought in the general election preceding the primary. *Consumer Party v. Com'rs of Centre County*, 25 D. & C.3d 87, 1981.

Political body acquires legal status of party within county, when any one of its candidates for state or local office has received at last general election number of votes equal to at least five per cent. of entire number of votes cast for candidate elected to that office. *Liberal Party's Petition*, 17 D. & C. 176, 1931.

Town Meeting Party of Philadelphia had right to nominate candidate for representative in general assembly from district which was wholly within county of Philadelphia. *Campbell's Petition*, 21 Dauph. 56, 46 C.C. 457, 27 Dist. 1021, 1918.

8. Allocation of vote

Where all the parties nominating a particular candidate are grouped together so that one candidate although nominated by several parties has but one square opposite his name as provided by § 2963 of this title, all of the votes cast for a candidate so nominated will be allocated to a minority party, one of the nominators in determining whether the party has met the five percent requirement. *Youngman v. Lycoming County Bd. of Elections*, 47 D. & C.2d 367, 1969.

9. Voting machines

Under voting machine act of 1929, April 18, P.L. 549, repealed voting machine need provide a single lever to record straight vote only for candidates of regularly constituted "political parties," and not for "political bodies" arising by pre-emption, where voting machine cannot accommodate them. *Davidowitz v. Philadelphia County*, 187 A. 585, 324 Pa. 17, 1936.

§ 2832. Only enrolled electors to vote at primaries or hold party offices

No person who is not registered and enrolled as a member of a political party shall be entitled to vote at any primary of such party or to be elected or serve as a party officer, or a member or officer of any party committee, or delegate or alternate delegate to any party convention.

1937, June 3, P.L. 1333, art. VIII, § 802.

Library References

Elections ⇨ 121(2), 126(4).
WESTLAW Topic No. 144.

C.J.S. Elections §§ 86 et seq. 115,
130.
P.L.E. Elections §§ 21, 41.

Notes of Decisions

Time of registration 1

1. Time of registration

Names of candidates for Republican Party office were properly struck from

primary ballot where they were registered Democrats at time they circulated their nomination petitions, despite fact that they were properly enrolled electors of Republican Party when they executed required affidavits and filed nomination

petitions. In re Bugler, 516 A.2d 796,
102 Pa.Cmwlt. 178, 1986.

§ 2833. Repealed. 1971, Dec. 22, P.L. 614, No. 165, § 3

Historical and Statutory Notes

The repealed section, which related to state committees for each political party, was derived from Act 1937, June 3, P.L. 1333, art. VIII, § 803.

§ 2834. Organization of State committee; rules

Each political party shall be directed by a State committee, to be chosen in such a manner and for such a term of office as party rules may provide. The members of the State committee shall meet for organization not later than the sixth Wednesday following their election, at such hour and place as shall be designated by the State chairman of each political party. The State committee of each political party may make such rules for government of the party in the State, not inconsistent with law, as it may deem expedient; and may also revoke, alter or renew, in any manner not inconsistent with law, any present or future rules of such political party. No such rules shall be effective until a certified copy thereof has been filed in the office of the secretary of the commonwealth.

1937, June 3, P.L. 1333, art. VIII, § 804. Amended 1945, March 2, P.L. 16, § 1; 1971, Dec. 22, P.L. 614, No. 165, § 4.

Library References

Elections ⇨121(1).
WESTLAW Topic No. 144.

C.J.S. Elections § 83 et seq.
P.L.E. Elections § 41.

Notes of Decisions

In general 1

1. In general

Under this section and § 2835 of this title giving political parties power to choose committee members and to fill vacancies in such office by their own rules, failure of electorate or county com-

mittee of political party to choose members resulted in vacancies subject to appointment by party's own rules, notwithstanding §§ 2831 and 2833 of this title providing, with reference generally to election of party officers, that only electorate may choose state committee persons. Fox v. Watson, 314 A.2d 31, 11 Pa.Cmwlt. 297, 1973.

§ 2835. Filling of vacancy in State committee

Vacancies happening at any time in the office of member of the State committee shall be filled according to the rules of the party.

1937, June 3, P.L. 1333, art. VIII, § 805.

Notes of Decisions

In general 1

1. In general

Under this section and § 2384, of this title giving political parties power to choose committee members and to fill vacancies in such office by their own rules, failure of electorate or county com-

mittee of political party to choose members resulted in vacancies subject to appointment by party's own rules, notwithstanding §§ 2831 and 2833 of this title providing, with reference generally to election of party officers, that only electorate may choose state committee persons. *Fox v. Watson*, 314 A.2d 31, 11 Pa.Cmwth. 297, 1973.

§ 2836. Election of National committeemen

National committeemen shall be elected, and vacancies happening at any time in said office shall be filled, by the State committee of the proper party, unless the rules of the national party otherwise provide, in which case such committeemen shall be elected and vacancies be filled in the manner provided by the rules of the national party. 1937, June 3, P.L. 1333, art. VIII, § 806.

Library References

Elections ☞121(2).
WESTLAW Topic No. 144.

C.J.S. Elections § 86 et seq.
P.L.E. Elections § 41.

§ 2837. County committees; rules; other party officers

There may be in each county a county committee for each political party within such county, the members of which shall be elected at the spring primary, or appointed, as the rules of the respective parties within the county may provide. The county committee of each party may make such rules for the government of the party in the county, not inconsistent with law or with the State rules of the party, as it may deem expedient, and may also revoke, alter or renew in any manner not inconsistent with law or with such State rules, any present or future county rules of such party. No such rules shall be effective until a certified copy thereof has been filed in the office of the county board of elections. The members of all other party committees, and all other party officers whose election is required by the party rules, shall also be elected at the spring primary, in the manner provided by this act.

1937, June 3, P.L. 1333, art. VIII, § 807.

Library References

Elections ☞121(1).
WESTLAW Topic No. 144.

C.J.S. Elections § 83 et seq.
P.L.E. Elections § 141.

§ 2838. Repealed. 1971, Dec. 22, P.L. 614, No. 165, § 5**Historical and Statutory Notes**

The repealed section related to the selection of delegates and alternate delegates to national conventions.

See, now, § 2838.1.

§ 2838.1. Selection of delegates to national conventions; forwarding of rules to Secretary of Commonwealth

Delegates and alternate delegates to a National convention of a political party shall be apportioned, selected or elected in such manner as the rules of the party may provide. The secretary of any political party shall certify and forward to the Secretary of the Commonwealth a copy of the party rules at least thirty days prior to the first day on which nomination petitions may be circulated for the offices which are to be filled at the spring primaries in the years in which candidates for the President of the United States are to be nominated, or at such other times as a political party shall meet in National convention or conference when candidates for the President of the United States are not to be nominated.

1937, June 3, P.L. 1333, art. VIII, § 808.1, added 1971, Dec. 22, P.L. 614, No. 165, § 6. Amended 1974, Jan. 16, P.L. 5, No. 2, § 1, imd. effective.

Historical and Statutory Notes

The 1974 amendment added "or at such other times as a political party shall meet in National convention or conference when candidates for the President of the United States are not to be nominated" to the end of the section.

Prior Laws:

1951, Dec. 22, P.L.1737, § 1.

1937, June 3, P.L.1333, art. VIII, § 808.

Notes of Decisions**In general 1****1. In general**

Absent showing that members of allegedly underrepresented groups, who

claimed that state committee of major political party failed to comply with its affirmative action plan exhausted the remedies provided by rules of national committee, recourse could not be had to the judiciary. *Fox v. Tucker*, 320 A.2d 919, 13 Pa.Cmwth. 497, 1974.

§ 2839. Repealed. 1971, Dec. 22, P.L. 613, No. 165, § 5**Historical and Statutory Notes**

Former § 2839, which was added by Act 1937, June 3, P.L. 1333, art. VIII, § 809, related to delegates to national conventions.

Prior to repeal, this section was amended by Act 1951, Dec. 22, P.L. 1737, § 1.

§ 2839.1. Delegate and alternate delegate commitments; authorization required; petitions

(a) Whenever the rules of a party provide that a candidate for delegate or alternate delegate to a National convention of a political party may pledge his support to a presidential candidate, he shall be committed to support and vote for the nomination of that candidate as president as party rules provide, the notation of which shall be printed upon the ballot in accordance with section 1002 of this act.¹

(b) No candidate for delegate or alternate delegate shall make a commitment unless he has obtained prior authorization to do so from the presidential candidate to whom he is pledging support. No candidate for delegate or alternate delegate shall be allowed to commit himself to any presidential candidate nor shall the Secretary of the Commonwealth cause any notation of commitment to be printed on any ballot unless the presidential candidate forwards notice to the Secretary of the Commonwealth, upon a form prescribed by the secretary, that he is a candidate for the nomination of President of the United States and that he authorizes delegates and alternate delegates to pledge their support and commit themselves to him. This notice must be received by the secretary at least fifteen days prior to the first day on which nomination petitions may be circulated for the offices which are to be filled at the Spring primaries in the years in which candidates for the President of the United States are to be nominated.

(c) Nomination petitions for delegates committed to particular presidential candidates shall be obtained only from the presidential candidate or his duly authorized representative who is certified by the Secretary of the Commonwealth as being authorized by the candidate to distribute nomination petitions bearing his name.

1937, June 3, P.L. 1333, art. VIII, § 809.1, added 1971, Dec. 22, P.L. 614, No. 165, § 6. Amended 1983, Dec. 20, P.L. 299, No. 81, § 1, imd. effective.

¹ 25 P.S. § 2962.

Historical and Statutory Notes

The 1983 amendment, in subsec. (c), following "presidential candidates shall" deleted "bear the imprint of the seal of the Secretary of the Commonwealth and may".

§ 2840. Who shall be declared elected members of National or State committee and party offices

Candidates of the various political parties for the office of member of the State committee, or for the office of member of the National committee, in cases where the rules of the party provide that such office shall be filled by a vote of the party electors, who receive a

plurality of the votes of the party electors at a primary, shall be the duly elected members of the State or National committee, as the case may be, of their respective parties. Candidates for other party offices, who receive a plurality of the votes of the party electors at a primary, shall be the party officers of their respective parties.

1937, June 3, P.L. 1333, art. VIII, § 810.

Library References

Elections ⇨121(2).
WESTLAW Topic No. 144.

C.J.S. Elections § 86 et seq.
P.L.E. Elections § 41.

Notes of Decisions

Validity 1

1. Validity

Insofar as a political party performs statutorily-imposed public functions and to the extent that its actions constitute

state action, internal organization of such political party is a matter of such concern to public as to make it subject to constitutional limitations and judicial restraint. *Bentman v. Seventh Ward Democratic Executive Com.*, 218 A.2d 261, 421 Pa. 188, 1966.

§ 2841. Party officer elected in case of tie vote

In the case of a tie vote for any party office, the candidates receiving the tie vote shall cast lots before the county board or the Secretary of the Commonwealth, as the case may be, at twelve (12) o'clock noon on the third Friday following the primary, and the one to whom the lot shall fall shall be entitled to the election. In any case where the fact of a tie vote is not authoritatively determined until after the third Wednesday following the primary, the day for casting lots shall be the second day after the fact of such tie vote is authoritatively determined. If any candidate or candidates, receiving a tie vote, fail to appear before twelve (12) o'clock noon on said day, the county board or the Secretary of the Commonwealth, as the case may be, shall cast lots for him or them. For the purpose of casting lots any candidate may appear in person, or by proxy appointed in writing.

1937, June 3, P.L. 1333, art. VIII, § 811.

Library References

Elections ⇨121(2).
WESTLAW Topic No. 144.

C.J.S. Elections § 86 et seq.
P.L.E. Elections § 41.

Notes of Decisions

In general 1

1. In general

Legal status of party committees is not such as to give the court general jurisdiction over them, as their duties are pre-

scribed entirely by party rules and are not of interest to the public generally, and only where party officers are selected by use of the public election machinery may controversies arise over which the court must exercise limited jurisdiction. *Com. ex rel. Koontz v. Dunkle*, 50 A.2d 496, 355 Pa. 493, 1947.

§ 2842. District committees

Whenever two or more members of a political party shall be elected or appointed, as the rules of the party may provide, as members of a political committee to represent the members of such party in the respective election districts, such members shall constitute a political committee of said political party to function within such election district: Provided, that, When acting in the capacity of a political committee, such duly elected or appointed members shall be subject to the control, direction and supervision of the political committee of which they are members.

1937, June 3, P.L. 1333, art. VIII, § 812, added by 1947, June 14, P.L. 610, § 1.

Library References

Elections ⇨121(1).
WESTLAW Topic No. 144.

C.J.S. Elections § 83 et seq.
P.L.E. Elections § 41.

Notes of Decisions

- In general 2
- Mandamus 4
- Public employees 3
- Validity 1

1. Validity

Court must construe, if possible, statutory law concerning selection and removal of party committeemen in such manner as not to violate concept of "due process" embodied in the United States Constitution. *Bentman v. Seventh Ward Democratic Executive Committee*, 218 A.2d 261, 421 Pa. 188, 1966.

2. In general

By amendment to Election Code regarding members of political committee for district, Legislature recognized a status in law in party committees and committeemen. *Bentman v. Seventh Ward Democratic Executive Committee*, 218 A.2d 261, 421 Pa. 188, 1966.

3. Public employees

Where directive of court administrator prohibiting court employees from participating in partisan politics was not promulgated until after traffic court employees' names had been placed on ballot for election as ward committeepersons and period for removal of names had elapsed, no disciplinary action could be taken against such employees for having names on ballot; however, employees were prohibited from actively seeking office and if elected would be required to resign from office of continuing court employment. *In re Novalski*, 386 A.2d 530, 478 Pa. 243, 1978.

Since employee of traffic court had already been elected ward committeeman before promulgation of regulation by court administrator prohibiting court employees from participating in partisan politics and because period for removal of employee's name from nominating petition for second term as ward committeeman had expired before promulgation

of regulation, no disciplinary action could be taken against employee in the performance of his political activities for the remainder of his present term and no disciplinary action could be taken against him for having his name on ballot; however, if employee sought to continue court employment he would be required to resign from office if reelected. *Ottaviano v. Barbieri*, 386 A.2d 527, 478 Pa. 235, 1978.

4. Mandamus

Court had jurisdiction over mandamus action by two persons who had been duly

elected at primary election as political party committeemen and who had been duly certified and seated prior to their removal from office by a party executive committee allegedly for acts occurring prior to their election, notwithstanding statutory provision that duly elected members of party district committees are subject to the control, direction and supervision of political committee of which they are members. *Bentman v. Seventh Ward Democratic Executive Committee*, 218 A.2d 261, 421 Pa. 188, 1966.

ARTICLE IX. NOMINATION OF CANDIDATES

Library References

P.L.E. Elections § 41 et seq.

(A) NOMINATION OF PARTY CANDIDATES AT PRIMARIES

§ 2861. Determination and certification of state-wide and county-wide parties

(a) The Secretary of the Commonwealth shall determine which organizations are political parties within the State, within the meaning of section 801(a) of this Act,¹ and not later than the thirteenth Tuesday preceding each primary shall transmit to each county board a list of said political parties which shall be entitled to nominate candidates at primaries.

(b) Each county board shall determine which organizations are political parties within the county, within the meaning of section 801(b), and not later than the thirteenth Tuesday preceding each primary shall transmit to the Secretary of the Commonwealth a list of said political parties which shall be entitled to nominate candidates at primaries in said county.

1937, June 3, P.L. 1333, art. IX, § 901. Amended 1963, Aug. 13, P.L. 707, § 8, effective Jan. 1, 1964.

¹ 25 P.S. § 2831(a).

Library References

Elections § 121(1).
WESTLAW Topic No. 144.

C.J.S. Elections § 83 et seq.
P.L.E. Elections § 41.

Notes of Decisions

Prohibited use of party name 1

1. Prohibited use of party name

Where at general election of 1948 in the state, the Progressive Party polled sufficient votes to constitute it a political party within the state, the Progressive Party was entitled to nominate its candidates in 1949 for office at September primary in every one of the sixty-seven counties of the state, even in those coun-

ties in which the Progressive Party did not poll a number of votes sufficient to have qualified the Progressive Party in those counties separately as a political party within those counties, and therefore board of election of one of those counties properly refused to receive and file nomination papers of those who designated themselves as candidates of the Progressive Party. *Kerns v. Kane*, 69 A.2d 388, 363 Pa. 276, 1950.

§ 2862. Candidates to be nominated and party officers to be elected at primaries

All candidates of political parties, as defined in section 801 of this act,¹ for the offices of United States Senator, Representative in Congress and for all other elective public offices within this State, except that of presidential electors, shall be nominated, and party delegates and alternate delegates, committeemen and officers who, under the provisions of Article VIII of this act² or under the party rules, are required to be elected by the party electors, shall be elected at primaries held in accordance with the provisions of this act, except as otherwise provided in this act. In the years when candidates for the office of President of the United States are to be nominated, every registered and enrolled member of a political party shall have the opportunity at the Spring primary in such years to vote his preference for one person to be the candidate of his political party for President.

1937, June 3, P.L. 1333, art. IX, § 902. Amended 1949, May 23, P.L. 1656, § 6.

¹ 25 P.S. § 2831.

² 25 P.S. §§ 2831 to 2841.

Library References

Elections ⇨126(1).
WESTLAW Topic No. 144.

C.J.S. Elections § 111 et seq.
P.L.E. Elections § 42.

United States Supreme Court

Access to ballots by minor party candidates, minimum number of primary votes required, see *Munro v. Socialist Workers*

Party, 1986, 107 S.Ct. 533, 479 U.S. 189, 93 L.Ed.2d 499.

Notes of Decisions

Eligibility of nominees 5
Omission from ballot 6
Political parties 2-4
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Political parties—Cont'd
Committee members 4
Prerequisites to participate in primaries 3

Validity of prior law 1
Vice-presidential primary 7

1. Validity of prior law

The provisions of act 1913, July 24, P.L. 1001, repealed, limiting the names of candidates to be printed on the official ballot to the two who polled the highest vote at the preceding primary, is not violative of the provision of the bill of rights that all elections shall be free and equal. *Winston v. Moore*, 91 A. 520, 244 Pa. 447, 1914; see *Com. v. McAfee*, 61 Pitts. 574, 16 Dauph. 224, 1913.

Act 1919, July 8, P.L. 745, repealed, amendatory of act 1913, July 24, P.L. 1001, § 13, in accordance with the provisions of which the secretary of state proposed to certify the names of five candidates receiving the highest number of votes for printing on the official election ballot as candidates for five vacancies in the office of judge in Allegheny county as having received sufficient votes to constitute them sole nominees for the office, to the exclusion of a sixth candidate who had also received sufficient votes to constitute him a sole nominee, does not violate Const. Art. 8, § 7, relating to uniformity of elections. *Wasson v. Woods*, 109 A. 214, 265 Pa. 442, 1919.

Act 1913, July 24, P.L. 1001, § 13, as amended by act 1919, July 8, P.L. 745, repealed, prescribing method for selecting sole primary nominees for an elective office, whereby in the case of five vacancies the five candidates receiving highest number of votes become the sole nominees, exclusive of another who receives sufficient votes to constitute him a sole nominee, does not virtually change time of election fixed by Constitution, as, although no name of a competitor appears on official ballot, there will be an election at which electors may select between such sole nominee and other person by using the blank space left on ballot for that purpose. *Wasson v. Woods*, 109 A. 214, 265 Pa. 442, 1919.

The provisions requiring a candidate to file, with his petition, an affidavit stating his residence, post-office address, election district, the name of the office for which he is a candidate and other matters, are not such restrictions on the rights of the electors as to justify the courts in declaring the act [1913, July 24, P.L. 1001]

void. *Winston v. Moore*, 91 A. 520, 244 Pa. 447, Ann.Cas.1915C, 498, 1914.

Since the Constitution is silent on the right to make party nominations for offices, the Legislature has wide discretion in such matters, and act 1913, July 24, P.L. 1001, repealed, providing for non-partisan primary ballot is not invalid because it abolishes party nominations for certain offices. *Winston v. Moore*, 91 A. 520, 244 Pa. 447, Ann.Cas.1915C, 498, 1914.

The act of 1913, July 24, P.L. 1001, § 13, which provides that when only one person is to be elected and there are several candidates at the primary, the one receiving more than one-half the total vote polled for such office and more than one-half the number of ballots cast in the political district or division shall be the sole nominee for the office and his name shall be alone printed as candidate upon the ballot, does not discriminate against any elector in violation of his rights. *Winston v. Moore*, 91 A. 520, 244 Pa. 447, Ann.Cas.1915C, 498, 1914.

2. Political parties—In general

Insofar as a political party performs statutorily-imposed public functions and to the extent that its actions constitute state action, internal organization of such political party is a matter of such concern to public as to make it subject to constitutional limitations and judicial restraint. *Bentman v. Seventh Ward Democratic Executive Com.*, 218 A.2d 261, 421 Pa. 188, 1966.

3. — Prerequisites to participate in primaries, political parties

An organization which does not poll the requisite number of votes at the preceding election cannot nominate candidates or elect its officers at primaries, but can only nominate candidates by nomination papers. *Brown v. Finnegan*, 133 A.2d 809, 389 Pa. 609, 1957.

4. — Committee members, political parties

Since the selection of a political party committeeman during a primary election is a final election for that office, a "write-in" candidate who receives the plurality of votes cast is elected even if he does not receive votes greater in number than the number of signatures required on a nominating petition as is otherwise required for certification of his votes under § 2872

25 P.S. § 2862

ELECTION CODE

Note 4

of this title. *Santimyer v. Westmoreland County Bd. of Elections*, 9 D. & C.3d 303, 1978.

5. Eligibility of nominees

A person nominated by papers cannot also be a candidate for a nomination by a party at the primary, or a nominee by papers of any other political body, if he be a candidate for judicial or any other office. *Brown v. Finnegan*, 133 A.2d 809, 389 Pa. 609, 1957.

If candidates for judicial office can obtain a sufficient number of votes from the members of each political party, by the ballot of party members at the primary election, they may run as a candidate of more than one party. *Brown v. Finnegan*, 133 A.2d 809, 389 Pa. 609, 1957.

The fact that a person has occasionally failed to vote the full ticket of his own party is not sufficient ground for excluding him as a candidate from the official ballot for primary elections. *Ginter v. Scott*, 22 C.C. 145, 8 Dist. 536, 2 Dauph. 93, 1899.

At a primary election, only those qualified according to the party rules can be nominated as candidates, *Shoemaker's Nomination*, 6 Dist. 670, 1897; but if there be no rule to the contrary, a candidate belonging to another party may be nominated. *Magee's Nomination*, 18

C.C. 225, 5 Dist. 654, 1 Dauph. 364, 1896.

Nomination petitions, for printing same name of same person for same office, except office of a judge of a court of record, upon official ballot of more than one political party, must be rejected. *Thompson v. Morrison*, 57 Dauph. 48, affirmed 44 A.2d 55, 352 Pa. 616, 1946.

A candidate who is not a member of a political party may be made the nominee thereof if duly qualified for the office. *Blumberg v. Blankenburg*, 16 Dist. 23, 8 Lack. 52, 1907.

6. Omission from ballot

Where through a clerical error the name of a party candidate for nomination for the office of township supervisor was omitted from the ballot used in a primary election, there being no other candidates running in either party and no write-in votes, the election will be declared invalid, insofar as it pertains to the office of township supervisor. *In re Jefferson Tp. Primary Election*, 53 D. & C.2d 182, 1971.

7. Vice-presidential primary

Election code was not intended to establish vice presidential preferential primary and candidate for nomination as vice president was not entitled to inclusion on party ballot. *Peabody v. Tucker*, 289 A.2d 438, 447 Pa. 398, 1972.

§ 2863. Offices for which candidates are to be nominated to be ascertained

It shall be the duty of the Secretary of the Commonwealth, prior to each primary, to ascertain the various national and State offices to be filled at the ensuing November election, and for which candidates are to be nominated at such primary, and otherwise, in accordance with the provisions of this act. It shall be the duty of each county board of elections, prior to each primary, to ascertain the various public offices in said county and in the cities, boroughs, towns, townships, wards, school districts, poor districts and election districts thereof, to be filled at the ensuing November election, and for which candidates are to be nominated at such primary, and otherwise, in accordance with the provisions of this act.

1937, June 3, P.L. 1333, art. IX, § 903.

Library References

Elections ⇨126(1).
WESTLAW Topic No. 144.

C.J.S. Elections § 111 et seq.
P.L.E. Elections § 42.

§ 2864. Municipal clerks and party chairmen to furnish information as to offices to be filled

To assist the respective county boards in ascertaining the offices to be filled, it shall be the duty of the clerks or secretaries of the various cities, boroughs, towns, townships and school districts, with the advice of their respective solicitors, on or before the thirteenth Tuesday preceding the Municipal primary, to send to the county boards of their respective counties a written notice setting forth all city, borough, town, township and school district offices to be filled in their respective subdivisions at the ensuing municipal election, and for which candidates are to be nominated at the ensuing primary. It shall also be the duty of the chairman of the State committee of each political party to forward to the Secretary of the Commonwealth and to the respective county boards, on or before the thirteenth Tuesday preceding the General primary, a written notice setting forth the number of delegates and alternate delegates to the National convention of such party who are to be elected in the State at large at the ensuing primary, and the number of such delegates and alternate delegates who are to be elected at said primary in such county, or in any district within such county, or of which it forms a part. The said notice shall also set forth the number of members of the National committee, if any, who, under the National party rules, are to be elected at the said primary in the State at large, and the number of members of the State committee to be elected at the said primary in such county, or in any district, or part of a district within such county. It shall also be the duty of the chairman of the county committee and, in cases where a city is coextensive with a county, the chairman of the city committee of each party, on or before the thirteenth Tuesday preceding the General primary, to send to the county board of such county a written notice setting forth all party offices to be filled in the county at the ensuing primary.

1937, June 3, P.L. 1333, art. IX, § 904. Amended 1945, March 9, P.L. 29, § 4; 1947, March 5, P.L. 35, § 1; 1951, March 6, P.L. 3, § 4; 1951, Jan. 14 (1952), P.L. 1937, § 2; 1963, Aug. 13, P.L. 707, § 9, effective Jan. 1, 1964.

Library References

Elections ⇨126(1).
WESTLAW Topic No. 144.

C.J.S. Elections § 111 et seq.
P.L.E. Elections § 42.

§ 2865. Secretary of the Commonwealth to notify county board of certain nominations to be made

On or before the thirteenth Tuesday preceding each primary, the Secretary of the Commonwealth shall send to the county board of each county a written notice designating all the offices for which candidates are to be nominated therein, or in any district of which such county forms a part, or in the State at large, at the ensuing primary, and for the nomination to which candidates are required to file nomination petitions in the office of the Secretary of the Commonwealth, including that of President of the United States; and shall also in said notice set forth the number of presidential electors, United States Senators, Representatives in Congress and State officers, including senators, representatives and judges of courts of record, to be elected at the succeeding November election by a vote of the electors of the State at large, or by a vote of the electors of the county, or of any district therein, or of any district of which such county forms a part.

1937, June 3, P.L. 1333, art. IX, § 905. Amended 1945, March 9, P.L. 29, § 4; 1947, March 5, P.L. 35, § 1; 1951, March 6, P.L. 3, § 4; 1963, Aug. 13, P.L. 707, § 10, effective Jan. 1, 1964.

Application

AND NOW, this 19th day of November, 1974, it is ordered [by the Supreme Court of Pennsylvania, Eastern District] pursuant to Article V, § 7(b) of the Constitution of Pennsylvania that:

(1) On or before the 15th Tuesday before the primary election in each odd-numbered year the Court Administrator of Pennsylvania shall certify to the Secretary of the Commonwealth such information as may be necessary to specify the magisterial districts in which district justices of the peace will be elected at the municipal election in such year.

(2) Except as otherwise expressly ordered by the Supreme Court with respect to any particular magisterial districts, orders establishing or modifying magisterial districts entered after the 19th Tuesday before the primary election in an odd-numbered year shall not affect the number and boundaries of magisterial districts certified to the Secretary of the Commonwealth for the purposes of such primary election and the ensuing municipal election.

(3) Should any political subdivision or part thereof (other than the City and County of Philadelphia) be omitted in the description of the magisterial districts so certified, such political subdivision or part thereof shall be included as a part of the magisterial district which completely surrounds it, or if such omitted political subdivision or part thereof is not completely surrounded by one magisterial district it shall become a part of that magisterial district to which it is contiguous within the same county, or if there are two or more such contiguous magisterial districts, it shall become a part of that magisterial district contiguous thereto which is located within the

same county and which has the least population as last officially determined for the purpose of establishing magisterial districts.

(4) Any city, borough, township or ward created since the affected magisterial districts were last established, and not specifically provided for in the order establishing the affected magisterial districts, shall form a part of the magisterial district or districts to which the territory comprised within the city, borough, townships or ward is allotted by the provisions of the most recent order establishing the affected magisterial districts, according to the political division existing at the date of such order; and any city, borough, township or ward, or any portion thereof, annexed to any other city, borough, township or ward since the date of such order, shall form a part of the magisterial district to which the territory comprised within such city, borough, township or ward, or portion thereof, is allotted by such order, according to the political division existing at the time of such order.

Note: Section 905 of the Pennsylvania Election Code, act of June 3, 1937 (P.L. 1333, No. 320) (25 P.S. § 2865) requires that the Secretary of the Commonwealth on or before the thirteenth Tuesday preceding the primary at which district justices of the peace are to be nominated shall send to each county board of election a written notice designating the offices of district justice of the peace for which candidates are to be nominated.

Library References

Elections ⇨126(1).
WESTLAW Topic No. 144.

C.J.S. Elections § 111 et seq.
P.L.E. Elections § 42.

Notes of Decisions

In general 1
Commonwealth court judges 2
Petition for review 3

1. In general

This section and § 2866 of this title relating to notice to county board as to offices for which candidates are to be nominated and requiring county boards to publish their notices not less than eight weeks before primary, are not merely directory but are integral parts of election machinery and must be followed specifically so that potential candidates, may file their nomination papers and so that electorate may be fully informed as to offices to be filled, notwithstanding fact that Constitution itself provides notice, since Constitution, in respect to elections, is not self-executing. *Eagen v. Smith*, 78 A.2d 801, 366 Pa. 501, 1951.

Act 1906, Feb. 17, P.L. 36, § 3, repealed, relating to primary elections, and providing that before the spring primaries the Secretary of the commonwealth

shall send to county commissioners a written notice of the number of congressmen and state officers not nominated by state conventions to be voted for at the next election on or before the ninth Saturday preceding the spring primary, is mandatory, and must be strictly followed, where vacancies are known in advance in the usual time, and other vacancies "happening or existing after the date of the primary" are to be filled, under § 12, repealed, "in accordance with the party rules as is now or hereafter may be provided by law." *Com. v. Blankenburg*, 67 A. 645, 218 Pa. 339.

This section is not mandatory but directory. *Cavalcante v. O'Hara*, 36 D. & C. 139, 47 Dauph. 348, 1940.

The purpose of the act of 1913, July 12, P.L. 719, § 4, repealed, as shown by the nature of the subject and its whole construction is, that the public shall have ample opportunity after the last advertisement and preparation of nomination papers to place in nomination those whom they desire to have come upon the pri-

Note 1

mary ballot, and the legislature has seen fit to say what that ample opportunity shall be. *Com. ex rel. Kinsey v. County Commissioners*, 16 Dist. 341, 344, 1907.

This section is mandatory is designating the last day for the Secretary of the Commonwealth to notify county boards of election of all the offices for which nominations are to be made at the primary election. *Eagen v. Smith*, 63 Dauph. 188, 1953, affirmed 78 A.2d 801, 366 Pa. 501.

2. Commonwealth court judges

Commonwealth Court judges for respective terms of office should be determined, not by retention election, but by election by electors of Commonwealth

pursuant to the Election Code (25 P.S. § 2601 et seq.) and the secretary of the Commonwealth should designate respective offices as offices for which candidates are to be nominated pursuant to statute. *Abraham v. Shapp*, 400 A.2d 1249, 484 Pa. 573, 1979.

3. Petition for review

State court administrator did not delay unduly in taking two weeks to file petition for review in complex suit of some importance seeking to have governor, secretary of Commonwealth and commissioner of bureau of elections, commissions and legislation list four judgeships for election. *Barbieri v. Shapp*, 383 A.2d 218, 476 Pa. 513, 1978.

§ 2866. Publication of notice of officers to be nominated and elected

Beginning not earlier than twelve weeks, nor later than eleven weeks before any General or Municipal primary, the county board of each county shall publish in newspapers, as provided by section 106 of this act,¹ a notice setting forth the number of delegates and alternate delegates to the National convention of each party who are to be elected in the State at large at the ensuing primary, and the number of delegates and alternate delegates who are to be elected at the said primary in said county, or in any district of which said county or part thereof forms a part, and also setting forth the names of all public offices for which nominations are to be made, and the names of all party offices, including that of members of the National committee, if any, and State committee, for which candidates are to be elected at said primary in said county, or in any district of which such county or part thereof forms a part, or in the State at large. Said notice shall contain the date of the primary, and shall be published once each week for two successive weeks in counties of the first and second class and once in all other counties.

1937, June 3, P.L. 1333, art. IX, § 906. Amended 1945, March 9, P.L. 29, § 4; 1947, March 5, P.L. 35, § 1; 1947, June 10, P.L. 487, § 1; 1951, March 6, P.L. 3, § 5; 1951, Jan. 14 (1952), P.L. 1937, § 2; 1963, Aug. 13, P.L. 707, § 11, effective Jan. 1, 1964.

¹ 25 P.S. § 2606.

Library References

Elections ⇨126(2).
WESTLAW Topic No. 144.

C.J.S. Elections § 117.
P.L.E. Elections § 43.

Notes of Decisions

In general 1

1. In general

This section and § 2865 of this title relating to notice to county board as to offices for which candidates are to be nominated and provision requiring county boards to publish their notices not less than eight weeks before primary, are not merely directory but are integral parts of election machinery and must be followed specifically so that potential candidates may file their nomination papers and so that electorate may be fully informed as

to offices to be filled, notwithstanding fact that Constitution itself provides notice, since Constitution, in respect to elections is not self-executing. *Eagen v. Smith*, 78 A.2d 801, 366 Pa. 501, 1951.

The failure of the county board of elections to include in their advertisement of notice of a primary election, notice of a nomination to be made for a particular office, does not prevent the electors from filing nomination papers for that office or the nomination of a candidate at the primary election. *Peoples v. Delaware County Com'rs*, 30 Del. 423, 1942.

§ 2867. Nomination petitions to be filed

The names of candidates for nomination as President of the United States, and the names of all other candidates for party nominations, and for election as delegates, alternate delegates, members of committees and other party officers, shall be printed upon the official primary ballots or ballot labels of a designated party, upon the filing of separate nomination petitions in their behalf, in form prescribed by the Secretary of the Commonwealth, signed by duly registered and enrolled members of such party who are qualified electors of the State, or of the political district, as the case may be, within which the nomination is to be made or election is to be held. Nomination petitions of delegates and alternate delegates to National conventions committed to support a particular presidential candidate must be signed by the particular presidential candidate to whom support is pledged before it can be certified by the Secretary of the Commonwealth. The name of no candidate shall be placed upon the official ballots or ballot labels of a political party to be used at any primary, unless such petition shall have been filed in his behalf. In no event shall any person's name be printed upon the official ballots or ballot labels of any party for the office of delegate, alternate delegate, member of committee or other party officer, unless he is a duly registered and enrolled member of said party.

1937, June 3, P.L. 1333, art. IX, § 907. Amended 1971, Dec. 22, P.L. 615, No. 165, § 7.

Law Review Commentaries

An excursion into the uncharted waters of the Seventeenth Amendment. Laura E. Little, 64 *Temp.L.Rev.* 629 (1991).

Library References

Elections § 126(1).
WESTLAW Topic No. 144.

C.J.S. Elections § 111 et seq.
P.L.E. Elections § 43.

Notes of Decisions

Agent, right of elector to sign through 6
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sion on party ballot. *Peabody v. Tucker*,
289 A.2d 438, 447 Pa. 398, 1972.

A nomination petition was not rejected because the circulator of the petition was not actually registered as a voter until the day after he took his affidavit, where his application for registration had been mailed and should have been received by the registration office by the time he took the affidavit; under the circumstances, he was given an opportunity to amend his acknowledgment to the day after it was originally taken. *In re Orsich Nomination*, 2 D. & C.3d 228, 1977.

Where nomination papers for candidates of a political body known as the Constitutional Party were offered for filing with the secretary within the time prescribed by law, it was improper to reject the papers on the grounds that they combined the nominations of candidates for both state-wide and district offices and that some of the papers did not contain the required number of signatures for certain of the candidates. *Swartz v. Helm*, 41 D. & C.2d 322, 86 Dauph. 170, 1966.

A nomination petition for office of prothonotary was stricken for failure to comply with The Election Code of June 3, 1937, § 2869 of this title, where person who signed circulator's affidavit testified that when he signed the affidavit there were only five signatures on the petition and that he knew nothing as to the signatures presently appearing on lines 6 through 113 of the petition, especially where many of the signers testified that, due to their then intoxicated condition, they had no knowledge of the contents of the petition, the addresses of many of the signers failed to comply with § 908 of the code, and there is a strong likelihood that the petition was deliberately circulated on behalf of the nominee by another candidate of party to confuse the voters by having on the ballot two candidates of the same party with the same name. *In re Brady Nomination Petition*, 31 D. & C.2d 711, 26 Fay.L.J. 44, 1964.

Sheets to nomination papers which fail, at the time they are being circulated, to

1. Validity of prior act

Party Raiding Act, June 14, 1935, P.L. 337, repealed, precluding persons from becoming candidates for nomination on more than one party ticket, held not special or class legislation because candidates for judges of court of record are excluded from requirements of act. *Wilson v. Philadelphia County*, 179 A. 553, 319 Pa. 47, 1935.

Party Raiding Act precluding persons from becoming candidates for nomination on more than one party ticket, held not unconstitutional as unreasonable restriction of voters' right to nominate any person they choose for public office. *Wilson v. Philadelphia County*, 179 A. 553, 319 Pa. 47, 1935.

2. Qualifications of candidates

A petition challenging the nomination county committeeman on the ground that when some of the signatures to the petition of a candidate for Democratic nomination petition were affixed, the candidate was a Republican, will be dismissed, where the candidate later changed his registration to Democratic and then executed the circulator's affidavit. *In re Miller's Nomination Petition*, 27 D. & C.2d 676, 1963.

3. Petitions in general

Election code was not intended to establish vice presidential preferential primary and candidate for nomination as vice president was not entitled to inclu-

give the candidate's name, occupation and place of residence or the name of the political body for which he seeks nomination are fatally defective and must be disregarded. Stern Nomination Papers, 65 D. & C. 64, 1949.

4. Qualifications of signers of nomination petition

Registration is unnecessary to constitute person "qualified elector," notwithstanding it may be prerequisite to voting. In re Sullivan, 160 A. 853, 307 Pa. 221, 1932.

That signers of nominating petition had not registered as voters did not invalidate petition if they had actually resided in district prescribed period. In re Sullivan, 160 A. 853, 307 Pa. 221, 1932.

Signatories to a petition of a Republican congressional nominee, who did not register as Republicans until one day after signing the nomination petition, although their registration was effected prior to the filing of the petition, and signatories who were registered Republican voters of an election district in the congressional district, but subsequently moved into another election district in the same congressional district and at the time of signing had not transferred their registration to the district in which they then resided, were ineligible. In re Nominating Petition of Smiley, Twenty-Ninth Congressional Dist., 84 D. & C. 323, 63 Dauph. 275, 1953.

Mere residence within an election district does not render the resident a "qualified elector", and resident must have complied with the requirements of the Registration Act. In re Nominating Petition of Smiley, Twenty-Ninth Congressional Dist., 84 D. & C. 323, 63 Dauph. 275, 1953.

To qualify as a signator to a nomination petition elector must be properly registered, enrolled and entitled to vote on date he signs petition. In re Smiley Nomination Petition, 84 D. & C. 323, 63 Dauph. 275, 1954.

Persons who fail to register as members of party for which they sign a nomination petition until day following affixing of their signatures are not qualified signators. In re Smiley Nomination Petition, 84 D. & C. 323, 63 Dauph. 275, 1954.

Persons who have duly registered and enrolled in one election district within a congressional district, but who have subsequently moved to another district within the same congressional district, are not qualified to sign nomination petitions for candidates for Congress, until they have given the removal notice required by paragraph a of § 951-26 of this title, so that they are at the time of signing the petition qualified to vote. In re Smiley Nomination Petition, 84 D. & C. 323, 63 Dauph. 275, 1954.

Nomination papers signed by the necessary number of qualified electors are valid under act of 1913, July 12, P.L. 719, § 1, as amended, repealed, although the signers were registered and voted in another party at the preceding primary. Tracey's Nomination, 23 Dist. 888.

The Acts of July 12, 1913, P.L. 719, repealed, and July 25, 1913, P.L. 1043, § 291 et seq. of this title, are intended to provide requirements and regulations only for political parties as defined in the former act. Their provisions are not intended to bind any citizen to maintain for any definite period his declared party affiliation. Once a citizen has been registered and enrolled as a member of a political party, he is not thereby concluded from changing his political views or affiliations just as soon thereafter as it may please him so to do. If he has been registered and enrolled lawfully, and votes accordingly at any primary election, he may, nevertheless, thereafter change his mind and exercise his right as a qualified voter to make nominations by nomination papers in opposition even to persons whom he may have helped by his vote to already nominate at the primary election. His want of continued party loyalty is his own affair, and his right to individual action is open to him. Tracey's Nomination, 23 Dist. 888.

While registration and enrollment are necessary to enable a citizen to vote at a primary election, they are not necessary for him to be a member of a political party. When a person has declared his political affiliation by registration and enrollment, his party may, either by its choice of candidates or by the adoption of its platform, dissatisfy him as a member of the party; but it cannot thereby drive him into political ostracism, nor bind him, either morally or legally, to remain in the party or to support its policies or

Note 4

candidates. He may, in such event, join with other qualified electors and in the manner provided by law nominate men with whose political views he is in accord. Tracey's Nomination, 23 Dist. 888.

A qualified elector of a particular party is one who at the last general election voted that party ticket. Strousse v. Beaston, 18 Dist. 590, 1909.

The signers of the petition for the nomination of one as the candidate of a particular party must be members of that party membership being shown by the fact that they voted for a majority of the candidates of that party at the last preceding election. Weiss v. County Commissioners, 17 Dist. 262, 1908.

The meaning to be given to the phrase "qualified electors" should be the same as it possessed before the passing of this act, there being nothing to show that it was used in another and different sense, and this meaning is not altered by the registration act of 1906, Feb. 17, P.L. 49, repealed, registration being a matter of regulation of the rights of the qualified elector and not an additional qualification. Ellenberg's Petition, 17 Dist. 214, 217, 1907.

5. Joining in another petition which signer is not competent to sign

One duly qualified and proposed for nomination for an office and whose petition is signed by the requisite number of qualified electors is entitled to have his name placed upon such ballot though some of the signers join with a different political party of which they are not qualified electors in petitioning for the placing of his name upon the official ballot of such other party. Blumberg v. Blankenburg, 16 Dist. 23, 8 Lack. 52, 1907.

6. Agent, right of elector to sign through

Under act 1913, July 12, P.L. 719, § 6, repealed, elector is not required to sign petition personally, but may direct and authorize another to sign for him in his presence. Costello's Nomination, 7 D. & C. 405, 1926.

7. Signing in blank

Petitions signed in blank, that is to say, petitions which have no names in them or no party names in them and are signed absolutely in blank and are afterwards filled in by someone, are not petitions at

all. In re Dehoff, 24 D & C.2d 630, 74 York 205, 1962; Strousse v. Beaston, 18 Dist. 590, 1909.

Court set aside a petition to have a name placed on ballot as a candidate for Treasurer of York County where petition when circulated and signed was blank as to office, candidate, municipality, party affiliation and all other pertinent information concerning purpose for which petition was circulated. In re Dehoff, 24 D & C.2d 630, 74 York 205, 1962.

8. Court's power or duty to pass on right of names to appear on primary ballot

If, in any particular case, the evidence is of such a character as to convince the court, taking all the evidence together, that the petitions for nomination are not bona fide, were not made by bona fide members of the party, the petitions should be stricken off. Strousse v. Beaston, 18 Dist. 590, 593, 1909.

In view of act of 1906, Feb. 17, P.L. 36, repealed, providing by § 6 that the "County Commissioners shall have on file in their office, at least one week preceding the primary, open to public inspection, forms of the ballots with the names printed thereon, which shall be used in each election district within such county" when the court has passed upon the question of a candidate's right to have his name placed upon the ballot in the matter presented to the court it will not afterwards pass upon a question not presented by the pleadings and not properly before the court at the time or after the proceedings, where an order would change the form of ballot then on file for inspection and possibly lay the primary election open to attack by raising the question of compliance with the provisions of the act. Peltz v. County Commissioners, 17 Dist. 193, 194, 1908.

The county commissioners cannot decide facts as to the truth and good faith of petitions, but a court of competent jurisdiction has the power to exercise, regulate and adjust the procedure in matters of nomination and election in conformity with the provisions of the act of 1906, Feb. 17, P.L. 36, repealed, and the laws of the commonwealth. Blumberg v. Blankenburg, 16 Dist. 23, 8 Lack. 52, 1907.

9. Restraining printing of name on official ballot

Under the act of 1906, Feb. 17, P.L. 36, § 4, repealed, the court of common pleas of the county wherein the candidate resides has jurisdiction to restrain the county commissioners from printing the name of a candidate whose nomination petition is defective. *Winslow's Nomination*, 37 C.C. 642, 13 Dauph. 142, 1910.

Where the evidence, upon a petition to enjoin the county commissioners from printing the names of candidates upon a party primary ballot, is such as to convince the court that the petitions are fraudulent, the burden of proof is shifted to the people upholding the petition. *Strousse v. Beaston*, 18 Dist. 590, 592, 1909.

An answer to a petition in the nature of a bill in equity to restrain the county commissioners from printing the name of one not duly qualified for election on the official ballot for a primary election showing that he is qualified as a member of a stated political party is conclusive unless overcome by other evidence. *Blumberg v. Blankenberg*, 16 Dist. 23, 8 Lack. 52, 1907.

The court may make an order under the prayer for general relief in a bill in

equity to restrain the county commissioners from printing on the official paper for a primary election the name of an unqualified person though the relief specifically prayed for is not warranted by the proofs where it is shown that the case is one requiring the interference of the court. *Blumberg v. Blankenberg*, 16 Dist. 23, 8 Lack. 52, 1907.

County commissioners will be restrained from printing the name of the proposed candidate on the official ballot where it appears that after the cancellation of the signatures of alleged qualified electors upon the ground that they were not qualified, the names of a sufficient number of qualified electors were not left on the petition, and the petition will, therefore, be held invalid and ineffective. *Blumberg v. Blankenberg*, 16 Dist. 23, 8 Lack. 52, 1907.

10. Writing in names

Under act of 1913, July 12, P.L. 719, § 5, of this title, repealed, elector may vote for person whose name is not printed on ballot by writing or pasting in name, and this is not changed by Act of 1935, June 14, P.L. 337, repealed. *Pustel's Petition*, 20 West. 108, 83 Pitts. 637, 24 D. & C. 346, 1935.

§ 2868. Manner of signing nomination petitions; time of circulating

Each signer of a nomination petition shall sign but one such petition for each office to be filled, and shall declare therein that he is a registered and enrolled member of the party designated in such petition: Provided, however, That where there are to be elected two or more persons to the same office, each signer may sign petitions for as many candidates for such office as, and no more than, he could vote for at the succeeding election. He shall also declare therein that he is a qualified elector of the county therein named, and in case the nomination is not to be made or candidates are not to be elected by the electors of the State at large, of the political district therein named, in which the nomination is to be made or the election is to be held. He shall add his occupation and residence, giving city, borough or township, with street and number, if any, and shall also add the date of signing, expressed in words or numbers: Provided, however, That if the said political district named in the petition lies wholly within any city, borough or township, or is coextensive with same, it shall not be necessary for any signer of a nomination petition

to state therein the city, borough or township of his residence. No nomination petition shall be circulated prior to the thirteenth Tuesday before the primary, and no signature shall be counted unless it bears a date affixed not earlier than the thirteenth Tuesday nor later than the tenth Tuesday prior to the primary.

1937, June 3, P.L. 1333, art. IX, § 908. Amended 1951, March 6, P.L. 3, § 6; 1963, Aug. 13, P.L. 707, § 12, effective Jan. 1, 1964.

Pennsylvania Code References

Ethics affidavit, see 4 Pa. Code § 171.22.

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In re Sunday Movie Petition, 44 A.2d 46, 352 Pa. 635, 1945.

2. Irregularities in general

Assertions that signature on nomination petition was not signature of elector registered and enrolled at address affixed to signature in petition, that elector who signed nomination petition was enrolled in another party, that signature was not sufficiently legible as to be capable of identification, that elector affixed his signature twice to petition, that elector signed another nomination petition for same office, that signature was a forgery and that signature showed a date outside period for circulation were proper objections to a nomination petition for the office of United States Senator in a primary election. In re Elliott, 362 A.2d 438, 26 Pa.Cmwth. 20, 1976, affirmed 353 A.2d 446, 466 Pa. 463.

Petitions for submission to municipal electors of question of Sunday motion pictures, which petitions contained several thousand names of alleged electors with no proof attached to petitions that alleged electors were in existence and residing at addresses given or that signatures were genuine, were not sufficient. In re Sunday Movie Petition, 44 A.2d 46, 352 Pa. 635, 1945.

A nomination petition for office of prothonotary was stricken for failure to comply with The Election Code of June 3, 1937, § 2869 of this title, where the person who signed circulator's affidavit testified that when he signed the affidavit

1. In general

Legislature, in providing for the submission to municipal electors of question of Sunday motion pictures on basis of petitions containing signatures of voters equal to 20 per cent. of highest vote cast for any candidate in municipality at the last preceding general or municipal election, did not intend to permit petitions to be the basis for official action without appropriate verifications. In re Sunday Movie Petition, 44 A.2d 46, 352 Pa. 635, 1945.

The statutes authorizing municipal elections on question of Sunday motion pictures on petition of electors equal in number to 20 per cent. of highest vote cast for any candidate in municipality at last preceding general or municipal election imply that all safeguards law has placed around nomination petitions in order to insure their genuineness have also been placed around petitions for submission of Sunday motion picture question.

there were only five signatures on the petition and that he knew nothing as to the signatures presently appearing on lines 6 through 113 of the petition, especially where many of the signers testified that, due to their then intoxicated condition, they had no knowledge of the contents of the petition, the addresses of many of the signers failed to comply with § 908 of the code, and there is a strong likelihood that the petition was deliberately circulated on behalf of the nominee by another candidate of party to confuse the voters by having on the ballot two candidates of the same party with the same name. In re Brady Nomination Petition, 31 D. & C.2d 711, 26 Fay.L.J. 44, 1964.

3. Number of petitions signed

Fact that on the same day 11 individuals signed five nominating petitions for three borough council seats did not require that signatures be discounted as to all the petitions where two candidates timely filed withdrawal forms, notwithstanding that withdrawals were filed after hearing in action challenging the petitions and prior to issuance of any order deciding the merits. In re Challenge to Objection to Nominating Petitions of Evans, 458 A.2d 1056, 73 Pa.Cmwith. 634, 1983.

Evil intended to be avoided by this section proscribing signing of more than one nomination petition was having duplicate names "counted" for more than one candidate, and even where duplicate signatures bear same date, nominating petitions are not invalidated and are not to be disregarded in count of nominators unless objections are filed to them; and where one candidate withdrew prior to expiration of seven-day period following last day for filing, signatures appearing both on nominating petition and that of candidate remaining in race could be counted for latter. In re Nomination Petitions for School Director in Lower Allen Tp., In Republican Party Primary Election, 150 A.2d 533, 395 Pa. 581, 1959.

Where an elector signs petitions for two candidates for an office where only one is to be elected, their names will be stricken from the petition. Primary Nomination Petition of Brady, 31 D. & C.2d 711, 26 Fay.L.J. 44, 1964.

Under § 2937 of this title and this section, relating to nomination petitions of

candidates for office, signatures by same persons made on same dates on two nomination petitions will not invalidate a petition, but at most, upon objection, signatures will be disregarded in count of nominators, hence where one of candidates for school director withdrew within time prescribed by § 2874 of this title, signatures of persons on his petition, also appearing on petition of another candidate for same office, will be counted as valid signatures for other candidate, since intent of code is merely to prevent counting of duplicate names for more than one candidate. In re Lower Allen Tp. School Directors, 16 D. & C.2d 500, 9 Cumb. 149, 1960.

A nomination petition which required 100 signatures, and which contained 101 ostensible signatures, was declared invalid where 2 persons had signed more than 20 days prior to the last day for filing, contrary to this section, and 4 persons had signed petitions for two different candidates for the same office, rendering their signatures on the contested petition invalid under § 2937 of this title. In re Carter's Nomination, 75 Dauph. 19, 1961, affirmed 159 A.2d 691, 398 Pa. 548.

Where a person signs two nomination petitions for the same office, his signature will only have validity on the petition signed first, and if the two signatures are of even date, neither will be valid. Petition to Strike off Nomination Petition of Beynon, 63 Dauph. 283, 84 D. & C. 323, 1953.

4. Signing

Where circulator of a nominating petition obtained five names thereon and made the necessary affidavit as to them without knowledge that many more names were added thereafter, added names will be stricken. Primary Nomination Petition of Brady, 31 D. & C.2d 711, 26 Fay.L.J. 44, 1964.

Where a sheet of a nomination paper lacks the signature of a qualified elector but contains an affidavit with the signature and seal of a notary and is otherwise complete, it may properly be amended by adding the elector's signature. Stern Nomination Papers, 65 D. & C. 64, 1949.

Where fifteen signatures were obtained by a minor son of affiant, not in presence of the affiant, the signatures are valid.

25 P.S. § 2868

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Petition of Frank, 4 Lebanon 159, 1953, affirmed 98 A.2d 255, 173 Pa.Super. 400.

5. Candidate's signature

Where, by reason of two of the signatures on a nominating petition being found invalid, the petition was one short of the statutorily required number, the signature of the candidate on the candidate's affidavit attached to the petition could not be counted as the signature of an elector to supply the deficiency. In re DiMarzio, 65 D. & C.2d 477, 22 Chest. 145, 1974.

6. Occupations and residence

Provisions of election have relating to form of nomination petitions did not intend to require elaborately detailed information as to such matters as street addresses, and usual and customary information adequate for mailing purposes satisfies requirement for residence addresses in township. In re Catherine Tp., Blair County, Retail Liquor Referendum, 114 A.2d 145, 382 Pa. 291, 1955.

The requirement of § 908 of the Election Code (25 P.S. § 2868), that an elector signing a nomination petition also add his occupation and residence renders invalid the signature of an elector whose occupation and residence are added by someone else. In re DiMarzio, 65 D. & C.2d 477, 22 Chest. 145, 1974.

Where a street or mailing address is available and an elector fails to include it in signing a nominating petition, his name will be stricken from the petition. Primary Nomination Petition of Brady, 31 D. & C.2d 711, 26 Fay.L.J. 44, 1964.

Statement that "the undersigned are duly qualified electors" of named township, then a rural delivery route, which covers two townships, is sufficient as an address. Petition for Upper Providence Tp. Local Option, 84 D. & C. 573, 69 Montg. 177, 1953.

Occupational designations: "factory", "antiques", "homemaker", "at home", "Taylor Fibre employee", "Bell Telephone Co.", "dealer", "paints, etc.", "operators", and "newspaper" are sufficient. Petition for Upper Providence Tp. Local Option, 84 D. & C. 573, 69 Montg. 177, 1953.

Initials "V.F.A.H." is an insufficient designation of an occupation. Petition

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for Upper Providence Tp. Local Option, 84 D. & C. 573, 69 Montg. 177, 1953.

The occupation of a signer of a petition has no relation to right of signer to sign petition. Petition for Upper Providence Tp. Local Option, 84 D. & C. 573, 69 Montg. 177, 1953.

A name of an unincorporated village, if a post office address, is a sufficient designation of an address. Petition for Upper Providence Tp. Local Option, 84 D. & C. 573, 69 Montg. 177, 1953.

7. Date of signing

Aug. 20, 1955, was first day upon which signatures could be taken to petition for motion picture referendum at 1955 municipal election which was to be held on Nov. 8, and therefore none of signatures on petition was entitled to be counted in view of fact that all signatures actually bore dates prior to Aug. 20. In re Referendum for Sunday Motion Picture Exhibitions in Borough of Waynesboro, 117 A.2d 699, 383 Pa. 162, 1956.

Under act of 1913, July 12, P.L. 719, § 6[a], amended 1917, May 18, P.L. 244, § 2, repealed, failure of some of necessary signatures attached to nominating petitions to bear date justifies secretary of commonwealth in refusing to file them. Hamilton v. Johnson, 141 A. 846, 293 Pa. 136, 1928.

A nomination petition which required 100 signatures, and which contained 101 ostensible signatures, was declared invalid where 2 persons had signed more than 20 days prior to the last day for filing, contrary to this section, and 4 persons had signed petitions for two different candidates for the same office, rendering their signatures on the contested petition invalid under § 2937 of this title. In re Carter's Nomination, 75 Dauph. 19, 1961, affirmed 159 A.2d 691, 398 Pa. 548.

8. Withdrawal of signers

Under act of 1906, Feb. 17, P.L. 36, § 5, repealed, county commissioners are not prevented from authorizing the withdrawal of names from a nominating petition and signers of a candidate's nomination petition may, before it has been acted upon and within the time for filing petitions, withdraw their names therefrom. Moore v. Neil, 82 A. 496, 233 Pa. 408, 1912.

9. Filing of petition

Pennsylvania Supreme Court order setting new congressional district boundaries and establishing the filing deadline for signature petitions for congressional candidates and presidential delegates, notice of which was published two days before filing deadline, unconstitutionally infringed prospective candidates' freedom of association by placing undue burden on their efforts to get on the ballot for the primary schedule, particularly since the official newspaper notification date was delayed for a week. *Valenti v. Mitchell*, E.D.Pa.1992, 790 F.Supp. 534, affirmed in part 962 F.2d 288.

Potential candidate for the House of Representatives and potential delegate for presidential candidate who had actual knowledge of Pennsylvania Supreme Court order setting filing deadline for candidate signature petitions were not prejudiced by Pennsylvania's Supreme Court's delay in publishing information as to boundaries in filing deadlines and thus were not entitled to extension of filing deadline. *Valenti v. Mitchell*, E.D.Pa.1992, 790 F.Supp. 534, affirmed in part 962 F.2d 288.

10. Amended petitions

Nomination petitions for candidates for ward executive committee of political party which contained 19 signatures, only nine of which were valid, could not be amended subsequent to deadline for filing said petitions, by fixing name of one of candidates on face of both in an attempt

to validate said petition. *Petition of Gallagher*, 359 A.2d 791, 468 Pa. 19, 1976.

In such case where clerk of commonwealth properly refused to file nominating petitions containing undated signatures, court in mandamus proceedings was without power to make amendments supplying dates and require filing of amended petitions. *Hamilton v. Johnson*, 141 A. 846, 293 Pa. 136, 1928.

Section 8 of the act of 1913, July 12, P.L. 719, repealed, permitting within a certain time mistakes in nominating petitions to be amended applies only to petitions which have been filed. *Hamilton v. Johnson*, 141 A. 846, 293 Pa. 136, 1928.

11. Objections to petition

The common pleas court, sitting in equity, did not abuse its discretion in dissolving temporary injunction against computation of votes cast at borough referendum election on question of permitting Sunday motion picture exhibitions, where complainant's evidence and pertinent law showed that complainant would be unable to make out case for injunction on final hearing because of his neglect to make timely objection to referendum petition, which did not meet requirements for nomination petitions under §§ 2868, 2869 of this title. In *re Motion Picture Exhibitions on Sunday in Borough of Hellertown*, 47 A.2d 273, 354 Pa. 255, 1946.

§ 2869. Petition may consist of several sheets; affidavit of circulator

Said nomination petition may be on one or more sheets, and different sheets must be used for signers resident in different counties. If more than one sheet is used, they shall be bound together when offered for filing if they are intended to constitute one petition, and each sheet shall be numbered consecutively beginning with number one, at the foot of each page. In cases of petitions for delegate or alternate delegate to National conventions, each sheet shall contain a notation indicating the presidential candidate to whom he is committed or the term "uncommitted." Each sheet shall have appended thereto the affidavit of the circulator of each sheet, setting forth—(a) that he or she is a qualified elector duly registered and enrolled as a member of the designated party of the State, or of the political district, as the case may be, referred to in said petition,

unless said petition relates to the nomination of a candidate for a court of common pleas, for the Philadelphia Municipal Court or for the Traffic Court of Philadelphia or for justice of the peace, in which event the circulator need not be a duly registered and enrolled member of the designated party; (b) his residence, giving city, borough or township, with street and number, if any; (c) that the signers thereto signed with full knowledge of the contents of the petition; (d) that their respective residences are correctly stated therein; (e) that they all reside in the county named in the affidavit; (f) that each signed on the date set opposite his name; and (g) that, to the best of affiant's knowledge and belief, the signers are qualified electors and duly registered and enrolled members of the designated party of the State, or of the political district, as the case may be. 1937, June 3, P.L. 1333, art. IX, § 909. Amended 1961, Sept. 15, P.L. 1327, § 1, effective Aug. 1, 1961; 1971, Dec. 22, P.L. 615, No. 165, § 8; 1986, Feb. 19, P.L. 29, No. 11, § 6, imd. effective.

Historical and Statutory Notes

The 1986 amendment substituted "candidate for a court of common pleas, for the Philadelphia Municipal Court or for the Traffic Court of Philadelphia or for justice of the peace" for "judicial candidate".

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A first class township referendum petition filed in quarter sessions court will not be set aside for failure to comply with this section. *Whitemarsh Tp. Referendum*, 7 D. & C.2d 271, 72 Montg. 124, 1958.

The court refused to set aside a referendum petition pursuant to § 55207 of Title 53, where said petition did not comply with this section on grounds that the requirements for nomination petitions under the election code do not apply to township referendum petitions and that the legislature desired a simple manner to ascertain a free expression of the will of the electorate. *Whitemarsh Tp. Referendum*, 7 D. & C.2d 271, 72 Montg. 124, 1958.

1. In general

The statutes authorizing municipal elections on question of Sunday motion pictures on petition of electors equal in number to 20 per cent. of highest vote cast for any candidate in municipality at last preceding general or municipal election, imply that all safeguards law has placed around nomination petitions in order to insure their genuineness have also been placed around petitions for submission of Sunday motion picture question. *In re Sunday Movie Petition*, 44 A.2d 46, 352 Pa. 635, 1945.

2. Petition

Petitions seeking local option referendum election would be deemed valid, in absence of any objections thereto within seven days after last day for filing the petitions. *Soulchin v. Pennsylvania Li-*

quor Control Bd., 61 A.2d 775, 163 Pa.Super. 372, 1948.

Petitions for submission to municipal electors of question of Sunday motion pictures, which petitions contained several thousand names of alleged electors with no proof attached to petitions that alleged electors were in existence and residing at addresses given or that signatures were genuine, were not sufficient. *In re Sunday Movie Petition*, 44 A.2d 46, 352 Pa. 635, 1945.

Each signature sheet to a nomination paper must specify the office for which the nominee is running as any other procedure would be susceptible to misleading electors and to the perpetration of fraud: the omission is a fatal one, necessitating disregard of the defective sheets as invalid. *Katz Nomination Papers*, 65 D. & C. 13, 1949.

In mandamus proceedings to compel the Secretary of the Commonwealth to receive a petition to put a candidate in nomination for representative district of county, fact that the affidavit of the qualified elector did not have the word "tenth" filed in showing that he was an elector of that district was not such a material error as to require the rejection of this petition, and therefore, the mandamus must be granted. *Fitzpatrick v. Lawrence*, 32 D. & C. 486, 45 Dauph. 358, 1938.

3. Several sheets

Failure of requestors to number, staple, or otherwise affix together pages of petition seeking to place question on ballot was not defect requiring petition to be set aside but, rather, pages of petition contained in single folder would satisfy requirement that they be bound together. *In re Election of Two Additional Sup'rs in Birmingham Tp.*, 549 A.2d 620, 120 Pa. Cmwlth. 586, 1988.

The requirement that separate sheets of nomination petition be bound together so as to constitute one petition is mandatory. *In re Steel*, 105 A.2d 139, 377 Pa. 260, 1954.

Where petition for referendum on granting of liquor licenses consisted of five separate petitions, each verified by affidavit of a qualified elector, and petition for referendum on granting malt and brewed beverage retail dispenser licenses consisted of five separate petitions, the

two sets of petitions, consisting of five sheets each bearing the signatures of a required number of electors, folded together, and presented for filing in an envelope sufficiently complied with requirement of this section that sheets of petition be bound together when offered for filing. *Long v. Cochran*, 56 A.2d 105, 358 Pa. 129, 1948.

The requirement of this section relating to the binding together of sheets, is sufficiently complied with where the various sheets are fastened together with a paper clip, where the sheets are consecutively numbered by the county commissioners' clerk at the time of receipt and in the presence of the filer, and where they were intended and accepted as a single petition. *Petition of Falls Tp. Local Option*, 76 D. & C. 489, 1 Bucks 40, 1952.

4. Circulators

Evidence would not support substituting candidate as circulator of nomination petition pages, although candidate testified that she was with signing circulator of nomination petition when petition pages were circulated. *In re Shannon*, 573 A.2d 638, 132 Pa.Cmwlth. 497, 1990.

Nomination petition pages circulated by individual who was not registered to vote within senatorial district when nomination petition for senator was circulated were invalid, although individual testified that she had resided within the senatorial district at the relevant time; this section requires that circulator file affidavit setting forth that he or she is qualified elector duly registered and enrolled as member of political district referred to in petition. *In re Shannon*, 573 A.2d 638, 132 Pa.Cmwlth. 497, 1990.

Nomination petitions filed on behalf of one who sought to be a candidate for political party's nomination to the office of township commissioner for a specified ward, which were fatally defective because their circulator was not a resident within the specified ward, could not be amended by substituting a person who was also unqualified to be a circulator in that he did not become a registered member of the political party until after the filing deadline. *In re McDermott*, 431 A.2d 1180, 60 Pa.Cmwlth. 486, 1981.

Nomination petitions filed on behalf of one who sought to be a candidate for political party's nomination to the office of township commissioner for a specified

Note 4

ward were fatally defective and had to be set aside, where their circulator was not a resident within the specified ward. In re McDermott, 431 A.2d 1180, 60 Pa. Cmwlth. 486, 1981.

Under this section requiring an affidavit as to party membership by the circulator of the nomination petition, party membership is required only at the time the affidavit is made. In re Miller's Nomination Petition, 27 D. & C.2d 676, 1963.

The nomination petition of a candidate for the office of representative in the General Assembly of the Commonwealth of Pennsylvania will not be set aside merely because the circulator of the petition was not registered to vote. Petition of Williams, 3 D. & C.2d 549, 1958.

5. Affiants and affidavits

Where individual who attested to nominating petition as circulator did not obtain any of the signatures on the sheets, did not know signators, their place of residence, occupation or date they signed petitions, did not deliver sheets or receive sheets from person who actually circulated them on several occasions and for the most part had only limited knowledge or no knowledge of names of, or direct association with, the actual circulators, signatures thereon were invalid and candidate would not be allowed to rehabilitate nomination petition by amendment by having actual circulators make requisite affidavits, at least where candidate's right to seek office was not lost as he remained candidate for such office in another party's primary. (Per curiam opinion with three Judges concurring and one Judge concurring in result.) In re Glazier, 378 A.2d 314, 474 Pa. 251, 1977.

While it would be preferable for the individual who has actually circulated nomination petition to make the required affidavit, this is not specifically required by the election code, and it is sufficient if the affiant has knowledge of the facts set out in section of code relating to affidavits of circulators. Petition of DeFino, 362 A.2d 467, 25 Pa.Cmwlth. 646, 1976.

Court hearing objections to nomination petition for primary election for the Democratic party nomination for office of United States Senator would not accept new circulator's affidavit as substitute for circulator's affidavit submitted by a person not qualified to circulate petition, especially since new affiant did not have

knowledge of circulation of petition except for ten signatures which he personally observed being signed. In re Elliott, 362 A.2d 438, 26 Pa.Cmwlth. 20, 1976, affirmed 353 A.2d 446, 466 Pa. 463.

Where affiant who verified nomination petition of candidate for nomination for office of county coroner knew that signatories signed with full knowledge of contents of petition, that their respective residences were correctly stated in petition, that they all resided in the county, that each signed on date set opposite his name and that they were qualified Republican electors in the county, fact that affiant did not personally secure all signatures did not render verification defective. In re Frank, 98 A.2d 255, 173 Pa.Super. 400, 1953.

Legislature, in providing for the submission to municipal electors of question of Sunday motion pictures on basis of petitions containing signatures of voters equal to 20 per cent. of highest vote cast for any candidate in municipality at the last preceding general or municipal election, did not intend to permit petitions to be the basis for official action without appropriate verifications. In re Sunday Movie Petition, 44 A.2d 46, 352 Pa. 635, 1945.

Where a nomination petition, filed on the last day permitted by law, omitted the circulator's and candidate's affidavits, the candidate will not be permitted to add these by amendment. In re Banks Nomination Petition, 69 D. & C.2d 548, 97 Dauph. 217, 1974.

The affidavit to a petition for a local option referendum required under this section must be based upon the affiant's personal knowledge insofar as all matters stated therein are concerned, except the qualification of those signing it, as to which the affidavit is required only to be to the best of affiant's knowledge and belief. Petition of Falls Tp. Local Option, 76 D. & C. 489, 1 Bucks 40, 1952.

Where signatures to a local option referendum petition are on several sheets, affidavit required by this section should be attached to each sheet, but election will not be invalidated because of failure to do so. In re Crossan's License, 63 D. & C. 39, 3 Chest. 280, 1949.

The affidavit to a local option referendum petition is defective if it certifies that the signators are qualified electors with-

out adding that they are registered and enrolled members of a political party, since the two terms are not synonymous but the defect is not so fundamental as to necessitate invalidating the election. In re Crossan's License, 63 D. & C. 39, 3 Chest. 280, 1949.

The requirements of this section and § 2870 of this Title, that nomination petitions be verified by the candidate and by the persons securing the signatures, is mandatory and fundamental, and petitions not bearing such verification cannot be amended after the filing date by adding the necessary affidavits. *Howe v. Campbell*, 60 D. & C. 10, 1948.

6. Amendment of affidavit

Court is less likely to exercise its discretion to permit amendment of circulator's affidavit regarding nomination petition pages where testimony of circulator is not corroborated by testimony of disinterested witnesses, when amendment of circulator's affidavit to support validity of petition signatures is sought. In re Shannon, 573 A.2d 638, 132 Pa.Cmwlt. 497, 1990.

Where candidate for office of member of state committee of Democratic party appeared before notary public and made appropriate declarations contained in affidavits of candidate and circulator of nomination petition, notary public signed affidavits as having been sworn and subscribed before him, but failed to authenticate such acts by impressing his seal upon affidavits, so that affidavits were defective when received by Bureau of Elections on last day for filing, candidate would be allowed to amend his petition nunc pro tunc. *Petition of Kloiber*, 362 A.2d 484, 26 Pa.Cmwlt. 50, 1976.

Nomination petitions with improperly completed affidavits are amendable at discretion of court, but nomination petitions with no affidavits at all leave nothing to be amended and are, therefore, fatally defective. *Petition of Kloiber*, 362 A.2d 484, 26 Pa.Cmwlt. 50, 1976.

While circulator's affidavit to a petition for a local option referendum should, under this section, aver that he is a qualified elector of the political district or subdivision in which the petition was circulated and that the signers to the petition lived in the political subdivision in which the petitions were circulated, since the failure of the affidavit to include such material is a defect apparent on its face, it

may be amended to correspond with the facts after filing. *Petition of Falls Tp. Local Option*, 76 D. & C. 489, 1 Bucks 40, 1952.

7. Knowledge

Candidate's "presence" was sufficient to enable him to comply with the level of knowledge required in circulator's affidavits, in connection with his nomination papers as independent candidate for the General Assembly, where he did not personally obtain each and every signature but was at most a few houses away at any given time and reviewed each signature obtained by his two assistants. In re Bunk, 548 A.2d 1287, 120 Pa.Cmwlt. 495, 1988.

Failure of circulator and affiant to personally obtain all signatures on petitions or have knowledge of qualifying facts constituted material defect rendering disputed sheets invalid and invalidating signatures contained thereon. In re Street, 539 A.2d 923, 115 Pa.Cmwlt. 189, 1988.

Names on nominating petition which were obtained by someone other than affiant, who had admitted under oath that he did not have requisite knowledge with respect to most of those signatures, had to be stricken from nominating petitions. *Wolfe v. Switaj*, 525 A.2d 825, 106 Pa.Cmwlt. 1, 1985.

Election Code does not require individual who actually circulates referendum petition to make the required affirmation, but affiant must have knowledge of the qualifying facts enunciated in this section relating to affidavits of circulators. In re Local Option Election in Slippery Rock Borough, 406 A.2d 1168, 46 Pa.Cmwlt. 260, 1979.

Fact that affiant, who filed local referendum petitions and circulator's affidavit, did not know whether each of the signers signed with full knowledge of contents of petitions was defect requiring that petitions be struck down. In re Local Option Election in Slippery Rock Borough, 406 A.2d 1168, 46 Pa.Cmwlt. 260, 1979.

Candidate for office of representative in Congress had the requisite knowledge regarding signers of two sheets of signatures of nomination petition to execute affidavits of circulator where his knowledge of signers came to him by reason of his own acquaintance in the district and his reliance on information furnished him

Note 7

by the actual circulators who were his mother and his aunt. Petition of DeFino, 362 A.2d 467, 25 Pa.Cmwlt. 646, 1976.

A nomination petition for office of prothonotary was stricken for failure to comply with The Election Code of June 3, 1937, this section, where person who signed circulator's affidavit testified that when he signed the affidavit there were only five signatures on the petition and that he knew nothing as to the signatures presently appearing on lines 6 through 113 of the petition, especially where many of the signers testified that, due to their then intoxicated condition, they had no knowledge of the contents of the petition, the addresses of many of the signers failed to comply with § 908 of the code, and there is a strong likelihood that the petition was deliberately circulated on behalf of the nominee by another candidate of party to confuse the voters by having on the ballot two candidates of the same

party with the same name. In re Brady Nomination Petition, 31 D. & C.2d 711, 26 Fay.L.J. 44, 1964.

8. Injunction

The common pleas court, sitting in equity, did not abuse its discretion in dissolving temporary injunction against computation of votes cast at borough referendum election on question of permitting Sunday motion picture exhibitions, where complainant's evidence and pertinent law showed that complainant would be unable to make out case for injunction on final hearing because of his neglect to make timely objection to referendum petition, which did not meet requirements for nomination petitions under this section and § 2868 of this title. In re Motion Picture Exhibitions on Sunday in Borough of Hellertown, 47 A.2d 273, 354 Pa. 255, 1946.

§ 2870. Affidavits of candidates

Each candidate for any State, county, city, borough, incorporated town, township, ward, school district, poor district, election district, party office, party delegate or alternate, or for the office of United States Senator or Representative in Congress, shall file with his nomination petition his affidavit stating—(a) his residence, with street and number, if any, and his post-office address; (b) his election district, giving city, borough, town or township; (c) the name of the office for which he consents to be a candidate; (d) that he is eligible for such office; (e) that he will not knowingly violate any provision of this act, or of any law regulating and limiting nomination and election expenses and prohibiting corrupt practices in connection therewith; (f) unless he is a candidate for judge of a court of common pleas, the Philadelphia Municipal Court or the Traffic Court of Philadelphia, or for the office of school director in a district where that office is elective or for the office of justice of the peace that he is not a candidate for nomination for the same office of any party other than the one designated in such petition; (g) if he is a candidate for a delegate, or alternate delegate, member of State committee, National committee or party officer, that he is a registered and enrolled member of the designated party; (h) if he is a candidate for delegate or alternate delegate the presidential candidate to whom he is committed or the term "uncommitted"; and (i) that he is aware of the provisions of section 1626 of this act¹ requiring pre-election and post-election reporting of campaign contributions and expenditures. In cases of petitions for candidates for the General Assembly, the

candidate's affidavit shall state (1) that the candidate will satisfy the eligibility requirements contained in sections 5 and 7 of Article II of the Constitution of Pennsylvania; (2)(i) that in the case of a candidate for the office of Senator in the General Assembly that the candidate will be twenty-five (25) years of age on or before the first day of the term for which the candidate seeks election or (ii) that in the case of a candidate for the office of Representative in the General Assembly that the candidate will be twenty-one (21) years of age on or before the first day of the term for which the candidate seeks election; (3) that the candidate shall have been a citizen and inhabitant of Pennsylvania four (4) years and an inhabitant of the respective district one (1) year next before the election (unless absent on the public business of the United States or of this State); and (4) that the candidate has not been convicted of embezzlement of public moneys, bribery, perjury or other infamous crime. In cases of petitions for delegate and alternate delegate to National conventions, the candidate's affidavit shall state that his signature to the delegate's statement, as hereinafter set forth, if such statement is signed by said candidate, was affixed to the sheet or sheets of said petition prior to the circulation of same. In the case of a candidate for nomination as President of the United States, it shall not be necessary for such candidate to file the affidavit required in this section to be filed by candidates, but the post-office address of such candidate shall be stated in such nomination petition.

1937, June 3, P.L. 1333, art. IX, § 910. Amended 1971, Dec. 22, P.L. 616, No. 165, § 9; 1972, July 7, P.L. 732, No. 171, § 1, imd. effective; 1974, June 27, P.L. 413, No. 146, § 1, imd. effective; 1980, July 11, P.L. 591, No. 127, § 2, imd. effective; 1985, April 18, P.L. 5, No. 4, § 3, imd. effective; 1986, Feb. 19, P.L. 29, No. 11, § 7, imd. effective.

¹ 25 P.S. § 3246.

Historical and Statutory Notes

The 1974 amendment provided for cross-filing by candidates for the office of justice of the peace.

Section 3(d) of Act 1978, April 28, P.L. 202, No. 53 (the Judiciary Act Repealer Act) [42 P.L. § 20003(d)], provides:

"An express reference in any statute or other law to a justice of the peace or to the office of justice of the peace shall hereafter be deemed a reference to a district justice or to the office of district justice. Any person appointed or elected to judicial office in a magisterial district

shall be known as and hereafter shall be commissioned as the 'district justice' in and for the appropriate magisterial district."

The 1980 amendment inserted cl. (i).

The 1985 amendment inserted the second sentence.

The 1986 amendment, in cl. (f), substituted "court of common pleas, the Philadelphia Municipal Court or the Traffic Court of Philadelphia" for "court for record".

Library References

Elections ⇨ 144.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 108, 135.
P.L.E. Elections § 43.

Notes of Decisions

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Validity	1

1. Validity

Provision of this section permitting cross-filing by candidates for the Commonwealth Court does not violate First Amendment right to free association of state political party's committeeperson. *Orloski v. Davis*, 564 F.Supp. 526, D.C. 1983.

Even assuming there was substantial interference with state political party's committeeperson's associational rights as a result of provision of this section permitting cross-filing by candidates for the Commonwealth Court which prevented her from identifying those candidates with whom she shared common political beliefs, that interference was more than outweighed by interest of the state in enhancing integrity of election of its judges by introducing element of nonpartisanship into primary selection process, and thus, this section does not violate Constitution. *Orloski v. Davis*, 564 F.Supp. 526, D.C.1983.

Assuming that state political party's committeeperson had standing to assert that this section, permitting cross-filing of candidates for the Commonwealth Court, violated equal protection clause because it permitted judicial candidates to cross-file on primary election ballots but denied cross-filing privilege to other candidates, the claim lacked merit. *Orloski v. Davis*, 564 F.Supp. 526, D.C.1983.

Combined impact of this section permitting cross-filing by candidates for the Commonwealth Court, and limited voting procedure imposed by 42 Pa.C.S.A. § 3133, which was enacted to encourage minority party representation does not effectively disenfranchise electors who do not vote in the primary. *Orloski v. Davis*, 564 F.Supp. 526, D.C.1983.

"Party raiding" provisions of election code, limiting nominations to one political party, do not constitute an unconstitutional interference with freedom of elections. *Krull v. City and County of Philadelphia*, 114 A.2d 119, 382 Pa. 1, 1955.

2. In general

Purpose of requiring that candidate for political party office make sworn affidavit that he is a registered and enrolled member of the designated party is to insure the legitimacy of information crucial to the election process. *Petition of Cianfrani*, 359 A.2d 383, 467 Pa. 491, 1976.

Where candidate for political party office averred in his affidavit that he was a registered and enrolled member of the designated party and where the candidate was not a registered and enrolled member of the party on the date of the affidavit, defect in affidavit was not cured by fact that candidate became a registered and enrolled member of the party on the day after executing the affidavit and, therefore, nominating petition was void and invalid. *Petition of Cianfrani*, 359 A.2d 383, 467 Pa. 491, 1976.

3. Amendment of affidavit

Nomination petitions with improperly completed affidavits are amendable at discretion of court, but nomination petitions with no affidavits at all leave nothing to be amended and are, therefore, fatally defective. *Petition of Kloiber*, 362 A.2d 484, 26 Pa.Cmwth. 50, 1976.

Where candidate for office of member of state committee of Democratic party appeared before notary public and made appropriate declarations contained in affidavits of candidate and circulator of nomination petition, notary public signed affidavits as having been sworn and subscribed before him, but failed to authenticate such acts by impressing his seal upon affidavits, so that affidavits were defective when received by Bureau of Elections on last day for filing, candidate would be allowed to amend his petition nunc pro tunc. *Petition of Kloiber*, 362 A.2d 484, 26 Pa.Cmwth. 50, 1976.

Where a nomination petition, filed on the last day permitted by law, omitted the circulator's and candidate's affidavits, the candidate will not be permitted to add these by amendment. *In re Banks Nomination Petition*, 69 D. & C.2d 548, 97 Dauph. 217, 1974.

The requirements of this section and § 2869 of this title that nomination petitions be verified by the candidate and by the persons securing the signatures, is mandatory and fundamental, and petitions not bearing such verification cannot

be amended after the filing date by adding the necessary affidavits. *Howe v. Campbell*, 60 D. & C. 10, 1948.

4. Offices

Candidate was not prohibited from seeking party's nomination for both the

office of Attorney General and that of senator in General Assembly, though Constitution would not permit a person to hold both of the offices at the same time. *In re O'Pake*, 422 A.2d 209, 54 Pa.Cmwlt. 462, 1980.

§ 2871. Statement of candidates for delegates to National conventions

Each candidate for election as delegate or alternate delegate to a National party convention may include, with his affidavit, the statement hereinafter set forth in this section; but his failure to include such statement shall not be a valid ground, on the part of the Secretary of the Commonwealth, for refusal to receive and file his nomination petition. Such statement, if signed, shall be signed on all the sheets of said petition, together with the date of signing and shall be in substantially the following form:

Delegate's Statement

I hereby declare to the voters of my political party in the (here insert "State of Pennsylvania," if a delegate or alternate delegate at large; otherwise, insert "District") that, if elected and in attendance as a delegate to the National convention of the party, I shall, with all fidelity, to the best of my judgment and ability, in all matters coming before the convention, support (here insert name of presidential candidate) for President of the United States and shall use all honorable means within my power to aid in securing the nomination for such candidate for President.

.....
(Signature of candidate for delegate or alternate delegate, and date of signing.)

On the ballots or ballot labels used at a primary, after or under the name of each candidate for delegate or alternate delegate to a National party convention, shall appear the words "committed to (here insert name of presidential candidate)" or "uncommitted" according to whether the candidate included, or failed to include, the above statement with his affidavit.

1937, June 3, P.L. 1333, art. IX, § 911. Amended 1971, Dec. 22, P.L. 617, No. 165, § 10.

Library References

Elections ⇨121(1).
WESTLAW Topic No. 144.

C.J.S. Elections § 83 et seq.
P.L.E. Elections § 41.

Notes of Decisions

Purpose of law 1

1. Purpose of law

Purpose of requiring that convention delegate's statement be on each nomination petition form and be signed on all

sheets of petition, together with date of signing is that electors who are requested to sign nomination petition will be aware of potential of the delegate's commitment, if he has declared one, prior to their signing the petition. *Wilds v. Secretary of Com. of Pa.*, 475 A.2d 847, 82 Pa.Cmwlth. 29, 1984.

§ 2872. Repealed. 1984, Dec. 12, P.L. 968, No. 190, § 1, effective Jan. 1, 1985

Historical and Statutory Notes

The repealed section related to numbers of signers needed for nomination petitions for various offices and was derived from:

1937, June 3, P.L. 1333, § 912.

1949, April 20, P.L. 619, § 1.

1951, May 16, P.L. 302, § 1.

1978, April 28, P.L. 202, No. 53, § 2(a) [1193].

For subject matter of repealed section, see, now, § 2872.I of this title.

§ 2872.1. Number of signers required for nomination petitions of candidates at primaries

Candidates for nomination of offices as listed below shall present a nominating petition containing at least as many valid signatures of registered and enrolled members of the proper party as listed below:

- (1) President of the United States: Two thousand.
- (2) United States Senate: Two thousand.
- (3) Governor: Two thousand including at least one hundred from each of at least ten counties.
- (4) Lieutenant Governor: One thousand including at least one hundred from each of at least five counties.
- (5) Treasurer: One thousand including at least one hundred from each of at least five counties.
- (6) Auditor General: One thousand including at least one hundred from each of at least five counties.
- (7) Attorney General: One thousand including at least one hundred from each of at least five counties.
- (8) Justice of the Supreme Court: One thousand including at least one hundred from each of at least five counties.
- (9) Judge of the Superior Court: One thousand including at least one hundred from each of at least five counties.
- (10) Judge of the Commonwealth Court: One thousand including at least one hundred from each of at least five counties.

(11) For any other office to be filled by the vote of the electors of the State at large or for any other party office to be elected by the electors of the State at large: One thousand including at least one hundred from each of at least five counties.

(12) Representative in Congress: One thousand.

(13) Senator in the General Assembly: Five hundred.

(14) Representative in the General Assembly: Three hundred.

(15) Public or party offices to be filled by a vote of the electors in counties of the first class at large: One thousand.

(16) Public or party offices to be filled by a vote of the electors in counties of the second class at large: Five hundred.

(17) Public or party offices to be filled by a vote of the electors in cities of the first class at large: One thousand.

(18) Public or party offices to be filled by a vote of the electors in counties of the second class A at large: Two hundred fifty.

(19) Public or party offices to be filled by a vote of the electors in counties of the third class at large: Two hundred fifty.

(20) Public or party offices to be filled by a vote of the electors in counties of the fourth class at large: Two hundred fifty.

(21) Public or party offices to be filled by a vote of the electors in cities of the second class at large: Two hundred fifty.

(22) Public or party offices to be filled by a vote of the electors in cities of the second class A at large: One hundred.

(23) Public or party offices to be filled by a vote of the electors in cities of the third class at large: One hundred.

(24) Public or party offices to be filled by a vote of the electors in counties of the fifth class at large: One hundred.

(25) Public or party offices to be filled by a vote of the electors in counties of the sixth class at large: One hundred.

(26) Public or party offices to be filled by a vote of the electors in counties of the seventh class at large: One hundred.

(27) Public or party offices to be filled by a vote of the electors in counties of the eighth class at large: One hundred.

(28) Office of judge of any court of record other than a State-wide court or a court in a county of the first or second class: Two hundred fifty.

(29) District delegate or alternate district delegate to a National party convention: Two hundred fifty.

(30) Member of State committee: One hundred.

(31) Office of district council member in a city of the first class: Seven hundred fifty.

(31.1) Office of district council member in a city of the second class: One hundred.

(32) Office of district justice: One hundred.

(33) Office of judge of election: Ten.

(34) Inspector of elections: Five.

(35) All other public and party offices: Ten.

1937, June 3, P.L. 1333, No. 320, § 912.1, added 1984, Dec. 12, P.L. 968, No. 190, § 2, eff. Jan. 1, 1985. Amended 1989, Feb. 13, P.L. 1, No. 1, § 1, imd. effective.

Historical and Statutory Notes

The 1989 amendment added the office of district council member in a city of the second class, which required 100 signatures.

1951, May 16, P.L. 302, § 1.

1949, April 20, P.L. 619, § 1.

1937, June 3, P.L. 1333, § 912 (25 P.S. § 2872).

Prior Laws:

1978, April 28, P.L. 202, No. 53, § 2(a) [1193].

Law Review Commentaries

Constitutionality of nominating petition signature requirements. 50 Temp.L.Q. 911 (1977).

An excursion into the uncharted waters of the Seventeenth Amendment. Laura E. Little, 64 Temp.L.Rev. 629 (1991).

Library References

Elections ⇨ 144.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 108, 135.

P.L.E. Elections § 43.

Notes of Decisions

In general 2

Actions 5

Number of signers 3

Validation of signatures 4

Validity 1

1. Validity

Pennsylvania statute which increased the number of party members' signatures required to place a candidate's name on primary ballot, in combination with other provisions of the Pennsylvania election code, was unconstitutional as applied to a political party and its members because it made it effectively impossible for the party to place candidates on the general election ballot. *Consumer Party v. Davis*, E.D.Pa.1986, 633 F.Supp. 877.

Statute requiring that candidate for statewide judicial office file nomination petition with 1,000 signatures in order to be placed on ballot did not create unreasonable burden in violation of substantive due process. *Trinsey v. Mitchell*, 625 A.2d 49, 533 Pa. 330, 1993.

This section of Election Code providing that a candidate must obtain 100 valid signatures from each of five counties is not unconstitutional as in violation of equal protection clause of Fourteenth Amendment (U.S.C.A. Const. Amend. 14), because that requirement, combined with cross filing or independent access available to candidates, has no "real and appreciable impact" on franchise rights of voters in state and thus state interests of insuring serious candidacies, insuring

manageable ballot size and insuring that prospective candidates have a significant modicum of support provide a rational basis for the challenged law. *Cavanaugh v. Schaeffer*, 444 A.2d 1308, 65 Pa. Cmwlth. 620, 1982.

Even if the equal protection challenge to section of Election Code providing that candidate must obtain 100 valid signatures from each of five counties was required to be made under "strict scrutiny," asserted interest of seriousness, manageability and sufficient support would be sufficiently compelling to uphold law. *Cavanaugh v. Schaeffer*, 444 A.2d 1308, 65 Pa. Cmwlth. 620, 1982.

In determining whether provision of this section that candidates for school director running in districts containing entire city to obtain 100 signatures upon their nomination petition while those running in other districts need only obtain ten signatures violates equal protection clause, "rational relationship" test rather than "strict scrutiny" test was proper one to be applied. In *re La Verdi*, 341 A.2d 125, 462 Pa. 370, 1975.

Provision of this section that candidates for school director running in districts containing entire city must obtain 100 signatures upon their nomination petitions while those running in other districts need only obtain ten signatures does not violate equal protection clause (U.S.C.A. Const. Amend. 14). In *re La Verdi*, 341 A.2d 125, 462 Pa. 370, 1975.

Distinctions in Election Code between candidates showing certain minimum public support, and thus entitled to place on ballot, and those not showing such support, and thus not entitled to place on ballot, and between county and other local elections, where showing of minimum support for candidate is required and state elections, where the name of any candidate of legal party will be placed on the ballot, constitute reasonable classifications, and, therefore do not violate equal protection clause of United States Constitution. *Shankey v. Staisey*, 257 A.2d 897, 436 Pa. 65, 1969, certiorari denied 90 S.Ct. 684, 396 U.S. 1038, 24 L.Ed.2d 682.

2. In general

Election Code does not require court to willingly accept shotgun approach to nominating petition of collecting as many signatures as possible and hoping that

enough of the signing individuals are qualified electors. In *re Shannon*, 573 A.2d 638, 132 Pa. Cmwlth. 497, 1990.

"An office to be voted for by the electors of an entire city," within purview of provision of this section that candidate seeking office to be voted for by electors of entire city must obtain 100 signatures on his petition, includes every public office to be filled by voters of such governmental unit. In *re La Verdi*, 341 A.2d 125, 462 Pa. 370, 1975.

Since the selection of a political party committeeman during a primary election is a final election for that office, a "write-in" candidate who receives the plurality of votes cast is elected even if he does not receive votes greater in number than the number of signatures required on a nominating petition as is otherwise required for certification of his votes under this section. *Santmyer v. Westmoreland County Bd. of Elections*, 9 D. & C.3d 303, 1978.

3. Number of signers

Nomination petition for Democratic Party's nomination for Senator in the General Assembly would be set aside, where petition had no more than 193 valid signatures. In *re Passio*, 516 A.2d 782, 102 Pa. Cmwlth. 125, 1984.

Where there are not sufficient numbers of registered party electors to comply with § 2872 of this title requiring nomination petitions signed by 200 registered party electors to nominate candidates for primary ballot, provisions of election code should not operate to bar nomination of candidates under party name as to political party which has achieved party status due to its candidates receiving required percentage of votes in previous election. *Fraenzl v. Secretary of Com. of Pa.*, 478 A.2d 903, 83 Pa. Cmwlth. 539, 1984.

Candidate for United States Representative nominated by political party which gained "party" status by attracting sufficient number of voters in preceding year was not required by the election code to submit nomination petitions signed by 200 registered party electors in order to be nominated for primary ballot, and consequently, to have her name placed on general election ballot, where such party had only three registered voters in district. *Fraenzl v. Secretary of Com. of*

Note 3

Pa., 478 A.2d 903, 83 Pa.Cmwth. 539, 1984.

Where nomination petition for primary election for the Democratic party nomination for office of United States Senator contained less than 100 signatures of registered and enrolled members of the Democratic party in each of at least ten counties of Commonwealth, nomination petition was invalid and had to be set aside. In re Elliott, 362 A.2d 438, 26 Pa.Cmwth. 20, 1976, affirmed 353 A.2d 446, 466 Pa. 463.

Nomination petitions for candidates for ward executive committee of political party which contained 19 signatures, only nine of which were valid, could not be amended subsequent to deadline for filing said petitions, by fixing name of one of candidates on face of both in an attempt to validate said petition. Petition of Gallagher, 359 A.2d 791, 468 Pa. 19, 1976.

Where a governmental unit contains not only "an entire city" but additional areas as well, candidate seeking office elected by voters of that unit must, like candidates seeking office to be voted for by electors of entire city, obtain 100 signatures on his petition. In re La Verdi, 341 A.2d 125, 462 Pa. 370, 1975.

4. Validation of signatures

Signatures of persons whose names appeared on rolls of county registration commission as registered and enrolled members of Republican Party on date they signed candidate's election petition were valid, notwithstanding fact that their names were in process of being purged from rolls for failure to vote during two calendar years at that time. In re Johnson, 502 A.2d 142, 509 Pa. 347, 1985.

Assertions that signature on nomination petition was not signature of elector registered and enrolled at address affixed to signature in petition, that elector who signed nomination petition was enrolled in another party, that signature was not sufficiently legible as to be capable of identification, that elector affixed his signature twice to petition, that elector signed another nomination petition for same office, that signature was a forgery and that signature showed a date outside period for circulation were proper objections to a nomination petition for the office of United States Senator in a pri-

mary election. In re Elliott, 362 A.2d 438, 26 Pa.Cmwth. 20, 1976, affirmed 353 A.2d 446, 466 Pa. 463.

Uncontradicted testimony of handwriting expert was sufficient evidence to require invalidation on ground of forgery of certain signatures appearing on nomination petition for primary election for the Democratic party nomination for office of United States Senator. In re Elliott, 362 A.2d 438, 26 Pa.Cmwth. 20, 1976, affirmed 353 A.2d 446, 466 Pa. 463.

Signatures which appeared on nomination petition for primary election for the Democratic party nomination for office of United States Senator and which were dated two days after date of circulator's affidavit were invalid. In re Elliott, 362 A.2d 438, 26 Pa.Cmwth. 20, 1976, affirmed 353 A.2d 446, 466 Pa. 463.

5. Actions

In suit for injunctive and declaratory relief brought by a minor political party challenging the constitutionality of Pennsylvania election code amendment which markedly increased the number of signatures needed to secure a place on primary ballot of a political party, the chosen remedy of the district court, which interpreted the Election Code to accommodate a hybrid between a "political party" and a "political body," was of at least doubtful fidelity to the legislature's intent, contained serious vagueness problems, and might be unduly intrusive; accordingly, the order would be vacated and the case remanded for further, expedited proceedings. Consumer Party v. Davis, C.A.3 (Pa.) 1985, 778 F.2d 140, on remand 633 F.Supp. 877.

Even though copy of petition to dismiss nominating petition may not have been timely filed on the Secretary of the Commonwealth, court would not dismiss the objections for that reason where it was faced with a nomination petition which was admittedly lacking the number of valid signatures required by 25 P.S. § 2872.1. In re Lee, 574 A.2d 1168, 133 Pa.Cmwth. 1, 1990, reversed 573 A.2d 1026, writ issued 578 A.2d 1277, 525 Pa. 155.

As affects right to mandamus, secretary of commonwealth acts in ministerial capacity in determining whether sufficient electors have signed nominating petition. Hamilton v. Johnson, 141 A. 846, 293 Pa. 136, 1928.

§ 2872.2. Nominations by minor political parties

(a) Notwithstanding any other provision in this act to the contrary, minor political parties shall nominate all of their candidates for the offices to be filled at the ensuing November election pursuant to section 903¹ in accordance with the requirements of section 951, other than subsection (e)(6) and (7) thereof,² and section 954,³ and shall obtain the required signatures during the same time frame available to political bodies. Minor political parties shall be subject to the provisions of this act applicable to political parties with respect to special elections, voter registration forms, substituted nominations and all other purposes except as otherwise expressly provided in this section. "Minor political party" shall mean a political party as defined in section 801(a) or (b)⁴ whose State-wide registration is less than fifteen per centum of the combined State-wide registration for all State-wide political parties as of the close of the registration period immediately preceding the most recent November election. The Secretary of the Commonwealth shall prescribe forms or, if there is insufficient time, make appropriate conforming changes in existing forms to carry out the purposes of this section.

(b) All nomination papers circulated and filed pursuant to this section shall specify—(1) the name or appellation of the minor political party which the candidates nominated thereby represent and, in the case of electors for President and Vice President of the United States, the names of the candidates for President and Vice President of such minor political party; (2) the name of each candidate nominated therein, his profession, business or occupation, if any, and his place of residence with street and number, if any; and (3) the office for which such candidate is nominated. No words shall be used in any nomination paper to designate the name or appellation of the minor political party represented by the candidate's name in such nomination paper which are identical with or deceptively similar to the words used for a like purpose by any minor political party which has already filed nomination papers for the same office. Any petition to set aside a nomination paper on account of the name or appellation used therein, or involving the right of the signers thereof to use such name or appellation, or on any other account, shall be decided as in the case of other petitions to set aside nomination papers, in the manner provided by this article.

(c) Each person filing any nomination paper for public office shall be given a statement composed by the Secretary of the Commonwealth setting forth his duties under law to file pre-election and post-election campaign finance reports and the penalties for nonfiling. Each person filing any nomination paper for public office shall be

given a form to file expenses if the amount received or expended or liabilities incurred shall exceed the sum of two hundred fifty dollars (\$250), and a form containing a sworn statement that the amount received or expended or liabilities incurred do not exceed the sum of two hundred fifty dollars (\$250), with written instructions prepared by the Secretary of the Commonwealth. Within three weeks after such candidate has filed, the appropriate supervisor shall mail the same forms and instructions to such candidate by first class mail. 1937, June 3, P.L. 1333, No. 320, § 912.2, added 1986, Feb. 19, P.L. 29, No. 11, § 8, imd. effective.

¹ 25 P.S. § 2863.

² 25 P.S. § 2911(e)(6) and (7).

³ 25 P.S. § 2914.

⁴ 25 P.S. § 2831(a) or (b).

United States Supreme Court

Party names, established political parties, affiliation, restrictions on use, see *Norman v. Reed*, 1992, 112 S.Ct. 698, 116 L.Ed.2d 711, on remand 180 Ill. Dec.

685, 154 Ill.2d 77, 607 N.E.2d 1198, certiorari denied 113 S.Ct. 3000, 125 L.Ed.2d 693.

Notes of Decisions

Validity 1

1. Validity

It is constitutionally permissible that state legislature hinge major party status, for purposes of access to ballot, on voter registration rather than the number of votes received by one of the candidates in the most recent election or some other criteria. *Patriot Party of Pennsylvania v. Mitchell*, E.D.Pa.1993, 826 F.Supp. 926.

Requirement that political party have 15% of the registered voters in order to be a major political party whose candidates would appear on the ballot without nomination papers was constitutionally permissible, as the requirement helped to avoid ballot clutter and reduce probability that frivolous candidates will appear on the general election ballot. *Patriot Party of Pennsylvania v. Mitchell*, E.D.Pa. 1993, 826 F.Supp. 926.

§ 2873. Place and time of filing nomination petitions; filing fees

(a) Nomination petitions in the case of candidates for the office of President of the United States, United States Senator, Representative in Congress and for all State offices, including senators, representatives and judges of courts of record, for the office of delegate or alternate delegate to National party conventions, and for the office of a member of a State or National committee, shall be filed with the Secretary of the Commonwealth. Nomination petitions in all other cases shall be filed with the county boards of election of the respective counties. Nomination petitions for candidates for any office to be voted for by the electors of any city, borough, township, ward or school district which is situate in two or more counties, shall be filed with the county board of the county in which the major number of the registered electors of such city, borough, township, ward or

school district reside. Immediately after the last day for such candidates to withdraw and after they have cast lots for their position on the ballots or ballot labels, the said county board shall certify to the county board of each other county involved a list of the names, addresses and occupations of the candidates so filing nomination petitions for each party, together with the order in which their names are to appear upon the primary ballots or ballot labels, and such other county board shall prepare the primary ballots or ballot labels to be used in the portion of such city, borough, township, ward or school district situate in such county accordingly.

(b) Repealed. 1984, Dec. 12, P.L. 968, No. 190, § 3, eff. Jan. 1, 1985.

(b.1) Each person filing any nomination petition shall pay for each petition, at the time of filing, a filing fee to be determined as follows, and no nomination petition shall be accepted or filed, unless and until such filing fee is paid by a certified check or money order or also by cash when filed with the county board. All moneys paid on account of filing fees shall be transmitted by the county board to the county treasurer and shall become part of the General Fund. Certified checks or money orders in payment of filing fees shall be made payable to the Commonwealth of Pennsylvania or to the county, as the case may be, and shall be transmitted to the State Treasurer or to the county treasurer and shall become part of the General Fund.

1. If for the office of President of the United States, or for any public office to be filled by the electors of the State at large, the sum of two hundred dollars (\$200.00).

2. If for the office of Representative in Congress, the sum of one hundred fifty dollars (\$150.00).

3. If for the office of judge of a court of record, excepting judges to be voted for by the electors of the State at large, the sum of one hundred dollars (\$100.00).

4. If for the offices of Senator or Representative in the General Assembly, for any office to be filled by the electors of an entire county, for the office of district councilman in a city of the first class and for any office other than school district office to be filled by the electors of an entire city, the sum of one hundred dollars (\$100.00), except as provided in paragraph 4.1.

4.1. If for nonschool board offices for any third class city official, the sum of twenty-five dollars (\$25.00).

5. If for any borough, town, or township of the first class, not otherwise provided for, the sum of five dollars (\$5.00).

6. If for the office of delegate or alternate delegate to National party convention, or member of National committee or member of State committee, the sum of twenty-five dollars (\$25.00).

7. If for the office of constable, the sum of ten dollars (\$10.00).

8. If for the office of district councilman in a city of the second class or the office of district justice, the sum of fifty dollars (\$50.00).

(b.2) A filing fee shall not be paid for a nomination petition for any public office for which no compensation is provided by law, nor for any nomination petition for any public officer in any township of the second class nor any party officer except as provided above nor for any nomination petition for judge of election or inspector of elections.

(c) The filing fees herein provided for shall not be refunded in the event of the withdrawal of any candidate named in any petition, or for any other cause whatsoever.

(d) All nomination petitions shall be filed on or before the tenth Tuesday prior to the primary.

(e) The office in which a nomination petition is filed shall issue to the person filing the nomination petition a receipt containing the date and time of filing, the name of the candidate and the office for which he is a candidate.

(f) Each person filing any nomination petition for public office shall be given a statement composed by the Secretary of the Commonwealth setting forth his duties under law to file pre-election and post-election campaign finance reports, and the penalties for nonfiling. Each person filing shall also be given a form to file expenses if the amount received or expended or liabilities incurred shall exceed the sum of two hundred fifty dollars (\$250), and a form containing a sworn statement that the amount received or expended or liabilities incurred do not exceed the sum of two hundred fifty dollars (\$250), with written instructions prepared by the Secretary of the Commonwealth. Within three weeks after such candidate has filed, the appropriate supervisor shall mail the same forms and instructions to such candidate by first class mail.

Petitions to be filed in the office of the Secretary of the Commonwealth shall be received in said office not later than 5 o'clock P.M. on the last day for filing same, and all petitions to be filed with any county board of elections shall be received in said office not later than the ordinary closing hour of said office on the last day for filing same.

1937, June 3, P.L. 1333, art. IX, § 913. Amended 1939, June 15, P.L. 376, § 2; 1941, June 26, P.L. 212, § 1; 1945, March 9, P.L. 29, § 4; 1945, May 15, P.L. 480, § 1; 1945, May 18, P.L. 696, § 1; 1945, May 24, P.L. 955, § 1;

1945, May 25, P.L. 1010, § 1; 1947, March 5, P.L. 35, § 1; 1947, June 28, P.L. 1055, § 1; 1951, March 6, P.L. 3, § 7; 1951, May 16, P.L. 302, § 2; 1963, Aug. 13, P.L. 707, § 12, effective Jan. 1, 1964; 1976, Dec. 2, P.L. 1221, No. 269, § 4, imd. effective. Affected 1978, April 28, P.L. 202, No. 53, § 2(a) [1193]. Amended 1979, July 21, P.L. 189, No. 63, § 2, imd. effective; 1984, Dec. 12, P.L. 968, No. 190, § 4, effective Jan. 1, 1985; 1989, Feb. 13, P.L. 1, No. 1, § 1, imd. effective; 1990, Dec. 17, P.L. 681, No. 169, § 2, effective in 60 days.

Historical and Statutory Notes

The 1976 amendment added subsec. (e).

The 1978 amendment in subsec. (b) deleted references to associate judges and to the office of alderman.

The 1979 amendment added subsec. (f).

The 1984 amendment repealed subsec. (b) and inserted subsecs. (b.1) and (b.2). Prior to repeal, subsec. (b) read:

"Each person filing any nomination petition shall pay, for each petition, at the time of filing, a filing fee to be determined as follows, and no nomination petition shall be accepted or filed, unless and until such filing fee is paid by a certified check or money order or also by cash when filed with the county board, the person filing the same shall pay the filing fee in cash or by a certified check or money order to the county board. All moneys paid on account of filing fees shall be transmitted by the county board to the county treasurer and shall become part of the General Fund. Certified checks or money orders in payment of filing fees shall be made payable to the Commonwealth of Pennsylvania or to the county, as the case may be, and shall be transmitted to the State Treasurer or to the county treasurer, and shall become part of the General Fund.

"1. If for the office of President of the United States, or for any public office to be filled by the electors of the State at large, the sum of fifty dollars (\$50.00).

"2. If for the office of Representative in Congress, or judge of a court of record, excepting judges to be voted for by the electors of the State at large, the sum of thirty-five dollars (\$35.00).

"3. If for the offices of Senator or Representative in the General Assembly, or for any office to be filled by the electors of an entire county, other than jury commissioner, or prison inspector or county auditor in counties of the eighth

class, the sum of twenty-five dollars (\$25.00); if for the office of jury commissioner, the sum of ten dollars (\$10.00); if for the office of county auditor, in counties of the eighth class, the sum of five dollars (\$5.00); if for the office of prison inspector, the sum of two dollars (\$2.00); if for the office of district councilman in a city of the first class, the sum of twenty-five dollars (\$25.00); if for any office to be filled by the electors of an entire city, the following sums: if in a city of the first or second class, twenty-five dollars (\$25.00); if in a city of the second class A, fifteen dollars (\$15.00); and if in a city of the third class, ten dollars (\$10.00).

"4. If for any borough, town, township of the first class, school district or poor district office, not otherwise provided for, the sum of two dollars (\$2.00).

"5. Omitted. 1945, May 24, P.L. 955, § 1.

"6. If for the office of delegate or alternate delegate to National party convention, or member of National committee or member of State committee, the sum of ten dollars (\$10.00).

"7. Omitted. 1945, May 24, P.L. 955, § 1.

"8. If for the office of justice of the peace or constable, the sum of two dollars (\$2.00).

"9. If for the office of township auditor or road supervisor, the sum of one dollar (\$1.00).

"Provided, however, That no filing fee shall be paid for a nomination petition for any public office for which no compensation is provided by law, nor for any nomination petition for any public officer in any township of the second class."

The 1989 amendment in subsec. (b.1)(8) inserted "district councilman in a city of the second class or the office of".

The 1990 amendment in subsec. (b.1)(4) moved the phrase "other than school district office" from following "en-

tire city" to following "any office" and added the exception relating to par. 4.1, and inserted subsec. (b.1)(4.1).

Pennsylvania Code References

Bureau of elections fee schedule, see 4 Pa. Code § 173.1.

Law Review Commentaries

An excursion into the uncharted waters of the Seventeenth Amendment. Laura E. Little, 64 Temp.L.Rev. 629 (1991).

Library References

Elections ⇄145.
WESTLAW Topic No. 144.
C.J.S. Elections § 137.

United States Supreme Court

Ballot petitions, number of signatures required of new political parties in multi-district political subdivisions, see *Norman v. Reed*, 1992, 112 S.Ct. 698, 116

L.Ed.2d 711, on remand 180 Ill. Dec. 685, 154 Ill.2d 77, 607 N.E.2d 1198, certiorari denied 113 S.Ct. 3000, 125 L.Ed.2d 693.

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with candidates who must file with a county board. *Swartz v. Helm*, 41 D. & C.2d 322, 86 Dauph. 170, 1966.

3. Time of filing petition

In view of provision of this section that nomination petitions in case of candidates for office of delegate to national party conventions shall be filed with Secretary of the Commonwealth and that all nomination petitions shall be filed on or before tenth Tuesday prior to primary, there was deadline beyond which submission of delegate's statement of presidential allegiance was invalid, and delegates were not entitled to have their new statements certified to reflect their true presidential preference. *Wilds v. Secretary of Com. of Pa.*, 475 A.2d 847, 82 Pa. Cmwlth. 29, 1984.

1. Validity

Paragraph 4, sub-division b, of this section, insofar as it requires a candidate for borough auditor to pay a filing fee of \$20 at the time of filing his primary petition, is unreasonable, arbitrary, discriminatory, unconstitutional and clearly violative of public policy, and a candidate who pays under protest may recover back from the county. *Johnson v. Delaware County*, 34 D. & C. 23, 27 Del. 567, 1939.

The legislature has power to impose a fee upon filing of nomination petitions by candidates for office. *Stockwell v. Delaware County*, 33 D. & C. 280, 27 Del. 559, 1938.

2. In general

Candidates who must file with the Secretary of the Commonwealth are precluded from joining in one nomination paper

Time limits set forth in Election Code and party rules for convention delegates to commit themselves to particular candidate were not unreasonable. *Wilds v. Secretary of Com. of Pa.*, 475 A.2d 847, 82 Pa.Cmwlth. 29, 1984.

Lower court exceeded its jurisdiction when ordering acceptance of candidates' petitions to withdraw names from candidacy for ward committeepersons at a

time when periods for such withdrawal had elapsed. In re Novalski, 386 A.2d 530, 478 Pa. 243, 1978.

Generally, nomination petition not timely filed is invalid and must be set aside. Petition of Hall, 362 A.2d 475, 26 Pa.Cmwth. 54, 1976.

Where register of wills of Westmoreland county, who was elected for a four-year term in Nov., 1939, died 73 days before municipal election of Nov. 4, 1941, and under Election Code the electoral machinery to choose public officials, such as register, at any Nov. election was required to commence to function at least ten Tuesdays before date of fall primary, which was held on Sept. 9, 1941, a successor could not be elected at Nov. election, notwithstanding constitutional provision regarding elections in case of vacancies in elective offices. O'Neill v. White, 22 A.2d 25, 343 Pa. 96, 1941.

Where a nomination petition is lodged with the Secretary of the Commonwealth within the required time, but without any candidate's affidavit as required by § 2870 of this title, and is thereupon returned to the candidate for this deficiency, the secretary cannot be compelled to accept it after the expiration of the time for filing, for the petition was lacking in a vital particular and there was no affidavit at all which might be amended. Com. ex rel. v. Morrison, 63 D. & C. 655, 1949.

The Secretary was justified in refusing to receive returned nominating petitions on April 2, because the time for filing them had expired. Locke v. O'Hara, 45 D. & C. 459, 52 Dauph. 384, 1942.

The deadline for filing nomination petitions is mandatory and must be strictly adhered to. Locke v. O'Hara, 45 D. & C. 459, 52 Dauph. 384, 1942.

4. Filing nunc pro tunc

Nominating petition, which was presented for filing within deadline for filing such petitions for candidate in primary election for political party's nomination for office of state senator but which was not properly filed due to bureau of elections' inadvertent error in returning petition to candidate, was a petition, which should have been considered properly filed nunc pro tunc, and thus was valid. Petition of Hall, 362 A.2d 475, 26 Pa. Cmwth. 54, 1976.

Candidate's allegation that Secretary of Commonwealth should accept nunc pro tunc an additional sheet of nomination petition allegedly circulated prior to last day, on ground that failure to have additional petition timely filed was due solely to misrepresentations by his opponents, without in any way attributing failure to file additional sheet within statutory period to any representation by Secretary of Commonwealth or any employee by Bureau of Elections, was insufficient to permit a filing after the statutory period. Petition of Carter, 159 A.2d 691, 398 Pa. 548, 1960.

Where a candidate files a nomination petition with less than the required number of signatures in reliance upon misinformation from the Board of Elections as to the number required, he will be permitted upon discovery of the defect to file a proper petition nunc pro tunc. Petition of Lewis, 57 D. & C. 53, 29 Erie 128, 60 York 88, 1946.

5. Amendments

Effort of delegates to file new and different commitment with Secretary of the Commonwealth, to support particular candidate, was not only untimely but also was violative of provision of this section that no nomination petition, nomination paper or nomination certificate shall be permitted to be filed if it contains material alterations made after signing without consent of the signers. Wilds v. Secretary of Com. of Pa., 475 A.2d 847, 82 Pa.Cmwth. 29, 1984.

A nomination petition may not be amended after filing deadline by adding thereto a sheet containing additional signatures, not verified by affidavits of circulator or candidate, or other person with knowledge of facts. In re Nomination of Carter, 75 Dauph. 19, 1961, affirmed 159 A.2d 691, 398 Pa. 548.

6. Rejection of petitions

The Secretary of the Commonwealth must reject nomination papers or petitions which contain material errors or defects apparent on face thereof or on face of appended affidavits. Thompson v. Morrison, 57 Dauph. 48, 1946, affirmed 44 A.2d 55, 352 Pa. 616.

7. Fees

Where, on last day for filing, plaintiff's petition to have his name printed on primary ballot as candidate for delegate to a

Note 7

national party convention, consisting of five separate sheets, was filed in office of Secretary of the Commonwealth, accompanied by a filing fee in sum of \$50 instead of \$10 as required under this section, court subsequently directed the Secretary to receive plaintiff's petition, and if proper under all other requirements of law, to certify plaintiff's name for inclusion on the ballot at the ensuing primary election. *Potts v. Smith*, 83 D. & C. 234, 62 Dauph. 310, 1952.

A payment by cash does not come within the requirements of this section. *Locke v. O'Hara*, 45 D. & C. 459, 52 Dauph. 384, 1942.

Paragraph 4, of sub-division b of this section, insofar as it required, prior to amendment, a candidate for borough auditor to pay a filing fee of \$20 at the time of filing his primary petition was unreasonable, arbitrary, discriminatory, unconstitutional and clearly violative of public policy, and a candidate who paid under protest could recover back from the county. *Johnson v. Delaware County*, 34 D. & C. 23, 27 Del. 567, 1939.

One proposing to be a candidate for burgess of a borough, at a primary election, is not required to pay a filing fee for filing his nomination paper, under this section. *Stockwell v. Delaware County*, 33 D. & C. 280, 27 Del. 559, 1938.

Neither the salary which the burgess of a borough may receive by ordinance adopted in pursuance of § 46023 of Title 53, Municipal and Quasi-Municipal Corporations, nor fees which he may receive as justice of the peace, are compensation provided by law within the meaning of this section prescribing that no filing fee shall be paid for a nomination petition for any public office for which no compensation is provided by law. *Stockwell v.*

Delaware County, 33 D. & C. 280, 27 Del. 559, 1938.

Payment of the fee required by this section for the filing of a nomination petition is not validly tendered where the agent filing a petition, upon being informed that only a money order or certified check will be accepted and that cash will be received under protest and those depositing it subsequently notified whether such payment is satisfactory, thinking under the circumstances it is useless to deposit cash, does nothing, especially where he has less than the necessary fee in cash on his person. *Snyder v. Lackawanna County Com'rs*, 33 D. & C. 277, 39 Lack.Jur. 123, 1939.

The fact that the particular borough pays no salary to its burgess does not permit filing nomination papers without paying filing fee, as the Borough Code authorizes payment of salary; and, further that burgess, as a magistrate, is entitled to compensation for services performed. *Snyder v. Lackawanna County Com'rs*, 33 D. & C. 277, 39 Lack.Jur. 123, 1939.

Since § 46023 of Title 53, Municipal and Quasi-Municipal Corporations, authorizes the payment of compensation to a burgess, and since a burgess is also entitled to compensation for services performed as magistrate or justice of the peace, the office of burgess is not one for which "no compensation is provided by law" within the meaning of this section, even though the particular borough involved pays no salary, and a nomination petition for such office may not, therefore, be filed, except upon payment of a twenty dollar fee. *Snyder v. Lackawanna County Com'rs*, 33 D. & C. 277, 39 Lack. Jur. 123, 1939.

§ 2874. Withdrawal of candidates

Any of the candidates for nomination or election at any primary may withdraw his name as a candidate by a request in writing, signed by him and acknowledged before an officer empowered to administer oaths, and filed in the office in which his nomination petition was filed. Such withdrawals, to be effective, must be received in the office of the Secretary of the Commonwealth not later than 5 o'clock P.M. on the fifteenth day next succeeding the last day for filing nomination petitions in said office, and in the office of any

county board of elections, not later than the ordinary closing hour of said office on the fifteenth day next succeeding the last day for filing nomination petitions in said office. No name so withdrawn shall be printed on the ballot or ballot labels. No candidate may withdraw any withdrawal notice already received and filed, and thereby reinstate his nomination petition.

1937, June 3, P.L. 1333, art. IX, § 914. Amended 1943, May 21, P.L. 353, § 1; 1980, July 11, P.L. 591, No. 127, § 3, imd. effective.

Historical and Statutory Notes

The 1980 amendment substituted "fifteenth day" for "seventh day" twice.

Library References

Elections ⇨ 146.
WESTLAW Topic No. 144.

C.J.S. Elections § 95.
P.L.E. Elections § 44.

Notes of Decisions

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1. In general

Department of Elections has no discretion to reject a candidate's withdrawal under the Election Code and a candidate has absolute right to withdraw. In re Challenge to Objection to Nominating Petitions of Evans, 458 A.2d 1056, 73 Pa. Cmwlth. 634, 1983.

One who timely withdrew his nomination petitions to have his name placed on primary ballot of political party for offices of county commissioner and county treasurer was eligible to be nominated by another political body for office of county commissioner. Packrall v. Quail, 192 A.2d 704, 411 Pa. 555, 1963.

While section of the Pennsylvania Election Code providing the procedure for withdrawal by a candidate in a primary election, and requiring that he file his withdrawal on or before the day stated, is directory rather than mandatory, the burden of proving a bona fide decision to withdraw, together with a legally sufficient reason for failure to file withdrawal papers promptly, rests upon the candidate. Oberleitner v. Bolinger, 42 D. & C.2d 623, 1967.

Where one for whom nomination petitions have been filed in a primary as candidate for nomination of a party for President of the United States requests the Secretary of the Commonwealth to withdraw his name by notarized letter the name must be withdrawn. Rowland v. Smith, 83 D. & C. 99, 63 Dauph. 201, 1954.

2. Time of filing withdrawal

Lower court exceeded its jurisdiction when ordering acceptance of candidates' petitions to withdraw names from candidacy for ward committeepersons at a time when period for such withdrawal had elapsed. In re Novalski, 386 A.2d 530, 478 Pa. 243, 1978.

Where directive of court administrator prohibiting court employees from participating in partisan politics was not promulgated until after traffic court employees' names had been placed on ballot for election as ward committeepersons and period for removal of names had elapsed, no disciplinary action could be taken against such employees for having names on ballot; however, employees were prohibited from actively seeking office and if elected would be required to resign from office of continuing court employment. In re Novalski, 386 A.2d 530, 478 Pa. 243, 1978.

Since employee of traffic court had already been elected ward committeeman before promulgation of regulation by

Note 2

court administrator prohibiting court employees from participating in partisan politics and because period for removal of employee's name from nominating petition for second term as ward committeeman had expired before promulgation of regulation, no disciplinary action could be taken against employee in the performance of his political activities for the remainder of his present term and no disciplinary action could be taken against him for having his name on ballot; however, if employee sought to continue court employment he would be required to resign from office if reelected. *Ottaviano v. Barbieri*, 386 A.2d 527, 478 Pa. 235, 1978.

A bill in equity by a candidate to compel the Secretary of the Commonwealth to withdraw his name as candidate, will be dismissed where the candidate executed and acknowledged a petition to withdraw his name, deposited the withdrawal in an envelope addressed to the Secretary, and placed it in a mail box, and the withdrawal was not received by the Secretary though it should have reached the Secretary's post office box in approximately six hours. Plaintiff having chosen to make the postal service his agent to deliver the withdrawal to the Secretary, the burden was upon him to show that the agent which he selected delivered it. *McKim v. Com.*, 43 D. & C. 398, 1942.

Under this section the withdrawal of a nomination petition must be actually received in the Secretary's office not later than five o'clock p.m. on the fifth day next succeeding the last day for filing nomination petitions. In using clear language capable of only one meaning the legislature is presumed to have known of the liberal construction of this title, repealed, that if the withdrawal of a nomination petition was actually made it was effective although it did not reach the office of the Secretary of the Common-

wealth by the hour fixed in the statute. *McKim v. Com.*, 43 D. & C. 398, 1942.

3. Death

The death of a candidate for nomination to the office of county commissioner before the last day permitted for his withdrawal does not operate to withdraw his candidacy. *Shroyer v. Thomas*, 23 Northumb.L.J. 187, 1952, affirmed 81 A.2d 435, 368 Pa. 70.

4. Withdrawing withdrawal

Allegations of coercion and duress may be legally sufficient reasons to vitiate candidate's withdrawal petition since withdrawal may have been involuntary and hence not valid; however, to succeed in action to set aside withdrawal petition, candidate must produce evidence showing immediate and complete legal right to set aside his withdrawal. *Russo v. Philadelphia County Bd. of Elections*, 540 A.2d 332, 115 Pa.Cmwlth. 192, 1988, appeal after remand 540 A.2d 616, 115 Pa. Cmwlth. 197.

5. Mandamus

A complaint in mandamus is a proper procedure against a board of elections to secure a belated withdrawal in a primary election. *Oberleitner v. Bolinger*, 42 D. & C.2d 623, 1967.

In a mandamus action to compel defendants, members of the county board of elections, to print the official ballots of a party for a primary election without the name of plaintiff appearing thereon as a candidate for nomination to the office of mayor of a city, where the complaint alleged plaintiff was precluded by severe illness from filing a timely withdrawal, defendant's preliminary objections were dismissed with leave to file an answer. *Oberleitner v. Bolinger*, 42 D. & C.2d 623, 1967.

§ 2875. Casting of lots for position of names upon the primary ballots or ballot labels; notice to candidates

Immediately after the last day fixed for filing of such nomination petitions with them, the Secretary of the Commonwealth or the county board, as the case may be, shall fix a day for the casting of lots, in such manner as may be prescribed by the Secretary of the Commonwealth, or county board, as the case may be, for the position of names upon the primary ballots or ballot labels. The Secretary of

the Commonwealth shall give at least two (2) days notice by mail of said date to all candidates whose petitions have been received and filed in his office, and the county board shall give at least two (2) days notice of said date by posting thereof in a conspicuous place in its office, and by publication once in at least two newspapers of general circulation published in the county. All candidates may appear in person, or by agent duly authorized by letter of attorney, signed and acknowledged by an officer empowered to take acknowledgments. In the event of any of said candidates not being present in person or by representative at the time of casting of lots, it shall be the duty of the Secretary of the Commonwealth or the county board, as the case may be, to appoint some person to represent such absentee. After said lots are cast, the Secretary of the Commonwealth or the county board, as the case may be, shall accordingly establish the order in which the names of said candidates are to appear upon the primary ballots or ballot labels, and certify the same for placing upon the official primary ballots or ballot labels.

1937, June 3, P.L. 1333, art. IX, § 915.

Library References

Elections ⇨ 126(5).
WESTLAW Topic No. 144.

C.J.S. Elections § 118.
P.L.E. Elections § 46.

Notes of Decisions

In general 1
Death of candidate 2
Review 3

1. In general

Procedure formulated by Secretary of Commonwealth whereby lots would first be drawn for position of categories of party delegate candidates committed to each particular presidential candidate or uncommitted, and then lots would be cast for positions upon primary ballot within each category, was, because of inequality of number of candidates within each category, violative of provision of this section that all candidates shall have equal chances of drawing any particular ballot position and was beyond discretion and power of Secretary of Commonwealth, and she was required to establish order in which names of candidates for delegates to national conventions were to appear on primary ballots or ballot labels without regard to candidate's commitment or lack of commitment to a presidential candidate. *Roth v. Tucker*, 290 A.2d 98, 447 Pa. 343, 1972.

The distinction between a "drawing of lots" and a "casting thereof" is that in the first instance lots are drawn from a receptacle, whereas in casting the lots are placed by competitors in a receptacle which is then shaken until one falls out, the chance falling on its owner. *Allardyce v. Luzerne County Bd. of Elections*, 78 D. & C. 300, 41 Luz.L.Reg. 485, 1952.

This section relating to "casting of lots", is directory only, and such a determination will not be set aside because made by a drawing of lots, especially where the candidates acquiesced therein. *Allardyce v. Luzerne County Bd. of Elections*, 78 D. & C. 300, 41 Luz.L.Reg. 485, 1952.

In absence of other regulation of county board of elections, candidates in the primary election may be permitted to draw pellets to determine their position in the order in which the clerk picks up the petitions. *Allardyce v. Luzerne County Bd. of Elections*, 78 D. & C. 300, 41 Luz.L.Reg. 485, 1952.

Where four of five candidates for an office have drawn pellets to determine

Note 1

their position on the ballot, the fifth position may properly be assigned to the remaining candidate without giving him an opportunity to draw the last pellet. *Allardyce v. Luzerne County Bd. of Elections*, 78 D. & C. 300, 41 Luz.L.Reg. 485, 1952.

Where the testimony of four candidates that they did not hear the proper announcement of the drawing for position on the ballot is contradicted by two officials and two bystanders the court will hold the announcement of the drawing regular because of the presumption that public officers have done their duty. *Allardyce v. Luzerne County Bd. of Elections*, 78 D. & C. 300, 41 Luz.L.Reg. 485, 1952.

This section is directory, not mandatory, and selection of positions by drawing lots is proper where the County Board of Elections makes regulations, as it is required to make, for the drawing. *Allardyce v. Luzerne County Bd. of Elections*, 78 D. & C. 300, 41 Luz.L.Reg. 485, 1952.

In the absence of regulations of the County Board of Elections providing for drawing of ballot positions by lot the affected candidates could complain, but where they participate in the drawing they waive any irregularity or objection they might have. *Allardyce v. Luzerne County Bd. of Elections*, 78 D. & C. 300, 41 Luz.L.Reg. 485, 1952.

Secretary of Commonwealth may prescribe that candidates for delegate to national conventions of political parties who are committed to a particular presidential candidate shall be considered together as a slate for casting of lots for positions on primary ballots or ballot labels. 1972 Op.Atty.Gen. No. 105.

§ 2876. Secretary of the Commonwealth to furnish county boards with list of candidates; candidates to be notified

The Secretary of the Commonwealth, as soon as possible after the last day fixed for the filing of nomination petitions with him, and after the last day for the withdrawal of candidates filing such nomination petitions, and after the candidates shall have cast lots for the position of their names upon the primary ballots or ballot labels, shall forward to the county board of each county a correct list of candidates of each party for the various offices, in the order in which

2. Death of candidate

Where duly evolved upon county board of elections under election code to determine position of candidate on ballots at primary election, board had duty, even though candidate had died prior to election, to appoint person to cast lots for position on ballot of candidates including decedent or person lawfully substituted for him. *Shroyer v. Thomas*, 81 A.2d 435, 368 Pa. 70, 1951.

When a candidate dies before the last day permitted for his withdrawal, and no substitution has been made, deceased candidate's name must remain on the ballot and a lot may be cast by the county board of elections to determine the position of his name on the ballot. *Shroyer v. Thomas*, 23 Northumb.L.J. 187, 1952, affirmed 81 A.2d 435, 368 Pa. 70.

3. Review

The county board of elections should require that the directory provisions of this section regarding the casting of lots be followed, and if it fails to do so the court may require such action. *Allardyce v. Luzerne County Bd. of Elections*, 78 D. & C. 300, 41 Luz.L.Reg. 485, 1952.

Where evidence as to whether candidates for office at a primary election were properly paged for drawing their pellet is conflicting, it must be presumed that in fact they were properly paged. *Allardyce v. Luzerne County Bd. of Elections*, 78 D. & C. 300, 41 Luz.L.Reg. 485, 1952.

The court of common pleas of the county involved has jurisdiction to determine whether the procedure followed in determining the order in which the names of candidates at a primary election were to appear on the ballot was proper. *Allardyce v. Luzerne County Bd. of Elections*, 78 D. & C. 300, 41 Luz.L.Reg. 485, 1952.

they are to appear upon the official ballots or ballot labels, with their respective residences, giving city, borough, town or township, and post-office addresses as shown in their affidavits; and shall also at the same time notify the said candidates by mail that their names have been so certified to said county boards. In the case of each candidate for delegate or alternate delegate to a National party convention, the Secretary of the Commonwealth shall certify as to whether such candidate has included with his affidavit the statement provided for in section 911 of this act¹ and in cases where such candidate has committed himself to a particular presidential preference, the name of the presidential candidate to whom he is committed.

1937, June 3, P.L. 1333, art. IX, § 916. Amended 1971, Dec. 22, P.L. 618, No. 165, § 11.

¹ 25 P.S. § 2871.

Library References

Elections ⇨156.
WESTLAW Topic No. 144.

C.J.S. Elections § 135.
P.L.E. Elections § 53.

§ 2877. Manner of filling vacancy caused by death of person named in nomination petition

Where a nomination petition has been duly filed for any primary, under the provisions of this article, and thereafter, and before the day of the primary, the candidate named in said petition dies, the original signers of said petition, or the majority of them, may sign another petition proposing a new candidate for said office at any time prior to the printing of the ballots or ballot labels. Said petition shall have the same force and effect as the original petition, and the name of the candidate so nominated shall be substituted for that of the deceased candidate.

1937, June 3, P.L. 1333, art. IX, § 917.

Library References

Elections ⇨146.
WESTLAW Topic No. 144.

C.J.S. Elections § 95.
P.L.E. Elections § 45.

Notes of Decisions

In general 1

1. In general

Provision of § 2882 of this title relating to death of candidate, is express direction that candidate's name shall remain on ballot in event of his death before or on

day of primary election unless proper substitution has been made. *Shroyer v. Thomas*, 81 A.2d 435, 368 Pa. 70, 1951.

Section 2969 of this title does not apply to printing or nonprinting of deceased candidate's name on ballots and does not by virtue of use of word "accurate" require that ballot be printed without name

Note 1

of deceased candidate. *Shroyer v. Thomas*, 81 A.2d 435, 368 Pa. 70, 1951.

Where voters cast their ballots for a deceased candidate for nomination for Representative in Congress who died so soon before primary election as to make it impracticable to substitute another candidate by a sufficient majority to indicate voters' rejection of his opponents, such a vote would be interpreted as an expression by party voters that they preferred that no nomination be made at the primary, rather than that candidate with next highest number of votes be declared party's nominee. In re Primary Election,

Held in Lackawanna County May 19, 1942, 27 A.2d 189, 345 Pa. 228, 1942.

Office of dead candidate who received most votes in election for two school directors held vacant as against contention that next two highest were elected. *Derringer v. Donovan*, 162 A. 439, 308 Pa. 469, 1932.

Votes cast for dead candidate are not nullities but expressions that voter prefers office vacant until filled as provided by law. *Derringer v. Donovan*, 162 A. 439, 308 Pa. 469, 1932.

§ 2878. Presidential electors; selection by nominees; certification; vacancies

The nominee of each political party for the office of President of the United States shall, within thirty days after his nomination by the National convention of such party, nominate as many persons to be the candidates of his party for the office of presidential elector as the State is then entitled to. If for any reason the nominee of any political party for President of the United States fails or is unable to make the said nominations within the time herein provided, then the nominee for such party for the office of Vice-President of the United States shall, as soon as may be possible after the expiration of thirty days, make the nominations. The names of such nominees, with their residences and postoffice addresses, shall be certified immediately to the Secretary of the Commonwealth by the nominee for the office of President or Vice-President, as the case may be, making the nominations. Vacancies existing after the date of nomination of presidential electors shall be filled by the nominee for the office of President or Vice-President making the original nomination. Nominations made to fill vacancies shall be certified to the Secretary of the Commonwealth in the manner herein provided for in the case of original nominations.

1937, June 3, P.L. 1333, art. IX, § 918.

Library References

Elections ☞126(7).
United States ☞25.
WESTLAW Topic Nos. 144, 393.

C.J.S. Elections § 119.
C.J.S. United States § 28.
P.L.E. Elections § 47.

§ 2879. Ballots; ballot boxes; voting machines and other supplies for primaries

Ballots and ballot boxes, or voting machines where used, and other supplies for primaries shall be prepared, provided and delivered to

the district election officers, in accordance with the provisions of this act, in so far as they are applicable to primaries.

1937, June 3, P.L. 1333, art. IX, § 919.

Library References

Elections ⇨126(5).
WESTLAW Topic No. 144.

C.J.S. Elections § 118.
P.L.E. Elections § 42.

§ 2880. Conduct of primaries

Primaries shall be conducted by the district election officers, clerks and machine inspectors, if any, of each election district, and the votes cast thereat counted and returned in the manner provided in Article XII of this act,¹ in so far as it is applicable to primaries.

1937, June 3, P.L. 1333, art. IX, § 920.

¹ 25 P.S. §§ 3041 to 3070.

Library References

Elections ⇨126(3).
WESTLAW Topic No. 144.

C.J.S. Elections § 116.
P.L.E. Elections § 42.

§ 2881. Primary election returns

The returns made by the district election officers of the votes cast at primaries shall be received by the respective county boards of election, and tabulated and computed by them, and their returns to the Secretary of the Commonwealth tabulated and computed by him in the manner provided by Article XIV of this act,¹ in so far as it is applicable to primaries.

1937, June 3, P.L. 1333, art. IX, § 921.

¹ 25 P.S. §§ 3151 to 3168.

Library References

Elections ⇨126(7).
WESTLAW Topic No. 144.

C.J.S. Elections § 119.
P.L.E. Elections § 47.

§ 2882. Which candidates nominated

Candidates of the various political parties for nomination, except for the office of President of the United States, who receive a plurality of votes of their party electors in the State, or in the political district, as the case may be, at the primary election, together with the candidates for the office of presidential elector nominated as herein provided, shall be candidates of their respective parties, and it shall be the duty of the proper county boards to print their names upon the

official ballots and ballot labels at the succeeding election: Provided, That when a candidate for nomination shall have died before or on the day of the primary election and shall nevertheless receive a plurality of votes of his party electors cast for the office for which he sought nomination, then no candidate shall have been nominated for the office at such primary and a substituted nomination may be made in the manner hereinafter provided.

1937, June 3, P.L. 1333, art. IX, § 922. Amended 1943, May 6, P.L. 196, § 1.

Library References

Elections ⇨ 126(6), 146.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 95, 114, 118.
P.L.E. Elections §§ 45, 47.

United States Supreme Court

Positioning of candidates on ballot, see
Bradley v. Lunding, 1976, 96 S.Ct. 891,
424 U.S. 1309, 47 L.Ed.2d 74.

Notes of Decisions

Death of candidate 2
Write-in voting 1

1. Write-in voting

Write-in candidate who received plurality of votes in primary election could not withdraw petition to cumulate where request to do so was filed after election board's hearings were concluded and it had made final and correct computation, and appeal had been allowed by court. *Appeal of Antonelli*, 174 A.2d 107, 405 Pa. 179, 1961.

Where a candidate was nominated by one party at the primary election, and as to the other party no names of candidates were printed on the ballot, but the same candidate received some write-in votes in that party's primary under her full name, including middle initial, and one or more others without the middle initial, as a result of which a petition to cumulate the write-in votes for her was granted, it was not error to print her name on the ballot for the general election as a candidate of both parties under her full name, including the middle initial, although her petition to cumulate had been signed by her without the middle initial. *In re Election of Peeke*, 71 D. & C.2d 421, 1975.

2. Death of candidate

Votes cast for dead man as candidate for public office are not mere nullities but are expressions by voters that they prefer office to be temporarily vacant until it can be filled in manner provided by law rather than that person who represents opposite policies and against whom they voted should fill such office for term. *Shroyer v. Thomas*, 81 A.2d 435, 368 Pa. 70, 1951.

Provision of this section relating to death of candidate, is express direction that candidate's name shall remain on ballot in event of his death before or on day of primary election unless proper substitution has been made. *Shroyer v. Thomas*, 81 A.2d 435, 368 Pa. 70, 1951.

Under this section and § 2939 of this title relating to a candidate who shall have died before or on the day of the primary election and shall nevertheless receive a plurality of votes for the office, there is an express direction that the candidate's name shall remain on the ballot in the event of his death on or before the primary unless there is a substitution made. *Shroyer v. Thomas*, 23 Northumb.L.J. 187, 1952, affirmed 81 A.2d 435, 368 Pa. 70.

§ 2882.1. Setting aside nominations of candidates

With respect to any office that was in existence on the thirteenth Tuesday before the primary and for which nominations were made at

the primary or by nomination papers, whenever it shall appear that said office has been abolished in accordance with any act of assembly or legal proceeding, the county board of elections shall set aside all nominations made for any such office and shall remove such office block affected, if any, from the ballots or ballot labels for the ensuing November election.

1937, June 3, P.L. 1333, art. IX, § 922.1, added 1965, June 2, P.L. 93, § 1.

Library References

Elections ⇨17.
WESTLAW Topic No. 144.

C.J.S. Elections § 11.
P.L.E. Elections § 63.

§ 2883. Nominee in case of tie vote

In the case of a tie, the candidates receiving the tie vote shall cast lots before the county board or the Secretary of the Commonwealth, as the case may be, at twelve o'clock noon on the third Friday following the primary, and the one to whom the lot shall fall shall be entitled to the nomination. In any case where the fact of a tie vote is not authoritatively determined until after the third Wednesday following the primary, the time for casting lots shall be at twelve o'clock noon on the second day after the fact of such tie vote is authoritatively determined. If any candidate or candidates, receiving a tie vote, fail to appear before twelve o'clock noon on said day, the county board or the Secretary of the Commonwealth, as the case may be, shall cast lots for him or them. For the purpose of casting lots any candidate may appear in person, or by proxy appointed in writing.

1937, June 3, P.L. 1333, art. IX, § 923.

Library References

Elections ⇨126(7).
WESTLAW Topic No. 144.

C.J.S. Elections § 119.
P.L.E. Elections § 47.

(B) NOMINATIONS OF CANDIDATES BY POLITICAL BODIES

§ 2911. Nominations by political bodies

(a) In addition to the party nominations made at primaries, nomination of candidates for any public office may also be made by nomination papers signed by qualified electors of the State, or of the electoral district for which the nomination is made, and filed in the manner herein provided. Such nomination papers shall be in form prescribed by the Secretary of the Commonwealth, and no other forms than the ones so prescribed shall be used for such purposes.

(b) Where the nomination is for any office to be filled by the electors of the State at large, the number of qualified electors of the

State signing such nomination paper shall be at least equal to two per centum of the largest entire vote cast for any elected candidate in the State at large at the last preceding election at which State-wide candidates were voted for. In the case of all other nominations, the number of qualified electors of the electoral district signing such nomination papers shall be at least equal to two per centum of the largest entire vote cast for any officer, except a judge of a court of record, elected at the last preceding election in said electoral district for which said nomination papers are to be filed, and shall be not less than the number of signers required for nomination petitions for party candidates for the same office. In cases where a new electoral district shall have been created, the number of qualified electors signing such nomination papers, for candidates to be elected at the first election held after the creation of such district, shall be at least equal to two per centum of the largest vote cast in the several election districts, which are included in the district newly created, for any officer elected in the last preceding election.

(c) Each person signing a nomination paper shall declare therein that he is a qualified elector of the State or district, as the case may be, and shall add to his signature his occupation and residence, giving city, borough or township, with street and number, if any, and shall also add the date of signing, expressed in words or numbers: Provided, however, That if said political district named in the papers lies wholly within any city, borough or township, or is coextensive with same, it shall not be necessary for any signer of a paper to state therein the city, borough or township of his residence. No elector shall sign more than one nomination paper for each office to be filled, unless there are two or more persons to be elected to the same office, in which case he may sign nomination papers for as many candidates for such office as, and no more than, he could vote for at the succeeding election. More than one candidate may be nominated by one nomination paper and candidates for more than one office may be nominated by one nomination paper: Provided, That each political body nominating does not nominate more candidates than there are offices to be voted for at the ensuing election: And provided, That all the signers on each nomination paper are qualified to vote for all the candidates nominated therein.

(d) Nomination papers may be on one or more sheets and different sheets must be used for signers resident in different counties. If more than one sheet is used, they shall be bound together when offered for filing if they are intended to constitute one nomination paper, and each sheet shall be numbered consecutively, beginning with number one (1) at the foot of each page. Each sheet shall have appended thereto the affidavit of some person, not necessarily a signer, and not necessarily the same person on each sheet, setting

forth—(1) that the affiant is a qualified elector of the State, or of the electoral district, as the case may be, referred to in the nomination paper; (2) his residence, giving city, borough or township with street and number, if any; (3) that the signers signed with full knowledge of the contents of the nomination paper; (4) that their respective residences are correctly stated therein; (5) that they all reside in the county named in the affidavit; (6) that each signed on the date set opposite his name; and (7) that, to the best of affiant's knowledge and belief, the signers are qualified electors of the State, or of the electoral district, as the case may be.

(e) There shall be appended to each nomination paper offered for filing an affidavit of each candidate nominated therein, stating—(1) the election district in which he resides; (2) the name of the office for which he consents to be a candidate; (3) that he is eligible for such office; (4) that he will not knowingly violate any provision of this act,¹ or of any law regulating and limiting election expenses, and prohibiting corrupt practices in connection therewith; (5) that his name has not been presented as a candidate by nomination petitions for any public office to be voted for at the ensuing primary election, nor has he been nominated by any other nomination papers filed for any such office; (6) that in the case where he is a candidate for election at a general or municipal election, he was not a registered and enrolled member of a party thirty (30) days before the primary held prior to the general or municipal election in that same year; (7) that, in the case where he is a candidate for election at a special election, he is not a registered and enrolled member of a party. In cases of papers for candidates for the General Assembly, the candidate's affidavit shall state (i) that the candidate will satisfy the eligibility requirements contained in sections 5 and 7 of Article II of the Constitution of Pennsylvania; (ii)(a) that in the case of a candidate for the office of Senator in the General Assembly that the candidate will be twenty-five (25) years of age on or before the first day of the term for which the candidate seeks election or (b) that in the case of a candidate for the office of Representative in the General Assembly that the candidate will be twenty-one (21) years of age on or before the first day of the term for which the candidate seeks election; (iii) that the candidate shall have been a citizen and inhabitant of Pennsylvania four (4) years and an inhabitant of the respective district one (1) year next before the election (unless absent on the public business of the United States or of this State); and (iv) that the candidate has not been convicted of embezzlement of public moneys, bribery, perjury or other infamous crime.

1937, June 3, P.L. 1333, art. IX, § 951. Amended 1947, July 5, P.L. 1358, § 1; 1951, May 16, P.L. 302, § 3; 1959, Sept. 11, P.L. 877, § 1; 1971, Dec. 22, P.L. 618, No. 165, § 12; 1980, July 12, P.L. 649, No. 134, § 2, effective Jan. 1, 1981; 1985, April 18, P.L. 5, No. 4, § 4, imd. effective.

¹ 25 P.S. § 2600 et seq.

Historical and Statutory Notes

The 1980 amendment added subsec. (e)(6) and (7).

The 1985 amendment in subsec. (e) added the provisions relating to papers for candidates for the General Assembly.

Law Review Commentaries

An excursion into the uncharted waters of the Seventeenth Amendment. Laura E. Little, 64 Temp. L. Rev. 629 (1991).

Library References

Elections ⇐ 141.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 106, 107.
P.L.E. Elections § 48.

Notes of Decisions

In general 2
Affidavits 8
Injunction 9
Multiple candidate papers 4
Number of signers 6
Papers 3
Signers, generally 5
Time for gathering signatures 7
Validity 1

major party candidates were not required to make similar showing of voter support, in that major parties, by definition, had already demonstrated certain level of voter support. *Perry v. Grant*, M.D.Pa.1991, 775 F.Supp. 821.

Statute requiring independent party candidate seeking position on special election ballot to file nomination papers bearing signatures of at least two percent of qualified electors who voted for winning candidate in last state-wide election did not impose unreasonable or undue burden on candidate, in violation of due process; to satisfy requirement by filing deadline, candidate would have had to average 277 signatures per day. *Perry v. Grant*, M.D.Pa.1991, 775 F.Supp. 821.

Statute requiring independent party candidates seeking position on special election ballot to file nomination papers bearing signatures of at least two percent of qualified voters who voted for winning candidate in last state-wide election is not unreasonably burdensome, in violation of due process, merely because number of signatures required fluctuates with election results. *Perry v. Grant*, M.D.Pa. 1991, 775 F.Supp. 821.

Fact that persons who sought to be placed on primary ballot for nomination to office as candidate of a political party were required to obtain fewer signatures than were candidates who sought to be nominated by petition as independent candidates and that both groups of candidates had the same period of time in which to obtain the required number of signatures did not deny equal protection to independent candidates since meeting the nomination petition requirement only

1. Validity

Requirement that candidate seeking access to general election ballot obtain signatures of two percent or more of the largest number of votes cast in the last preceding election was facially valid. *Patriot Party of Pennsylvania v. Mitchell*, E.D.Pa.1993, 826 F.Supp. 926.

Requirement that candidate of minor political party submit petition containing signatures of two percent of the largest number of votes cast in last preceding election was unconstitutional as applied to judicial offices, as statewide judicial elections would always follow either a presidential or gubernatorial election, thus requiring a larger number of votes than would be required for more significant offices which were on the ballot in a year which did not follow a presidential or gubernatorial election year. *Patriot Party of Pennsylvania v. Mitchell*, E.D.Pa. 1993, 826 F.Supp. 926.

Requirement that independent party candidate seeking position on special election ballot file nomination papers bearing signature of at least two percent of qualified electors who voted for winning candidate in last state-wide election did not violate equal protection, though

assured a party candidate a place on a primary ballot, one step removed from the final ballot, whereas nomination by petition for an independent candidate assured him a place on the final ballot. *Salera v. Tucker*, 399 F.Supp. 1258, D.C. 1975, affirmed 96 S.Ct. 1451, 424 U.S. 959, 47 L.Ed.2d 727.

Provisions of this section and § 2913 of this title, which have effect of preventing candidate defeated in primary from obtaining position on general election ballot as candidate of political party, of preventing candidate from having his name appear more than once on general election ballot and of permitting a candidate to be nominee of only one political group, do not violate First Amendment (U.S.C.A. Const. Amend. 1) or deny equal protection (U.S.C.A. Const. Amend. 14). *Williams v. Tucker*, 382 F.Supp. 381, D.C.1974.

Provision of this section which prevents candidate from contemporaneously filing nomination papers and running in primary does not add qualifications for office of United States Congressman in violation of Federal Constitution (U.S.C.A. Const. Art. 1, § 2, cls. 1, 2; § 4, cl. 1). *Williams v. Tucker*, 382 F.Supp. 381, D.C.1974.

Provision of this section, requiring that independent candidate obtain signatures of two percent of largest entire vote cast for any candidate, except judge of court of record, elected at the last general election in order to qualify for general election ballot is constitutional; overruling *People's Party v. Tucker*, 347 F.Supp. 1. *Williams v. Tucker*, 382 F.Supp. 381, D.C.1974.

The number of signatures on nomination papers required of a political body by this section, namely, two per cent of the largest vote cast for any elected candidate in the state, is not unreasonable. *People's Party v. Tucker*, 347 F.Supp. 1, D.C. 1972, overruled on other grounds 382 F.Supp. 381.

This section of the Election Code prohibiting a candidate for municipal or school office who seeks to have his name placed on ballot by nominating papers from being a registered or enrolled member of a party 30 days before the primary represents a laudable effort on the part of the legislature to prevent disappointed candidates from forming their own politi-

cal conclaves to get their names on a ballot by circumventing the election requirements and neither denies equal protection, inhibits a citizen's free choice of political party affiliation, denies due process to eligible candidates, nor infringes upon their civil rights. In re *Owens*, 436 A.2d 260, 62 Pa.Cmwlt. 281, 1981.

"Party raiding" provisions of election code, limiting nominations to one political party, do not constitute an unconstitutional interference with freedom of elections. *Krull v. City and County of Philadelphia*, 114 A.2d 119, 382 Pa. 1, 1955.

2. In general

To be eligible as political body candidate for special election, candidate must not participate in political party nomination process, disaffiliation with political party must be documented, and requisite signature on nomination papers must be obtained and affidavits executed after disaffiliation. In re *Nomination Papers of Smith*, 431 A.2d 1096, 60 Pa.Cmwlt. 150, 1981, reversed on other grounds 430 A.2d 1156, 494 Pa. 140.

Purposes of election statutes concerning nomination papers were to require candidate to choose between primary route and nomination route to general election ballot and to prevent losing primary candidate from filing nomination papers. *Baronett v. Tucker*, 365 A.2d 179, 26 Pa.Cmwlt. 559, 1976.

Term "ensuing primary" as used in this section concerning filing of nomination petition, paper or certificate must be interpreted in conjunction with § 2913 of this title setting out rules with respect to place and time of filing nomination papers, and was originally intended to refer to primary following filing of both nomination petitions and papers and at which candidates of political parties were to be selected to run against political party candidates who would submit nomination papers. *Baronett v. Tucker*, 365 A.2d 179, 26 Pa.Cmwlt. 559, 1976.

A person nominated by papers cannot also be a candidate for a nomination by a party at the primary, or a nominee by papers of any other political body, if he be a candidate for judicial or any other office. *Brown v. Finnegan*, 133 A.2d 809, 389 Pa. 609, 1957.

Where at general election of 1948 in the state, the Progressive Party polled suf-

Note 2

ficient votes to constitute it a political party within the state, the Progressive Party was entitled to nominate its candidates in 1949 for office at September primary in every one of the sixty-seven counties of the state, even in those counties in which the Progressive Party did not poll a number of votes sufficient to have qualified the Progressive Party in those counties separately as a political party within those counties, and therefore board of election of one of those counties properly refused to receive and file nomination papers of those who designated themselves as candidates of the Progressive Party. *Kerns v. Kane*, 69 A.2d 388, 363 Pa. 276, 1950.

Where a statutory political party failed to receive the minimum number of votes necessary to give such party the right to nominate its candidates at a primary election, thereby becoming a statutory political body, the political party was required to nominate its candidates by nomination papers under the statute providing a method for nomination of candidates for public office in addition to party nominations made at primaries. *Com. v. Weiner*, 25 A.2d 844, 148 Pa.Super. 577, 1942, certiorari denied 63 S.Ct. 56, 317 U.S. 631, 87 L.Ed. 509.

The requirement that a candidate filing nomination papers as the candidate of a "political body" at the general election shall not have had his name presented as a candidate by nomination petitions for any office to be voted for at the primary election, refers to the status of the candidate at the time of filing the nomination papers and where, as of that date, the only nominating petition filed on behalf of the candidate in connection with the primary election had been refused as defective, the mere fact of its filing did not bar him from filing nomination papers as candidate of a political body other than the political party involved in the primary election. *Oberdorf v. Rumberger*, 70 D. & C.2d 192, 47 Northumb.L.J. 153, 1975.

3. Papers

There is no right under election law to file nomination papers void on their face, and Secretary of Commonwealth should reject such papers. *Thompson v. Morrison*, 44 A.2d 55, 352 Pa. 616, 1945.

Where one signed the nomination papers for a candidate for Congress of the communist party, the paper he signed

was not a nominating petition, to validly sign which he would have to be a member of the communist party, but a nominating paper, with no such requirement. *Board of School Directors of School Dist. v. Gillies*, 23 A.2d 447, 343 Pa. 382, 1942.

Where a county election board has accepted as valid nomination papers for a political body, the court will not inquire into its political philosophy so long as its purpose is not the forceful overthrow of the government. *In re Caligiuri*, 4 D. & C.3d 1, 1977.

Nomination papers must be on the blank forms furnished by the secretary of the commonwealth, no matter how many sheets are used. *Com. v. Martin*, 22 C.C. 316, 1898; when a sheet is pasted in upon the form furnished by the secretary of the commonwealth, the secretary is justified in rejecting it; and when the remaining names fall short of the number required to nominate, the paper is not entitled to be filed. *Com. v. Martin*, 22 C.C. 318, 1898.

A combination which is less than a party can secure a place for its nominees on the official ballot only by filing nomination papers. *Citizens' Party Nominations*, 21 C.C. 417, 7 Dist. 641, 1898.

4. Multiple candidate papers

Contention that all candidates, by choosing to join in one nomination paper with other candidates, assumed the risk that if a fellow candidate fails to qualify all other candidates fall with him, will be rejected, since to disqualify a candidate because a fellow candidate fails to qualify would nullify the intent of this section. *Swartz v. Helm*, 41 D. & C.2d 322, 86 Dauph. 170, 1966.

The authority to use multiple-candidate nomination papers is peculiar to nomination by political bodies. No comparable provisions are found pertaining to nominations by political parties. *Swartz v. Helm*, 41 D. & C.2d 322, 86 Dauph. 170, 1966.

5. Signers, generally

Signers of nomination papers who, in addition to signing their own names, affixed other names to the papers, were entitled to have their own signatures counted as valid, absent conviction under § 3513 of this title for the fraudulent signing of a name to a nomination paper.

NOMINATION OF CANDIDATES

25 P.S. § 2911

Note 6

Appeal of Riley, 466 A.2d 236, 77 Pa. Cmwlth. 191, 1983.

A primary statutory prerequisite for valid signature to nomination paper is that signer be a "qualified elector" of the election district involved. Appeal of Riley, 466 A.2d 236, 77 Pa. Cmwlth. 191, 1983.

Where person who circulated nominating petition for Republican nomination for judge of court of common pleas, testified, at hearing on objections to petitions, that although all persons who signed petition did not sign in circulator's presence, he personally knew every person who signed and knew addresses of signators, that all signators resided within his division of ward, and that all signators were registered Republicans, petition met statutory requirements, though circulator refused to sign circulator's affidavit. In re Martin, 257 A.2d 247, 435 Pa. 446, 1969.

Under this section though signers need not be registered and enrolled members of particular political body, the statute does contemplate that they should be members, adherents, or supporters of or at least favorably disposed to that body. Com. v. Antico, 22 A.2d 204, 146 Pa. Super. 293, 1941.

Nomination papers were defective for failure to contain a sufficient number of valid and genuine signatures by qualified electors, being persons registered to vote rather than persons merely qualified by age or residence but not registered to vote. In re Anastasi Nomination, 48 D. & C.2d 143, 1969.

A "qualified elector" eligible to sign nomination papers of a candidate must be a registered voter and not a person qualified to vote but unregistered; hence, nomination papers of a candidate for city council will on petition be set aside where it appears that an insufficient number of valid signatures are on the candidate's nomination papers. In re Tumolo Nomination, 48 D. & C.2d 134, 1969.

6. Number of signers

Where there are not sufficient numbers of registered party electors to comply with § 2872 of this title requiring nomination petitions signed by 200 registered party electors nominate candidates for primary ballot, provisions of election code should not operate to bar nomina-

tion of candidates under party name as to political party which has achieved party status due to its candidates receiving required percentage of votes in previous election. Fraenzl v. Secretary of Com. of Pa., 478 A.2d 903, 83 Pa. Cmwlth. 539, 1984.

Statute providing that in case of all nonstatewide nominations, the number of qualified electors of the electoral district signing such nomination papers shall be at least equal to two per cent of largest entire vote cast for any officer elected at last preceding election in electoral district for which said nomination papers are to be filed employs as a base year the most recent election, regardless of the office involved, in the particular electoral district in question. Moore v. Osser, 233 A.2d 579, 427 Pa. 238, 1967.

Phrase "for which said nomination papers are to be filed," as used in statute providing that in case of all nonstatewide nominations, number of qualified electors signing nomination papers shall be at least equal to two per cent of largest entire vote cast for any officer elected at last preceding election in electoral district for which said nomination papers are to be filed is not surplusage but particularizes which electoral district is referred to by words last preceding election. Moore v. Osser, 233 A.2d 579, 427 Pa. 238, 1967.

State providing that in case of all nonstatewide nominations, number of qualified electors signing such nomination papers shall be at least equal to two per cent of largest entire vote cast for any officer elected at preceding election in said electoral district for which said nomination papers are to be filed uses as a base the number of votes received by any candidate for any office and is not limited to votes received by candidate for office for which nomination papers are being filed. Moore v. Osser, 233 A.2d 579, 427 Pa. 238, 1967.

Where certain candidates sought to have nomination papers for offices of mayor and several councilmen-at-large accepted for filing and where highest number of votes cast for successful city-wide candidate in 1963 election was for mayor and in 1965 election in which office of mayor was not contested was for district attorney, the "last preceding election," within statute requiring papers to be signed by qualified electors numbering

25 P.S. § 2911

Note 6

at least two percent of largest entire vote cast for any officer elected at last preceding election, was the 1965 election so that papers which bore insufficient number of signatures on basis of 1965 vote were properly rejected. *Moore v. Osser*, 233 A.2d 579, 427 Pa. 238, 1967.

In computing the number of signatures necessary for a nomination petition under this section the basis is the largest number of votes cast in the election district at the last general election, even though the candidates were elected on a city-wide rather than an election district basis, rather than at the last election at which a candidate was elected by the particular election district involved. In re *Winsley Nomination Petition*, 11 D. & C.3d 781, 1979.

A petition to set aside nomination paper for two candidates for the office of mayor and councilman-at-large of the City of Philadelphia will be granted, where it appears from uncontradicted evidence that the paper did not contain a sufficient number of valid signatures as required by this section. In re *Feldman Nomination Paper for Mayor*, 53 D. & C.2d 149, 1971.

The fact that certain of the nomination papers did not contain the number of signatures required for one or more of the candidates named therein did not require rejection of the papers with the effect that the remaining candidates appearing thereon lacked sufficient signatures on the remaining sheets to qualify them. *Swartz v. Helm*, 41 D. & C.2d 322, 86 Dauph 170, 1967.

Provision of act 1897, July 9, P.L. 223, § 1, repealed, that number of signers shall be two per centum of largest entire vote for any officer elected at last preceding election, means highest vote given to officer elected, and does not mean total vote cast for the office. *Hamilton's Case*, 7 D. & C. 523, 1925.

7. Time for gathering signatures

Independent party candidates do not have constitutional entitlement to gather signatures for nominating papers after nomination of major party candidates. *Perry v. Grant*, M.D.Pa.1991, 775 F.Supp. 821.

8. Affidavits

Fact that school directors could cross file did not mean that elections for those

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positions were other than political and did not, therefore, excuse nominee from filing requisite affidavit setting forth his disaffiliation from a party 30 days prior to primary if he wished county election bureau to accept nomination papers by which he sought to have his name placed on ballot in municipal election for office of director in school district. In re *Owens*, 436 A.2d 260, 62 Pa.Cmwlt. 281, 1981.

Any unfairness to nominee by reason of fact that he had no opportunity to fulfill the requirement that he file an affidavit setting forth his disaffiliation from a party 30 days before the primary, thus requiring the county election bureau to reject nomination papers by which nominee sought to have his name placed on the ballot in the municipal election for the office of director in the school district, was subject to being remedied by the legislature and not by the courts. In re *Owens*, 436 A.2d 260, 62 Pa.Cmwlt. 281, 1981.

Statute providing that there shall be appended to each nomination paper offered for filing an affidavit of each candidate nominated therein did not require that a separate affidavit be appended to each individual petition since nomination petitions when bound together and numbered consecutively became one nomination paper and required only one candidate's affidavit. *Moore v. Osser*, 233 A.2d 579, 427 Pa. 238, 1967.

A nominee of a political body for office of judge of court of record must make and file the same affidavit with his nomination papers as a nominee for any other office and where affidavit accompanying nomination papers did not state that nominee's name had not been presented as a candidate by nomination petitions for any public office to be voted on at ensuing primary election Secretary of Commonwealth properly refused to receive nomination papers of candidates of political body for office of judge of courts of record. *Brown v. Finnegan*, 133 A.2d 809, 389 Pa. 609, 1957.

Where affiant who verified nomination petition of candidate for nomination for office of county coroner knew that signatories signed with full knowledge of contents of petition, that their respective residences were correctly stated in petition, that they all resided in the county, that each signed on date set opposite his name

and that they were qualified Republican electors in the county, fact that affiant did not personally secure all signatures did not render verification defective. In re Frank, 98 A.2d 255, 173 Pa.Super. 400, 1953.

The provision that candidate's affidavit, appended to nomination petition, shall state that his name has not been presented by other nomination petitions as candidate for same office, applies only to candidates for other than judicial offices, so that petitions nominating candidates for offices of superior court judges are not defective because candidates' appended affidavits do not contain such statements, but delete word "not" in form prescribed by statute and Secretary of Commonwealth. Thompson v. Morrison, 44 A.2d 55, 352 Pa. 616, 1945.

Under this section it is intended that the affiant should be a person who circulated paper himself or was present at its circulation and could personally make oath concerning genuineness of signatures and correctness of residence and date of signing and that persons who signed did so with full knowledge of contents of paper. Com. v. Antico, 22 A.2d 204, 146 Pa.Super. 293, 1941.

Where affiant to affidavit of nomination petition admitted that in petitions containing 870 names, he had personal knowledge of 22, and another affiant had personal knowledge of about dozen of 660 signers of nominating petition, affiants were not qualified to make affidavits. In re Objections to Nomination Papers of "Socialist Labor", 1 A.2d 831, 332 Pa. 78, 1938.

§ 2911.1. Limitations on eligibility of candidates

Any person who is a registered and enrolled member of a party during any period of time beginning with thirty (30) days before the primary and extending through the general or municipal election of that same year shall be ineligible to be the candidate of a political body in a general or municipal election held in that same year nor shall any person who is a registered and enrolled member of a party be eligible to be the candidate of a political body for a special election.

1937, June 3, P.L. 1333, § 951.1, added 1980, July 12, P.L. 649, No. 134, § 3, effective Jan. 1, 1981.

Under subdivision d of this section, an affiant must have personal knowledge of the enumerated qualifications of the electors subscribing the petition. In re Objections to Nomination Papers of "Socialist Labor", 1 A.2d 831, 332 Pa. 78, 1938.

Where a petition for nomination for Congressman contained a sufficient number of genuine signatures of qualified electors, that affiants who vouched for the signatures did not have personal knowledge of all the persons whose signatures appeared does not invalidate the nomination. Appeal of Yost, 98 A. 721, 253 Pa. 551, 1916.

The requirement of clause (e)(5) of this section that a candidate nominated by a political body must append to his nomination papers an affidavit stating that his name has not been presented as a candidate by nomination petitions for any public office to be voted on at the ensuing primary election, applies to a candidate for a judge of a court of record. Brown v. Finnegan, 8 D. & C.2d 780, 70 Dauph. 353, 1958, affirmed 133 A.2d 809, 389 Pa. 609.

9. Injunction

Independent party candidate seeking position on special election ballot was not entitled to injunction extending deadline for filing nominating papers; election was not stayed by court judgment, subsequently reversed, that primary election was required, and party was on notice that judgment might be overturned and election held as scheduled. Perry v. Grant, M.D.Pa.1991, 775 F.Supp. 821.

Notes of Decisions

In general 1
 Disaffiliation with party 2

1. In general

To attain or retain eligibility, political body candidate may not be political party candidate for either nomination or election. In re Nomination Papers of Smith, 431 A.2d 1096, 60 Pa.Cmwth. 150, 1981, reversed on other grounds 430 A.2d 1156, 494 Pa. 140.

2. Disaffiliation with party

To be eligible as political body candidate for special election, candidate must not participate in political party nomination process, disaffiliation with political party must be documented, and requisite signature on nomination papers must be obtained and affidavits executed after disaffiliation. In re Nomination Papers of Smith, 431 A.2d 1096, 60 Pa.Cmwth. 150, 1981, reversed on other grounds 430 A.2d 1156, 494 Pa. 140.

§ 2912. Contents of nomination papers; restriction on names; campaign finances

All nomination papers shall specify—(a) The name or appellation of the political body which the candidates nominated thereby represent, expressed in not more than three words, and in the case of electors for President and Vice-President of the United States, the names of the candidates for President and Vice-President of such political body; (b) the name of each candidate nominated therein, his profession, business or occupation, if any; and his place of residence with street and number, if any; (c) the office for which such candidate is nominated; and (d) the names and addresses of the committee, not to be less than three (3) nor more than five (5) persons, authorized to fill vacancies, if any shall occur. No words shall be used in any nomination paper to designate the name or appellation of the political body represented by the candidates named in such nomination paper which are identical with or deceptively similar to the words used for a like purpose by any existing political party as defined by section 801 of this act,¹ or which contain part of the name or an abbreviation of the name or part of the name of any existing political party; nor shall any words be used in any nomination paper to designate the name or appellation of the political body represented by the candidate's name in such nomination paper which are identical with or deceptively similar to the words used for a like purpose by any political body which has already filed nomination papers for the same office nor which contain part of the name or an abbreviation of the name or part of the name of a political body which has already filed nomination papers for the same office. Any petition to set aside a nomination paper on account of the name or appellation used therein, or involving the right of the signers thereof to use such name or appellation shall be decided as in the case of other petitions to set aside nomination papers, in the manner provided by this article.

Each person filing any nomination paper for public office shall be given a statement composed by the Secretary of the Commonwealth setting forth his duties under law to file pre-election and post-election campaign finance reports, and the penalties for nonfiling. Each person filing shall also be given a form to file expenses if the amount received or expended or liabilities incurred shall exceed the sum of two hundred fifty dollars (\$250), and a form containing a sworn statement that the amount received or expended or liabilities incurred do not exceed the sum of two hundred fifty dollars (\$250), with written instructions prepared by the Secretary of the Commonwealth. Within three weeks after such candidate has filed, the appropriate supervisor shall mail the same forms and instructions to such candidate by first class mail.

1937, June 3, P.L. 1333, art. IX, § 952. Amended 1939, June 19, P.L. 450, § 1; 1979, July 12, P.L. 189, No. 63, § 3, imd. effective.

125 P.S. § 2831.

Historical and Statutory Notes

The 1979 amendment added the reference to campaign finances in the section heading and added the second paragraph.

Library References

Elections ☞ 144.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 108, 135.
P.L.E. Elections § 48.

Notes of Decisions

- In general 1**
- Name of political body 4**
- Nomination papers 2**
- Residence of candidate 3**

1210, 60 Pa.Cmwth. 170, 1981, affirmed 430 A.2d 1155, 494 Pa. 139.

1. In general

Provisions of election law regulating nomination papers and affidavits are not mere technicalities but necessary measures to prevent fraud and preserve integrity of the election process. In re Nomination Papers of Carlson, 430 A.2d 1210, 60 Pa.Cmwth. 170, 1981, affirmed 430 A.2d 1155, 494 Pa. 139.

Requirement that candidate for United States Representative specify committee of at least three persons is not mere technicality but is required by legislature as indication that candidate is backed by political body and is mounting serious candidacy with aim of representing constituency's views in the Congress. In re Nomination Papers of Carlson, 430 A.2d 1210, 60 Pa.Cmwth. 170, 1981, affirmed 430 A.2d 1155, 494 Pa. 139.

2. Nomination papers

Nomination papers of candidate for United States Representative were set aside where candidate falsely represented himself to signers of his nominating papers as state resident and failed to specify committee of at least three persons as required by the election code. In re Nomination Papers of Carlson, 430 A.2d

Nomination papers of a candidate for city council will on petition be set aside for failure of the nomination papers to specify the name of the political party which the candidate represents where respondent relied solely on his testimony that he had served as auxiliary committeeman in the Republican party for several years and had informed 99 percent of those who signed the papers that he was running as an independent candidate. In

Note 2

re Anastasi Nomination, 48 D. & C.2d 143, 1969.

A nominating petition was set aside where petition was circulated and signed in blank as to office, candidate, municipality, party affiliation and other pertinent information, even though the candidate testified that he told the signers that he intended to file the petition for said office. Petition of Dehoff, 24 D. & C.2d 630, 74 York 205, 1962.

Court will not set aside a nomination petition for office of controller of a first class township merely because candidate, in his petition, designated the office sought as "comptroller". Petition of Horton, 11 D. & C.2d 706, 44 Del.Co. 216, 49 Mun. 93, 1959.

Candidate for office may properly file his nomination papers and seek election under name which he has used and by which he has been generally known in district of his residence since he was 5 years old although his father was known by a different name, there being no evidence that electors were deceived as to identity of person for whom they were voting. In re Ross' Contested Election, 21 D. & C. 57, 1934.

Nomination papers for unexpired term of state senator are not invalid because they do not so state. Roberts' Petition, 2 D. & C. 236, 1922.

3. Residence of candidate

Individuals named in nomination papers of independent candidate for General Assembly, as the committee to fill vacancies, did not have to live within the district. In re Bunk, 548 A.2d 1287, 120 Pa.Cmwlt. 495, 1988.

Where candidate for United States Representative represented himself to signers of nominating papers as Philadelphia resident when in fact he had stated in Michigan, both before and after he began to circulate nominating papers, that he was Michigan resident for some 38 years, candidate had not established state residence

where he intended to return and remain. In re Nomination Papers of Carlson, 430 A.2d 1210, 60 Pa.Cmwlt. 170, 1981, affirmed 430 A.2d 1155, 494 Pa. 139.

4. Name of political body

The phrase "for a like purpose" as relating to designation of name or appellation of political party, means the nomination of candidates for public office without regard to whether the nominations are for state office or municipal office. Kerns v. Kane, 69 A.2d 388, 363 Pa. 276, 1950.

Nomination papers are defective for failure to state the name of the political party which the candidate represents, in the absence of any clear evidence that the signers knew of the candidate's party affiliation. In re Tumolo Nomination, 48 D. & C.2d 134, 1969.

Nomination paper containing the word "Democratic" in its appellation before it was filed, is invalid as deceptively similar to the appellation of another political body which had also filed in the election. In re Tumolo Nomination, 48 D. & C.2d 134, 1969.

Name "G.I.'s Against Communism" contains but three words, and is therefore not in violation of this section. Still v. Secretary of Com. of Pa., 73 D. & C. 106, 61 Dauph. 145, 1950.

If no certificate of nomination has been filed by a party, and the time for filing has expired, a nomination paper will not be declared void because of its use of the party name. Rhoades's Nomination Paper, 27 C.C. 20, 1902.

Secretary of Commonwealth should not place names of candidates for federal offices of president, vice-president, congressman and presidential electors who describe themselves as "Communist Party or policy" on ballot, because Federal Community Control Act, 50 U.S.C. § 841 et seq., may be violated if Secretary so acts. 1972 Op.Atty.Gen. No. 135.

§ 2913. Place and time of filing nomination papers

(a) Nomination papers for candidates for presidential electors, United States Senators, Representatives in Congress, and State offices, including senators, representatives and judges of courts of record, shall be filed with the Secretary of the Commonwealth.

Nomination papers for all other candidates shall be filed with the county boards of elections of the respective counties. Nomination papers for candidates for any office to be voted for by the electors of any city, borough, township, ward or school district which is situated in two or more counties shall be filed with the county board of the county in which the major number of the registered electors of such city, borough, township, ward or school district reside. Immediately after the last day for withdrawals of candidates nominated by nomination papers, the said county board shall certify to the county board of each other county involved a list of the names, addresses and occupations of the candidates so nominated to be voted for in two or more counties, together with the names or appellations of the political bodies nominating them.

(b) No nomination paper shall be circulated prior to the tenth Wednesday prior to the primary, and no signature shall be counted unless it bears a date affixed not earlier than the tenth Wednesday prior to the primary nor later than the second Friday subsequent to the primary.

(c) All nomination papers must be filed on or before the second Friday subsequent to the primary.

(d) The office in which a nomination paper is filed shall issue to the person filing the nomination paper a receipt containing the date and time of filing, the name of the candidate and the office for which he is a candidate.

(e) For the primary election in the year 1982, the time schedule relating to circulating and filing of nominating petitions, filing of objections, and casting of lots for position on the ballot or ballot labels for the office of Representative in Congress shall be delayed twenty-one (21) days from the times otherwise specified in this act and the time for withdrawal of candidates for such office shall be delayed fourteen (14) days from the time otherwise specified in this act.

1937, June 3, P.L. 1333, art. IX, § 953. Amended 1945, March 9, P.L. 29, § 5; 1947, March 5, P.L. 35, § 1; 1951, March 6, P.L. 3, § 9; 1963, Aug. 13, P.L. 707, § 12, effective Jan. 1, 1964; 1976, Dec. 2, P.L. 1221, No. 269, § 4, imd. effective; 1980, July 12, P.L. 649, No. 134, § 4, effective Jan. 1, 1981; 1982, March 3, P.L. 127, No. 42, § 1, imd. effective.

Historical and Statutory Notes

The 1976 amendment added subsec. (d).

The 1982 amendment added subsec. (e).

The 1980 amendment in subsecs. (b) and (c) substituted "second Friday subsequent" for "seventh Wednesday prior".

Library References

Elections ⇨ 145.
WESTLAW Topic No. 144.

C.J.S. Elections § 137.
P.L.E. Elections § 48.

Notes of Decisions

Actions 4
Place of filing 3
Time of filing nomination papers 2
Validity 1

1. Validity

Since state could have created a less restrictive alternative, fact that state had a concern that defeated primary candidates not use the independent nomination process to thwart the will of the party majority or to wreak vengeance upon the candidate chosen by the party majority did not provide sufficient state interest to justify requiring persons who seek nomination as independent candidates to obtain signatures on nomination petitions prior to the primary where it was demonstrated that fact that such signatures had to be obtained at least 218 days prior to the general election seriously impaired candidates' ability to obtain signatures. *Salera v. Tucker*, 399 F.Supp. 1258, D.C. 1975, affirmed 96 S.Ct. 1451, 424 U.S. 959, 47 L.Ed.2d 727.

Requirement that candidates who wished to appear on the ballot as candidates of political bodies, i.e., an organization which has not polled the requisite number of votes in preceding general election to obtain status as a political party, obtain required signatures on nomination papers within a three-week period was not unconstitutional. *Salera v. Tucker*, 399 F.Supp. 1258, D.C.1975, affirmed 96 S.Ct. 1451, 424 U.S. 959, 47 L.Ed.2d 727.

Provision of § 2911 of this title, requiring that independent candidate obtain signatures of two percent of largest entire vote cast for any candidate, except judge of court of record, elected at the last general election in order to qualify for general election ballot and provision of this section, that such signatures be obtained in three-week period beginning the tenth Wednesday before primary, are constitutional; overruling *People's Party v. Tucker*, 347 F.Supp. 1. *Williams v. Tucker*, 382 F.Supp. 381, D.C.1974.

Provisions of this section and § 2911 of this title, which have effect of preventing candidate defeated in primary from obtaining position on general election ballot as candidate of political party, of preventing candidate from having his name appear more than once on general election ballot and of permitting a candidate to be nominee of only one political group, do not violate First Amendment (U.S.C.A. Const. Amend. 1) or deny equal protection (U.S.C.A. Const. Amend. 14). *Williams v. Tucker*, 382 F.Supp. 381, D.C.1974.

The number of signatures on nomination papers required of a political body by § 2911, of this title; namely, two per cent of the largest vote cast for any elected candidate in the state, is not unreasonable. *People's Party v. Tucker*, 347 F.Supp. 1, D.C.1972, overruled on other grounds 382 F.Supp. 381.

Subsections (b) and (c) of this section are unconstitutional as an infringement on the rights of independent candidates, since the filing time is too remote from the general election. *In re Calguiri*, 4 D. & C.3d 1, 1977.

Decision in *Anderson v. Celebrezze*, 103 S.Ct. 1564, 1983, did not invalidate subsec. (b) of this section and subsection (b) remains valid and binding upon candidates for political office in Pennsylvania until declared otherwise by a court of competent jurisdiction. 1983 Op.Atty. Gen. No. 10.

2. Time of filing nomination papers

Where previous action in which three-judge court declared provision of Pennsylvania Election Code regulating time for obtaining signatures for nomination papers to be unconstitutional and void was deemed by court to be closed and concluded, so that relief granted as to any election subsequent to election of 1972 was to be obtained in a separate and new civil action, court in instant action, in order to prevent a denial of equal protection to independent candidates and political bodies, would declare statute to be unconstitutional and void as to each succeeding election until such time as Gener-

al Assembly of Pennsylvania enacted a constitutional time limitation. *Consumer Party v. Tucker*, 364 F.Supp. 594, D.C. 1973.

Portion of previous judgment which declared that provision of Pennsylvania Election Code regulating time for obtaining signatures on nomination papers was unconstitutional and void as to plaintiffs and class of voters they represented was not limited by language of judgment merely to statewide offices or limited merely to those offices in which nomination papers were to be filed with the secretary of the Commonwealth as opposed to those offices in which nomination papers were to be filed with a county board of elections. *Consumer Party v. Tucker*, 364 F.Supp. 594, D.C.1973.

Since provision of Pennsylvania Election Code regulating time for obtaining signatures on nomination papers was previously declared to be unconstitutional and void by a three-judge court, factual question as to whether plaintiffs had capacity to circulate and file nomination papers within time limit set by statute was not relevant and plaintiffs were not thereby barred from obtaining equitable relief. *Consumer Party v. Tucker*, 364 F.Supp. 594, D.C.1973.

Term "nomination papers," within provision of Pennsylvania Election Code regulating time for obtaining signatures on nomination papers, refers to documents to be submitted for filing by independent political bodies (those political groups which have not obtained sufficient votes in prior election to qualify as political parties and hold primary elections) in order to place on ballot in November election nominees of such political bodies. *Consumer Party v. Tucker*, 364 F.Supp. 594, D.C.1973.

Where defendant, in her capacity as chief elections officer of Commonwealth of Pennsylvania, was a party to previous federal action wherein provision of Pennsylvania Election Code regulating time for obtaining signatures on nomination papers was declared unconstitutional and void as to plaintiffs and class of voters they represented, she and Commonwealth were bound by prior judgment. *Consumer Party v. Tucker*, 364 F.Supp. 594, D.C.1973.

Judgment in previous federal action that provision of Pennsylvania Election

Code regulating time for obtaining signatures on nomination papers was unconstitutional and void with respect to plaintiffs and class of voters they represented concluded rights of parties and their privies, and regardless of whether second action between same parties, or those in privity with them, was upon a different claim, prior judgment operated as an estoppel as to those matters in issue upon determination of which prior finding was rendered. *Consumer Party v. Tucker*, 364 F.Supp. 594, D.C.1973.

Defendant city commissioners were precluded by doctrine of *res judicata* from asserting that provision of Pennsylvania Election Code regulating time for obtaining signatures on nomination papers was valid and constitutional as applied to plaintiffs and class of voters they represented, where commissioners were not only in a sufficiently "close relationship" with the secretary of the Commonwealth, named as defendant in a prior action which resulted in a judgment that this section was unconstitutional and void, but also derived their authority solely from state statute, which made them the equivalent of successors in interest to secretary as to all relevant issues presented in instant litigation. *Consumer Party v. Tucker*, 364 F.Supp. 594, D.C.1973.

Where provision of Pennsylvania Election Code regulating time for obtaining signatures on nomination papers had previously been declared unconstitutional and void by a three-judge court so as to conclude rights of parties and their privies, and General Assembly of Pennsylvania had failed to enact new and valid time limitations, so that no valid time limitation existed as to filing of nomination papers, nomination papers submitted by plaintiffs were to be considered as timely, and refusal of defendant city commissioners, who constituted board of elections, to receive such papers and place plaintiffs' nominee on ballot as a candidate constituted a violation of plaintiffs' constitutional rights for which they were entitled to equitable relief. *Consumer Party v. Tucker*, 364 F.Supp. 594, D.C.1973.

Any special time limitation made applicable only to Philadelphia county in respect to filing of nomination papers by a county board of elections would violate Constitution of Pennsylvania providing that all laws regulating the holding of

Note 2

elections by citizens, or for the registration of electors, shall be uniform throughout the Commonwealth, except that laws regulating and requiring the registration of electors may be enacted to apply to cities only. *Consumer Party v. Tucker*, 364 F.Supp. 594, D.C.1973.

Where nomination papers were filed with county board of elections to nominate proposed nominee for office of mayor or as candidate of independent political body, where proposed nominee was registered, voting, elected, and active member of Republican Party, and where nomination papers were filed after final date for filing fixed by this section, nomination papers were null and void and county board of elections was prohibited from certifying nomination papers. *In re Lucasi*, 407 A.2d 81, 46 Pa.Cmwth. 389, 1979.

If, as claimed, nominee for office of state senator had been informed by office of board of elections that nomination papers could properly be filed in office of Secretary of the Commonwealth at any time up to and including August 14, it would be unfair to set aside nomination paper filed prior to that date even though paper had been filed untimely and signatures included therein bore date later than that permitted by Election Code. *In re Welsh*, 327 A.2d 6, 458 Pa. 645, 1974.

Where register of wills of Westmoreland county, who was elected for a four-year term in November, 1939, died 73 days before municipal election of November 4, 1941, and under Election Code the electoral machinery to choose public officials, such as register, at any November election was required to commence to function at least ten Tuesdays before date of fall primary, which was held on Sep-

tember 9, 1941, a successor could not be elected at November election, notwithstanding constitutional provision regarding elections in case of vacancies in elective offices. *O'Neill v. White*, 22 A.2d 25, 343 Pa. 96, 1941.

A certificate of nomination filed after the time limited in act of 1893, June 10, P.L. 419, as amended, repealed, is void, except where a vacancy occurs which must be filed at the next election. *Ewing's Nomination Papers*, 13 C.C. 638, 3 Dist. 477, 1893.

3. Place of filing

A filing with the county commissioners of a certificate of nomination, or nomination papers, which should be filed with the secretary of the commonwealth, is invalid. *Weyant's Nomination Certificate*, 13 C.C. 561, 2 Dist. 818, 1893; and the county commissioners cannot be required to certify such nomination to the sheriff. *Creswell's Nomination Papers*, 13 C.C. 562, 3 Dist. 487, 1893.

4. Actions

Where political bodies whose candidates were required to obtain petitions in order to appear on the ballot and candidates for those parties, sought not only injunctive relief for election which had already been held but as well as for subsequent elections and where there was evidence that at least one of the parties and one of the candidates were actively seeking access to the ballot for an upcoming local election, their action, which challenged provisions governing nomination by petition, was not moot. *Salera v. Tucker*, 399 F.Supp. 1258, D.C.1975, affirmed 96 S.Ct. 1451, 424 U.S. 959, 47 L.Ed.2d 727.

§ 2914. Filing fee

The same filing fee shall be paid for each candidate nominated by a nomination paper as required in section 913¹ for the filing of nomination petitions by candidates for nomination to the same office. Each nomination paper nominating a candidate or a group of candidates for office shall be accompanied by a certified check or money order drawn in the proper amount to cover the filing fees for each candidate nominated therein but in no case less than the sum of five dollars (\$5.00), and payable to the Commonwealth of Pennsylvania or to the county, as the case may be. All fees so received by the

Secretary of the Commonwealth or the county election board shall be transmitted to the State Treasurer or to the county treasurer, as the case may be, and shall become part of the General Fund.

1937, June 3, P.L. 1333, art. IX, § 954. Amended 1959, Sept. 11, P.L. 877, § 2.

¹ 25 P.S. § 2913.

Law Review Commentaries

Constitutionality of qualifying fees for political candidates. (1971) 120 U.Pa. L.Rev. 109.

Library References

Elections ⇐ 145.

WESTLAW Topic No. 144.

C.J.S. Elections § 137.

P.L.E. Elections § 48.

United States Supreme Court

Candidate filing fees, constitutionality, see *Lubin v. Panish*, 1974, 94 S.Ct. 1315, 415 U.S. 709, 39 L.Ed.2d 702.

(C) OBJECTIONS; WITHDRAWALS; CERTIFICATIONS

§ 2936. Examination of nomination petitions, certificates and papers; return of rejected nomination petitions, certificates and papers

When any nomination petition, nomination certificate or nomination paper is presented in the office of the Secretary of the Commonwealth or of any county board of elections for filing within the period limited by this act, it shall be the duty of the said officer or board to examine the same. No nomination petition, nomination paper or nomination certificate shall be permitted to be filed if—(a) it contains material errors or defects apparent on the face thereof, or on the face of the appended or accompanying affidavits; or (b) it contains material alterations made after signing without the consent of the signers; or (c) it does not contain a sufficient number of signatures as required by law; Provided, however, That the Secretary of the Commonwealth or the county board of elections, although not hereby required so to do, may question the genuineness of any signature or signatures appearing thereon, and if he or it shall thereupon find that any such signature or signatures are not genuine, such signature or signatures shall be disregarded in determining whether the nomination petition, nomination paper or nomination certificate contains a sufficient number of signatures as required by law; or (d) in the case of nomination petitions, if nomination petitions have been filed for printing the name of the same person for the same office, except the office of judge of a court of common pleas, the Philadelphia Municipi-

pal Court or the Traffic Court of Philadelphia, or the office of school director in districts where that office is elective or the office of justice of the peace upon the official ballot of more than one political party; or (e) in the case of nomination papers, if the candidate named therein has filed a nomination petition for any public office for the ensuing primary, or has been nominated for any such office by nomination papers previously filed; or (f) if the nomination petitions or papers are not accompanied by the filing fee or certified check required for said office; or (g) in the case of nomination papers, the appellation set forth therein is identical with or deceptively similar to the words used by any existing party or by any political body which has already filed nomination papers for the same office, or if the appellation set forth therein contains part of the name, or an abbreviation of the name or part of the name of an existing political party, or of a political body which has already filed nomination papers for the same office. The invalidity of any sheet of a nomination petition or nomination paper shall not affect the validity of such petition or paper if a sufficient petition or paper remains after eliminating such invalid sheet. The action of said officer or board in refusing to receive and file any such nomination petition, certificate or paper, may be reviewed by the court upon an application to compel its reception as of the date when it was presented to the office of such officer or board: Provided, however, That said officer or board shall be entitled to a reasonable time in which to examine any petitions, certificates or papers, and to summon and interrogate the candidates named therein, or the persons presenting said petitions, certificates or papers, and his or their retention of same for the purpose of making such examination or interrogation shall not be construed as an acceptance or filing.

Upon completion of any examination, if any nomination petition, certificate or paper is found to be defective, it shall forthwith be rejected and returned to the candidate or one of the candidates named therein, together with a statement of the reasons for such rejection:

Provided further, That no nomination petition, nomination paper or nomination certificate shall be permitted to be filed, if the political party or political body referred to therein shall be composed of a group of electors whose purposes or aims, or one of whose purposes or aims, is the establishment, control, conduct, seizure or overthrow of the Government of the Commonwealth of Pennsylvania or the United States of America by the use of force, violence, military measure or threats of one or more of the foregoing. The authority to reject such nomination petition, paper or certificate for this reason shall, when filed with the Secretary of the Commonwealth, be vested in a committee composed of the Governor, the Attorney General and

the Secretary of the Commonwealth, and when filed with any county board of elections shall be vested in such board. If in such case the committee or board, as the case may be, shall conclude that the acceptance of such nomination petition, paper or certificate should be refused, it shall within two days of the filing of such nomination petition, paper or certificate fix a place and a time five days in advance for hearing the matter, and notice thereof shall be given to all parties affected thereby. At the time and place so fixed the committee or board, as the case may be, shall hear testimony, but shall not be bound by technical rules of evidence. The testimony presented shall be stenographically recorded and made a part of the record of the committee or board. Within two days after such hearing the committee or board, if satisfied upon competent evidence that the said nomination petition, paper or certificate is not entitled to be accepted and filed, it shall announce its decision and immediately notify the parties affected thereby. Failure to announce decision within two days after such hearing shall be conclusive that such nomination petition, paper or certificate has been accepted and filed. The decision of said committee or board in refusing to accept and file such nomination petition, paper or certificate may be reviewed by the court upon an application to compel its reception as of the date when presented to the Secretary of the Commonwealth or such board. The application shall be made within two days of the time when such decision is announced. If the application is properly made, any judge of said court may fix a time and place for hearing the matter in dispute, of which notice shall be served with a copy of said application upon the Secretary of the Commonwealth or the county board of elections, as the case may be. At the time so fixed, the court, or any judge thereof assigned for the purpose, shall hear the case de novo. If after such hearing the said court shall find that the decision of the committee or the board was erroneous, it shall issue its mandate to the committee or board to correct its decision and to accept and file the nomination paper, petition or certificate. From any decision of the court an appeal may be taken within two days after the entry thereof. It shall be the duty of the said court to fix the hearing and to announce its decision within such period of time as will permit the Secretary of the Commonwealth or the county board of elections to permit the names of the candidates affected by the court's decision to be printed on the ballot, if the court should so determine.

1937, June 3, P.L. 1333, art. IX, § 976. Amended 1941, July 28, P.L. 526, § 2; 1947, June 28, P.L. 1038, § 1; 1947, July 5, P.L. 1358, § 2; 1972, July 7, P.L. 732, No. 171, § 2, imd. effective; 1974, June 27, P.L. 413, No. 146, § 2, imd. effective. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978. Amended 1986, Feb. 19, P.L. 29, No. 11, § 9, imd. effective.

Historical and Statutory Notes

The 1974 amendment provided for cross-filing by candidates for the office of justice of the peace.

The 1978 amendment deleted references to the court of common pleas and the Superior Court and to writs of mandamus.

Section 3(d) of Act 1978, April 28, P.L. 202, No. 53 (the Judiciary Act Repealer Act) [42 P.S. § 20003(d)], provides:

"An express reference in any statute or other law to a justice of the peace or to the office of justice of the peace shall

hereafter be deemed a reference to a district justice or to the office of district justice. Any person appointed or elected to judicial office in a magisterial district shall be known as and hereafter shall be commissioned as the 'district justice' in and for the appropriate magisterial district."

The 1986 amendment substituted "court of common pleas, the Philadelphia Municipal Court or the Traffic Court of Philadelphia" for "court of record" in cl. (d) of the first paragraph.

Library References

Elections ⇨ 154(1).
WESTLAW Topic No. 144.

C.J.S. Elections §§ 123, 128.
P.L.E. Elections §§ 49, 50.

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3. Examination of petitions and papers

A county election board, striking written withdrawal of party nominee for office of township tax collector from record as invalid within six days after its physical receipt, acted within "reasonable time" allowed by this section for final determination of paper's validity, and such action was in effect a holding that withdrawal was not received as a legal finality. *Boord v. Maurer*, 22 A.2d 902, 343 Pa. 309, 1942; *Boord v. Maurer*, 22 A.2d 905, 343 Pa. 315, 1942.

1. Validity

"Party raiding" provisions of election code, limiting nominations to one political party, do not constitute an unconstitutional interference with freedom of elections. *Krull v. City and County of Philadelphia*, 114 A.2d 119, 382 Pa. 1, 1955.

2. In general

Purposes of election statutes concerning nomination papers were to require candidate to choose between primary route and nomination route to general election ballot and to prevent losing primary candidate from filing nomination papers. *Baronett v. Tucker*, 365 A.2d 179, 26 Pa.Cmwlth. 559, 1976.

Sections 2936 and 2937 of this title are in pari materia and are to be construed coextensively. In re Philadelphia County Bd. of Elections, 73 A.2d 34, 364 Pa. 525, 1950.

Where petition for referendum on question of whether motion pictures should be permitted to be exhibited on Sundays in city was filed with city clerk, accepted by city council and certified to board of county commissioners which constituted county board of elections, Commission was not required by this section to examine petition for apparent material errors or defects and for material alterations, and its failure to do so did not justify permitting objections which were filed too late, to be filed nunc pro tunc. *Petition for Sunday Movie in City of Pottsville*, 70 A.2d 651, 363 Pa. 460, 1951.

Eight days is a reasonable time to allow a board of elections for examining and rejecting a nomination petition under this section, at a time when the board's duties are so heavy that it has been forced to employ an extra force of eight persons. *Howe v. Campbell*, 60 D. & C. 10, 1948.

4. Bases for rejection

Under the Election Code, ineligibility of candidates under party rules for office of Democratic ward executive committee person, by reason of the candidate's active support for election of opposition party candidates in prior general elections, warranted setting aside of nominating petitions and striking names of candidates from primary election ballot. In re Nomination Petitions of Kielstock, 473 A.2d 713, 97 Pa.Cmwth. 153, 1984.

In regard to nomination certificate of a candidate for seat on school board, alleged defects consisting of failure to use form prescribed by Secretary of Commonwealth, failure to state candidate's occupation and failure to state that a quorum of executive committee of the political party nominating such candidate had convened did not warrant voiding or vacating of the certificate. In re Nomination Certificate of Luzerne County Democratic Executive Committee, 436 A.2d 263, 62 Pa.Cmwth. 277, 1981.

Where at general election of 1948 in the state, the Progressive Party polled sufficient votes to constitute it a political party within the state, the Progressive Party was entitled to nominate its candidates in 1949 for office at September primary in every one of the sixty-seven counties of the state, even in those counties in which the Progressive Party did not poll a number of votes sufficient to have qualified the Progressive Party in those counties separately as a political party within those counties, and therefore board of election of one of those counties properly refused to receive and file nomination papers of those who designated themselves as candidates of the Progressive Party. Kerns v. Kane, 69 A.2d 388, 363 Pa. 276, 1950.

Where, on last day for filing, plaintiff's petition to have his name printed on primary ballot as candidate for delegate to a national party convention, consisting of five separate sheets, was filed in office of Secretary of the Commonwealth, accompanied by a filing fee in sum of \$50 instead of \$10 as required under § 2873 of this title, court subsequently directed the Secretary to receive plaintiff's petition, and if proper under all other requirements of law, to certify plaintiff's name for inclusion on the ballot at the ensuing primary election. Potts v. Smith, 83 D.C. 234, 62 Dauph. 310, 1952.

5. Material errors or defects

Error of placing "189th" instead of "1st" on petition entitled "Nomination Petition for Office of Representative in Congress" was not a "material error" requiring rejection of petition under provision of this section prohibiting filing of nomination petition containing "material error," in that signers of petition could not have been misled by error into thinking that candidate was running for seat in state assembly rather than for seat in Congress since petition consistently referred to "Congress" in bold print and never used words "assembly" or "legislature." (Per Curiam opinion with three Justices concurring in the result.) Jackson v. Fields, 386 A.2d 533, 478 Pa. 247, 1978.

Where the avowed purpose of a nominating petition of a candidate for the office of mine inspector, which petition was presented to the county commissioners, was to have the candidate's name printed on the official ballot to be used in the primary election of an odd numbered year, there was a material error or defect apparent on the face of the petition, which, under act of 1913, July 12, P.L. 719, § 8, repealed, is sufficient ground to authorize the setting aside of a petition; such petition being defective, as appeared from its face, not only because presented in the wrong year, but because presented to the county commissioners instead of to the secretary of the commonwealth. In re Lamb's Nomination Petition, 96 A. 255, 251 Pa. 102, 1915.

6. Papers previously filed

Provision that no nomination papers shall be permitted if candidate named therein has filed nomination petition for any public office for ensuing primary or has been nominated for any such office by nomination papers previously filed requires secretary of Commonwealth to reject nomination papers of any candidate who has filed petition for, or who has actually participated in, that primary immediately preceding the general election in which he seeks ballot position. Barnett v. Tucker, 365 A.2d 179, 26 Pa. Cmwth. 559, 1976.

One who timely withdrew his nomination petitions to have his name placed on primary ballot of political party for offices of county commissioner and county treasurer was eligible to be nominated by

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another political body for office of county commissioner. *Packrall v. Quail*, 192 A.2d 704, 411 Pa. 555, 1963.

This section providing that no nomination shall be accepted if candidate named therein has filed a nomination petition for any public office for ensuing primary or has been nominated for any such office by nomination papers previously filed, requires only that person seeking nomination not be candidate of another political group at time nomination paper is filed. *Packrall v. Quail*, 192 A.2d 704, 411 Pa. 555, 1963.

The purpose of this section providing that no nomination papers shall be accepted if candidate named therein has filed a nomination petition for any public office for ensuing primary or has been nominated for any such office by nomination papers previously filed, is to prevent election ballot from being cluttered by candidates who are seeking to multiply number of times their name appears on ballot under various inviting labels. *Packrall v. Quail*, 192 A.2d 704, 411 Pa. 555, 1963.

A person nominated by papers cannot also be a candidate for a nomination by a party at the primary, or a nominee by papers of any other political body, if he be a candidate for judicial or any other office. *Brown v. Finnegan*, 133 A.2d 809, 389 Pa. 609, 1957.

7. Signatures

Assertions that signature on nomination petition was not signature of elector registered and enrolled at address affixed to signature in petition, that elector who signed nomination petition was enrolled in another party, that signature was not sufficiently legible as to be capable of identification, that elector affixed his signature twice to petition that elector signed another nomination petition for same office, that signature was a forgery and that signature showed a date outside period for circulation were proper objections to a nomination petition for the office of United States Senator in a primary election. In re *Elliott*, 362 A.2d 438, 26 Pa.Cmwlt. 20, 1976, affirmed 353 A.2d 446, 466 Pa. 463.

Practice of rechecking validity of signatures on nominating petitions for independent candidates while not so checking validity of signatures on major party nominating petitions was disapproved.

Moore v. Osser, 233 A.2d 579, 427 Pa. 238, 1967.

Where elimination of four unauthorized signatures from nomination petition reduced number of signatures on petition below the number statutorily required, filing of petition by candidate in office of Secretary of Commonwealth must be set aside unless some reason could be shown why Act of Assembly should not be applied. *Petition of Carter*, 159 A.2d 691, 398 Pa. 548, 1960.

Evil intended to be avoided by § 2868 of this title proscribing signing of more than one nomination petition was having duplicate names "counted" for more than one candidate, and even where duplicate signatures bear same date, nominating petitions are not invalidated and are not to be disregarded in count of nominators unless objections are filed to them; and where one candidate withdrew prior to expiration of seven-day period following last day for filing, signatures appearing both on his nominating petition and that of candidate remaining in race could be counted for the latter. In re *Nomination Petitions for School Director in Lower Allen Tp.*, In Republican Party Primary Election, 150 A.2d 533, 395 Pa. 581, 1959.

8. Affidavits

Failure to file an affidavit setting forth that nominee had not been a registered or enrolled member of a party 30 days before primary was a proper ground for the county election bureau to reject nomination papers by which the nominee sought to have his name placed on the ballot in a municipal election for the office of director in the school district. In re *Owens*, 436 A.2d 260, 62 Pa.Cmwlt. 281, 1981.

Fact that school directors could cross file did not mean that elections for those positions were other than political and did not, therefore, excuse nominee from filing requisite affidavit setting forth his disaffiliation from a party 30 days prior to primary if he wished county election bureau to accept nomination papers by which he sought to have his name placed on ballot in municipal election for office of director in school district. In re *Owens*, 436 A.2d 260, 62 Pa.Cmwlt. 281, 1981.

Court hearing objections to nomination petition for primary election for the Dem-

ocratic party nomination for office of United States Senator would not accept new circulator's affidavit as substitute for circulator's affidavit submitted by a person not qualified to circulate petition, especially since new affiant did not have knowledge of circulation of petition except for ten signatures which he personally observed being signed. In re Elliott, 362 A.2d 438, 26 Pa.Cmwth. 20, 1976, affirmed 353 A.2d 446, 466 Pa. 463.

Where circulator did not sign his name to circulator's affidavit but allegedly gave his father permission to sign his name to affidavit and circulator had little knowledge of manner in which signatures were obtained on nomination petition for primary election for the Democratic party nomination for office of United States Senators, circulator's affidavit was invalid. In re Elliott, 362 A.2d 438, 26 Pa. Cmwth. 20, 1976, affirmed 353 A.2d 446, 466 Pa. 463.

Where affiant to affidavit of nomination petition admitted that in petitions containing 870 names, he had personal knowledge of 22, and another affiant had personal knowledge of about dozen of 660 signers of nominating petition, affiants were not qualified to make affidavits. In re Objections to Nomination Papers of "Socialist Labor", 1 A.2d 831, 332 Pa. 78, 1938.

9. Amendments of petition

Lack of genuineness of signatures on nomination petition which were made by nominee with verbal authorization of electors was not defect apparent on face of nomination petition, and this section did not give court discretion to permit amendments of invalid signatures after filing deadline had passed. Petition of Minotti, 574 A.2d 119, 132 Pa.Cmwth. 623, 1990.

Nomination petitions with improperly completed affidavits are amendable at discretion of court, but nomination petitions with no affidavits at all leave nothing to be amended and are, therefore fatally defective. Petition of Kloiber, 362 A.2d 484, 26 Pa.Cmwth. 50, 1976.

Where candidate for office of member of state committee of Democratic party appeared before notary public and made appropriate declarations contained in affidavits of candidate and circulator of nomination petition, notary public signed affidavits as having been sworn and sub-

scribed before him, but failed to authenticate such acts by impressing his seal upon affidavits, so that affidavits were defective when received by Bureau of Elections on last day for filing, candidate would be allowed to amend his petition nunc pro tunc. Petition of Kloiber, 362 A.2d 484, 26 Pa.Cmwth. 50, 1976.

Where a candidate desires to amend a nomination petition he or she must present some evidence upon which trial judge may base his discretion in granting an amendment; where no credible evidence is presented, judge cannot permit an amendment. In re Elliott, 362 A.2d 438, 26 Pa.Cmwth. 20, 1976, affirmed 353 A.2d 446, 466 Pa. 463.

Nomination petitions for candidates for ward executive committee of political party which contained 19 signatures, only nine of which were valid, could not be amended subsequent to deadline for filing said petitions, by fixing name of one of candidates on face of both in an attempt to validate said petition. Petition of Gallagher, 359 A.2d 791, 468 Pa. 19, 1976.

Permitting candidate who had failed to swear in presence of notary to affidavits in support of nomination petition to amend petition by submitting new supporting affidavits properly sworn to was not an abuse of discretion. Petition of Ross, 190 A.2d 719, 411 Pa. 45, 1963.

Candidate's allegation that Secretary of Commonwealth should accept nunc pro tunc an additional sheet of nomination petition allegedly circulated prior to last day, on ground that failure to have additional petition timely filed was due solely to misrepresentations by his opponents, without in any way attributing failure to file additional sheet within statutory period to any representation by Secretary of Commonwealth or any employee by Bureau of Elections, was insufficient to permit a filing after the statutory period. Petition of Carter, 159 A.2d 691, 398 Pa. 548, 1960.

Where a candidate, in accordance with instructions received upon obtaining the nomination petition blanks, took them to a notary and had them notarized before any signatures were obtained thereon, and the subsequent dates beside each signature on the petitions were true and correct, petitioner would be allowed, under § 2937 of this title and this section, to

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amend the petitions by filing a properly dated candidate's affidavit and loyalty oath and by also filing a properly dated affidavit of circulators. *Petition of Dexter Nomination*, 69 D. & C.2d 700, 1975.

10. Retention of paper

Retention of petition for local option may be construed as an acceptance thereof, even though commissioners notified persons presenting petitions that they have been rejected as faulty. *Com. ex rel. McLaughlin v. Franklin County Com'rs*, 70 D. & C. 31, 1950.

11. Actions

Motion to dismiss appeal of election candidates from invalidation of their nomination papers, filed by party challenging validity of papers, for failure by candidates to timely file their brief and reproduced record, would not be granted, where pressures of time in election case and intervention of holiday provided reasonable justification for late filing and where challenging party showed no prejudice by reason of delay. *Appeal of Riley*, 466 A.2d 236, 77 Pa.Cmwlth. 191, 1983.

Motion to restrict argument on appeal, filed by party challenging election candidates' nomination papers, would not be granted on grounds that candidates had limited themselves to two legal issues in their applications to advance agreement, where four issues to be argued by candidates were set forth clearly in their brief and were adequately addressed by challenging party in reply brief, and where challenging party demonstrated no prejudice. *Appeal of Riley*, 466 A.2d 236, 77 Pa.Cmwlth. 191, 1983.

Where a County Board of Elections or the Secretary of the Commonwealth rejects nominating petitions because of alleged defects therein, the judicial remedy available to those claiming to be aggrieved thereby is under this section. *In re Philadelphia County Bd. of Elections*, 73 A.2d 34, 364 Pa. 525, 1950.

Power of court of common pleas under this section is no less than that under § 2937 of this title. *In re Philadelphia County Bd. of Elections*, 73 A.2d 34, 364 Pa. 525, 1950.

Where objections to nominating petitions were lodged with court of common pleas under this section and thereafter, but before hearing on petitions, county

board of elections rejected nominating petitions and refused to accept them for filing, and court of common pleas dismissed objections on ground that matter was moot in view of action taken by board, court of common pleas had authority to act on petition for a review of the ultimate action of the board and for writ of mandamus to compel the board's acceptance and filing of nominating petitions. *In re Philadelphia County Bd. of Elections*, 73 A.2d 34, 364 Pa. 525, 1950.

Where objections to nominating petitions were lodged with court of common pleas under this section and thereafter, but before hearing on the petitions, County Board of Elections rejected the nominating petitions and refused to accept them for filing, court of common pleas could have completely proceeded to a hearing on the objections, regardless of what the County Board of Elections had done belatedly, and could have disposed of the matters on their merits. *In re Philadelphia County Bd. of Elections*, 73 A.2d 34, 364 Pa. 525, 1950.

Where county election board of Philadelphia designated date for examination and investigation into signing and preparation of nomination paper and certain persons who appeared before the board in response to its subpoena refused to answer certain questions, the common pleas court could not punish the parties for contempt. *County Election Bd. of Philadelphia v. Rader*, 58 A.2d 187, 162 Pa.Super. 499, 1948.

Equity has no jurisdiction to require Secretary of Commonwealth to reject nomination petitions of candidates for offices of Superior Court judges because of deviation of candidates' appended affidavits from form required by statute and prescribed by Secretary, in view of complete and adequate remedy under Election Code by presentation of petitions in common pleas court of county wherein nomination petitions were filed to set them aside. *Thompson v. Morrison*, 44 A.2d 55, 352 Pa. 616, 1945.

The validity of political party's nominations of candidates cannot be challenged in equity court by suit to enjoin state officers and publishing corporation from ordering or directing the printing of ballots containing such candidates' names on grounds of fraudulent execution of nomination petitions and appended affidavits, as question of validity of such papers may be brought before common

pleas court by timely petitions to set aside nominating petitions. *Kane v. Morrison*, 44 A.2d 53, 352 Pa. 611, 1945.

12. Hearing and evidence

Uncontradicted testimony of handwriting expert was sufficient evidence to re-

quire invalidation on ground of forgery of certain signatures appearing on nomination petition for primary election for the Democratic party nomination for office of United States Senator. *In re Elliott*, 362 A.2d 438, 26 Pa.Cmwlt. 20, 1976, affirmed 353 A.2d 446, 466 Pa. 463.

§ 2937. Objections to nomination petitions and papers

All nomination petitions and papers received and filed within the periods limited by this act shall be deemed to be valid, unless, within seven days after the last day for filing said nomination petition or paper, a petition is presented to the court specifically setting forth the objections thereto, and praying that the said petition or paper be set aside. A copy of said petition shall, within said period, be served on the officer or board with whom said nomination petition or paper was filed. Upon the presentation of such a petition, the court shall make an order fixing a time for hearing which shall not be later than ten days after the last day for filing said nomination petition or paper, and specifying the time and manner of notice that shall be given to the candidate or candidates named in the nomination petition or paper sought to be set aside. On the day fixed for said hearing, the court shall proceed without delay to hear said objections, and shall give such hearing precedence over other business before it, and shall finally determine said matter not later than fifteen (15) days after the last day for filing said nomination petitions or papers. If the court shall find that said nomination petition or paper is defective under the provisions of section 976,¹ or does not contain a sufficient number of genuine signatures of electors entitled to sign the same under the provisions of this act, or was not filed by persons entitled to file the same, or if any accompanying or appended affidavit contains a material defect or error, it shall be set aside. For purposes of this section, a nomination petition or paper shall include all affidavits required to be filed with such nomination petition or paper under this act. If the objections relate to material errors or defects apparent on the face of the nomination petition or paper, or on the face of the accompanying or appended affidavits, the court, after hearing, may, in its discretion, permit amendments within such time and upon such terms as to payment of costs, as the said court may specify. In case any such petition is dismissed, the court shall make such order as to the payment of the costs of the proceedings, including witness fees, as it shall deem just. If a person shall sign any nomination petitions or papers for a greater number of candidates than he is permitted under the provisions of this act, if said signatures bear the same date, they shall, upon objections filed thereto, not be counted on any petition or paper and if they bear

different dates, they shall be counted in the order of their priority of date, for only so many persons as there are candidates to be nominated or elected. The office of the Prothonotary of the Commonwealth Court and the office of the Secretary of the Commonwealth and the various offices of prothonotary of the court of common pleas shall be open between the hours of eight-thirty o'clock A.M. and five o'clock P.M. on the last day to withdraw after filing nomination petitions and on the last day to file objections to nomination petitions.

1937, June 3, P.L. 1333, art. IX, § 977. Amended 1943, May 21, P.L. 353, § 1; 1974, Dec. 10, P.L. 835, No. 280, § 1. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978. Amended 1985, April 18, P.L. 5, No. 4, § 5, imd. effective.

¹ 25 P.S. § 2936.

Historical and Statutory Notes

The 1974 amendment inserted, in opening sentence, the phrase "or the Commonwealth Court in the case of nomination petitions or papers for State-wide offices", and added the last sentence, relating to office hours of the Secretary of the Commonwealth and of various prothonotaries.

The 1978 amendment deleted references to the court of common pleas and the Commonwealth Court.

The 1985 amendment, near the end of fourth sentence, inserted "or if any accompanying or appended affidavit contains a material defect or error," and added fifth sentence.

Library References

Elections ⇨ 149.
WESTLAW Topic No. 144.

C.J.S. Elections § 120 et seq.
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1. In general

In the absence of a demonstration of a specific defect in the nomination petition, a candidate cannot be precluded from running for the office for which the nomination petition was filed. In re Jones, 476 A.2d 1287, 505 Pa. 50, 1984.

The election code must be liberally construed so as not to deprive an individual of his right to run for office or the voters of their right to elect the candidate of their choice. Petition of Ross, 190 A.2d 719, 411 Pa. 45, 1963.

Sections 2936 and 2937 of this title are in pari materia and are to be construed coextensively. In re Philadelphia County Bd. of Elections, 73 A.2d 34, 364 Pa. 525, 1950.

When the Secretary of the Commonwealth or any county board of elections

accepts and files nominating petitions over objections thereto, judicial relief available to those claiming to be aggrieved thereby is under this section. In re Philadelphia County Bd. of Elections, 73 A.2d 34, 364 Pa. 525, 1950.

Where a County Board of Elections or the Secretary of the Commonwealth rejects nominating petitions because of alleged defects therein, the judicial remedy available to those claiming to be aggrieved thereby is under § 2936 of this title. In re Philadelphia County Bd. of Elections, 73 A.2d 34, 364 Pa. 525, 1950.

The provisions of election code requiring that original petition to set aside nomination papers "shall" be presented to court of common pleas within seven days after last day for filing nomination and requiring service of copy of original petition to be filed within same period with county board of elections are mandatory and cannot be waived, and substantial compliance is not sufficient. In re Nomination Papers of American Labor Party, 44 A.2d 48, 352 Pa. 576, 1945.

Where petitioner, who instituted proceeding to set aside nomination petitions, failed to comply with mandatory provision of election code requiring service of copy of original petition upon county board of elections within seven days after last day for filing nomination papers, court of common pleas was required to deny requested relief. In re Nomination Papers of American Labor Party, 44 A.2d 48, 352 Pa. 576, 1945.

This section establishes the exclusive method for attacking a nomination petition. *Jaspan v. Osser*, 43 D. & C.2d 346, 1967.

2. Purpose

Purpose of this section was to secure prompt decision of questions affecting candidates for office. In re Objections to Nomination Papers of "Socialist Labor", 1 A.2d 831, 332 Pa. 78, 1938.

3. Time of making objections

Failure to comply with mandatory requirement that petition to set aside substitute nomination certificate of candidate for Common Pleas Court judge be filed and served within three days of filing of certificate precluded consideration of objection petition. In re Evans, 632 A.2d 862, Sup.1993.

Because candidates' nomination petitions and papers were filed pursuant to the Election Code and the nomination petitions were what the Ethics Commission sought to attack, specific time limit set by the Code of seven days for attacking a nomination petition was applicable, not a longer limitations period available for an action under the Ethics Act. *Com., State Ethics Com'n v. Cresson*, 597 A.2d 1146, 528 Pa. 339, 1991.

Petition to set aside candidate's nomination paper would not be dismissed as untimely, though petition was not filed within seven days after statutory deadline for filing nomination paper, where Bureau of Elections informed petitioner that, as result of pending litigation, time for filing nomination papers had been extended, and petitioner was advised not to file objections at that time inasmuch as extension of deadline would have allowed candidate opportunity to refile nomination paper. *Matter of Cooper*, 516 A.2d 1285, 102 Pa.Cmwlt. 133, 1984.

Statutory deadline for filing objections to nomination petitions could not be extended by court in the absence of extraordinary circumstances such as fraud or breakdown of judicial process. *Petition of Torres*, 512 A.2d 732, 99 Pa.Cmwlt. 173, 1986.

Filing of petition or challenge to declarations for candidacy for retention of person appointed to the Commonwealth Court, but never elected to that position, two days after time allowed by this section, which provides that all nomination petitions and papers received and filed within periods limited by the Election Code are valid unless within seven days after last day for filing a petition is presented, did not render petition untimely since time limit for filing of retention papers involved was not fixed by the Election Code. *Abraham v. Shapp*, 400 A.2d 1249, 484 Pa. 573, 1979.

Protestants, who filed their objections to referendum petition on last day for filing petitions for motion picture referendum at municipal election, timely filed their objections within the period designated by this section as seven days after last day for filing of petition. In re Referendum for Sunday Motion Picture Exhibitions in Borough of Waynesboro, 117 A.2d 699, 383 Pa. 162, 1956.

Note 3

The seven days allowed by this section for filing of objections to motion picture referenda petitions run from last day for filing such petitions, regardless of what time within the preceding 20-day period such petitions are actually filed. In re Referendum for Sunday Motion Picture Exhibitions in Borough of Waynesboro, 117 A.2d 699, 383 Pa. 162, 1956.

This section requiring petition to set aside a nomination petition to be presented to Court of Common Pleas within seven days after last day for filing nomination petition, is mandatory and cannot be waived. Turtzo v. Boyer, 88 A.2d 884, 370 Pa. 526, 1952.

Where objections to nomination petition were not presented to Court of Common Pleas within seven days after last day for filing petition, as required by this section, validity of duly filed petition and nomination of candidate on whose behalf it was circulated could not thereafter be challenged on ground that candidate's affidavit was not signed by him personally and that signer of such affidavit and qualified elector's affidavit did not circulate petition or swear to affidavit, regardless of whether such alleged facts constituted fraud, in absence of proof of any concealment of facts surrounding execution of affidavits or any independent act of fraud or concealment, which prevented discovery of the facts. Turtzo v. Boyer, 88 A.2d 884, 370 Pa. 526, 1952.

Under Title 4, § 63, and this section, the last day for filing petition for referendum on question of exhibiting motion pictures on Sundays is 60 days before municipal election at which the question is to be considered, and the time for filing objections is seven days after filing of petition, and the last day for filing petition is not 30 days before date of election as provided for nomination certificates and nomination papers of the United States Senators, and objections to such petition not filed within the seven days were not timely. Petition for Sunday Movie in City of Pottsville, 70 A.2d 651, 363 Pa. 460, 1950.

Where petition for referendum on question of whether motion pictures should be permitted to be exhibited on Sundays in city, was filed with city clerk, accepted by city council and certified to board of county commissioners which constituted county board of elections, Commission was not required, by § 2936 to examine

petition for apparent material errors or defects and for material alterations, and its failure to do so, did not justify permitting objections which were filed too late, to be filed nunc pro tunc. Petition for Sunday Movie in City of Pottsville, 70 A.2d 651, 363 Pa. 460, 1950.

Petitions seeking local option referendum election would be deemed valid, in absence of any objections thereto within seven days after last day for filing the petitions. Soulchin v. Pennsylvania Liquor Control Bd., 61 A.2d 775, 163 Pa.Super. 372, 1948.

Since this section requires that objections to nomination papers be filed within seven days after the last day for filing, objections filed within seven days after the date the Secretary of the Commonwealth has set as the last day for filing will not be dismissed as being filed too late. In re Caliguiri, 4 D. & C.3d 1, 1977.

Objections to a candidate's eligibility to hold office because of failure to fill residency requirements are properly raised under this section, but must, under such section, be filed within seven days after the last day for filing nomination petitions; the board of elections has no jurisdiction to entertain objections filed after the deadline. Election of DeNome, 3 D. & C.3d 583, 1977.

Under provision of this section requiring that an objection to a candidacy for office upon the ground of alleged nonresidence be raised within seven days after the last day for filing his nomination petition, delay beyond this time was not excused by alleged discovery of the disqualification after the time for objecting had expired, at least in the absence of any allegation that the true facts were concealed by fraud or otherwise. Bobish v. Election Bd. of Beaver County, 64 D. & C.2d 34, 1973.

A court was without jurisdiction to entertain a complaint in equity against the Commissioners of the City of Philadelphia to enjoin them from certifying a nominee on a party ticket for councilman-at-large, where the complaint was not filed within the period provided by the Election Code. Jaspan v. Osser, 43 D. & C.2d 346, 1967.

Objections must be filed within seven days and must be heard within ten days and determined within fifteen days from the last date to file nominating petitions.

Primary Nomination Petition of Brady, 31 D. & C.2d 711, 26 Fay.L.J. 44, 1964.

4. Errors in petition

In proceeding in which petitioner sought to have nomination certificate of candidate for seat on school board voided, in which petition erroneously used the letter J rather than the letter I in referring to the candidate's middle initial and in which the candidate appeared in court in response to petition after having been served with it, dismissal of petition on theory that in personam jurisdiction over candidate was lacking was error. In re Nomination Certificate of Luzerne County Democratic Executive Committee, 436 A.2d 263, 63 Pa.Cmwlt. 277, 1981.

5. Amendments

Decision to permit amendment of nomination certificate to include signature of notary public was not abuse of discretion, where notary affixed her seal stamp and merely neglected to sign her name, in absence of claim of falsity. In re Certificate of Nomination for 143rd Legislative Dist., 634 A.2d 155, Sup.1993.

Objector to nominating petition, who raised no specific objections in petition nor challenged any specific signature in timely fashion as required by election code, had no right to amend objection after seven-day time period for filing objections had expired. Petition of Bishop, 579 A.2d 860, 525 Pa. 199, 1990.

Amendatory affidavits would be accepted to cure defects in nomination petitions in form of notarization of original affidavits without administration of oath and outside circulators' presence. In re Duncan, 516 A.2d 776, 102 Pa.Cmwlt. 99, 1982.

Motion by objector to amend his original petition challenging 81 signatures on candidate's nomination petition for legislative seat, to challenge an additional 62 signatures on nominating petition, in an attempt to invalidate such nominating petition, filed after seven-day period set forth in election code for challenging signatures, was properly denied. In re Wagner, 511 A.2d 754, 510 Pa. 584, 1986.

The allowance of amendment to petition attacking validity of nomination petition after time for objecting to such nomination petition had expired was a matter for the discretion of the hearing judge.

Appeal of Beynon, 88 A.2d 789, 370 Pa. 532, 1952.

Where there are general allegations of specific grounds of invalidity in petition attacking validity of nomination petition which sufficiently advise proposed candidate of errors in his nomination petition so that he is in a position to present any defense he may have to such allegations, it is not an abuse of discretion to allow an amendment which comes within the general allegations. Appeal of Beynon, 88 A.2d 789, 370 Pa. 532, 1952.

6. Specificity of objections

Compliance with requirement that objections to substitute nomination certificate be filed and served within three days of filing of certificate is mandatory. In re Evans, 632 A.2d 862, Sup.1993.

Trial court must first determine whether challenges to primary nominating petition sets forth challenges with specificity required under Election Code before examining petition for errors. In re Williams, 625 A.2d 1279, Cmwlt.1993.

Failure of challengers to validity of primary election nominating petition to specify disputed names by page and line was fatal. In re Williams, 625 A.2d 1279, Cmwlt.1993.

Objection to nomination petition was required to set forth specific grounds of invalidity so as to sufficiently advise proposed candidate of errors in nomination petition so that she would be in position to present any defense she may have had to such allegations, and objection, which contained boilerplate objections but no specific objections as required by election code, was fatally defective. Petition of Bishop, 579 A.2d 860, 525 Pa. 199, 1990.

If challenger to nomination petition claims that any signature on petition is invalid, he must cite page, line and reason for invalidity in his petition to challenge; failure to comply with this requirement renders challenge fatal. Petition of Bishop, 579 A.2d 860, 525 Pa. 199, 1990.

Purpose of this section authorizing objections to nomination petitions is to give fair notice to person seeking nomination that his petition contains improper signatures or other deficiencies and provide that person with enough information to mount defense to challenges; when objection provides no notice from which

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Note 6

reasonable person can glean which signatures are challenged or what is substance of claimed deficiency, challenge must fail as matter of law. *Petition of Bishop*, 579 A.2d 860, 525 Pa. 199, 1990.

Nomination petition of particular individual seeking to win the nomination of the political party in the primary election for the office of Senator in the General Assembly should not have been set aside where the objectors not only failed to set forth their argument and the specific terms of this section, but failed to make an argument which was in any way related to an objection to the nomination petition as set forth in this section. *In re Jones*, 476 A.2d 1287, 505 Pa. 50, 1984.

Signatures on nomination petition of candidate for representative to General Assembly would not be disqualified on ground that person or persons other than the signatories inscribed the resident's address, occupation and date of signing on the petition where the ground was not advanced on the objecting petition and candidate was not afforded an opportunity to prepare defense thereto. *Petition of McLaughlin*, 362 A.2d 469, 26 Pa. Cmwlth. 16, 1976.

A petition challenging validity of nomination petition need not be drafted with the nicety required of a formal pleading in an action at law, but if it is timely filed and alleges a prima facie case, the court should, in the public interest, undertake its consideration. *Appeal of Beynon*, 88 A.2d 789, 370 Pa. 532, 1952.

Where petition attacking nomination petition set forth the names of the specific signatures on the nomination petition which were attacked as not being in handwriting of purported signers and alleged that certain names were also found on nomination petition of another candidate, the petition set forth a cause of action, though it made no reference to the fact that the names which were found on both nomination petitions had been signed on the other nomination petition on a day prior to the day on which they were signed on the petition under attack, and though it contained no allegation that the allegedly invalid signatures had been signed without authority. *Appeal of Beynon*, 88 A.2d 789, 370 Pa. 532, 1952.

A petition to strike a nominating petition filed within seven days of the last day for filing the nominating petition as re-

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quired by this section and which alleged merely that "said nominating petition contains at least 400 signatures of persons who are not registered and enrolled as members of" a political party, but failed to set forth the specific names attacked, was deficient and was dismissed for lack of jurisdiction where an amendatory petition was not filed until four days after the statutory limitation had run. *Nominating Petition of Pietrowski*, 24 D. & C.2d 239, 1962.

Even though objections to nomination papers may be objectionable for lack of particularity, the objection will be deemed waived if not made prior to or at the hearing and if the matter is fully considered at the hearing. *Katz Nomination Papers*, 65 D. & C. 13, 1949.

Where one objecting to nomination papers specifies as a ground for objection that one of the signature sheets fails to specify the office for which the candidate is running, the court may properly consider that other sheets are likewise defective since only a legal question is involved, so that the nominee is not prejudiced by the failure to specify each allegedly defective sheet. *Katz Nomination Papers*, 65 D. & C. 13, 1949.

One objecting to nomination papers on the ground that certain of the signatures thereon are not genuine must specify which signatures he challenges, for otherwise the candidate has no knowledge of what evidence he must meet at the time of the hearing. *Katz Nomination Papers*, 65 D. & C. 13, 1949.

7. Verification

A verification is required with respect to filling an objection with respect to an individual's nomination petition to run for office on a party ballot. *In re Johnson*, 516 A.2d 1290, Cmwlth.1985.

An objection to a nomination petition that lacks any verification whatsoever cannot be permitted to toll statute of limitations so as to allow for submission of a verification after time period for filing objection has run. *In re Johnson*, 516 A.2d 1290, Cmwlth.1985.

Challenge to nomination petition filed pursuant to 25 P.S. § 2937 was not required to contain verification, as purpose of challenge provision was expeditious resolution of objections to prospective

candidate's filings. In re Johnson, 502 A.2d 142, 509 Pa. 347, 1985.

8. Grounds for objection, generally

Candidate's nominating petition for party office could not be set aside on basis that dates next to signatures on one page of petition were written by same hand; judge did not err when he was unable to determine that all dates were written by same hand, and even if they were written by same hand, since candidate testified that he had completed some of dates himself, party challenging petition still had not met burden of proving petition should be set aside. In re Freeman, 540 A.2d 606, 115 Pa.Cmwlt. 300, 1988.

Candidate's election petition for party office could not be set aside on basis that candidate's name, although correctly printed on petitioner's front page, was misspelled on other side of petition; there was no indication that issue was preserved for appeal since party challenging candidate's petition did not raise issue in petition to set aside and trial judge did not address issue in opinion, and in any event defect was de minimus and could not have confused electors who signed petition. In re Freeman, 540 A.2d 606, 115 Pa.Cmwlt. 300, 1988.

Candidate's nominating petition for party office could not be set aside on basis that he was laborer working for United States Postal Authority and was therefore prevented by Hatch Act [5 U.S.C.A. § 7324] from running for elective office; party challenging petition could not direct court to any provision of state election code that would preclude federal employee from running for office, and even if federal law prevented him from running for office, state court would have no authority to remove him from federal position. In re Freeman, 540 A.2d 606, 115 Pa.Cmwlt. 300, 1988.

Where nomination papers were filed with County board of elections to nominate proposed nominee for office of mayor as candidate of independent political body, where proposed nominee was registered, voting, elected, and active member of Republican Party, and where nomination papers were filed after final date for filing fixed by section 2913 of this title, nomination papers were null and void and county board of elections was prohibited from certifying nomination pa-

pers. In re Lucasi, 407 A.2d 81, 46 Pa. Cmwlt. 389, 1979.

Where circulator did not sign his name to circulator's affidavit but allegedly gave his father permission to sign his name to affidavit and circulator had little knowledge of manner in which signatures were obtained on nomination petition for primary election for the Democratic party nomination for office of United States Senators, circulator's affidavit was invalid. In re Elliott, 362 A.2d 438, 26 Pa. Cmwlt. 20, 1976, affirmed 353 A.2d 446, 466 Pa. 463.

Petitions seeking referenda on questions of granting licenses for sale of malt and brewed beverages and of liquor were not invalid because one circulator had signed her affidavit by use of her husband's name preceded by title of Mrs. instead of by her Christian name and married surname, where affidavit was not false and where it did not contain any averment that affiant's signature thereto was way her name appeared on registration rolls and where her identity as circulator and as qualified and registered elector of political subdivision was never questioned. In re Blair Tp., Blair County, Retail Malt and Brewed Beverage Referendum, 114 A.2d 148, 382 Pa. 295, 1955.

Where affiant who verified nomination petition of candidate for nomination for office of county coroner knew that signatories signed with full knowledge of contents of petition, that their respective residences were correctly stated in petition, that they all resided in the county, that each signed on date set opposite his name and that they were qualified Republican electors in the county, fact that affiant did not personally secure all signatures did not render verification defective. In re Frank, 98 A.2d 255, 173 Pa.Super. 400, 1953.

Under this section, objection that affiant to certain nominating petitioners was incompetent to make the required affidavit was proper. In re Objections to Nomination Papers of "Socialist Labor", 1 A.2d 831, 332 Pa. 78, 1938.

Court will not set aside a nomination petition for office of controller of a first class township merely because the candidate, in his petition, designated the office sought as "comptroller". Petition of

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Note 8

Horton, 11 D. & C.2d 706, 44 Del.Co. 216, 49 Mun. 93, 1959.

Where nominating petition was defective in that the accompanying affidavit certifying that the candidate was a competent accountant was inaccurate, court set aside the petition before the primary election rather than wait to pass upon his qualifications subsequent to the election. *Petition of Horton*, 11 D. & C.2d 706, 44 Del.Co. 216, 49 Mun. 93, 1959.

Where First Class Township Code provided that controller should be an accountant, a candidate's nomination affidavit that the candidate was eligible was inaccurate and therefore defective where candidate was not an accountant and the nominating petition was set aside. *Petition of Horton*, 11 D. & C.2d 706, 44 Del.Co. 216, 49 Mun. 93, 1959.

A nomination petition may be set aside by the court prior to the primary election upon application where it appears that the candidate is not qualified. *Petition of Horton*, 11 D. & C.2d 706, 44 Del.Co. 216, 49 Mun. 93, 1959.

A court has no jurisdiction on petition to set aside a nomination petition under this section, to inquire into the qualifications of a candidate. *Nomination of Michalow*, 75 D. & C. 607, 1949.

9. Signatures

For purpose of determining whether signatures on nomination petition were valid, signatories could not be considered as registered voters on date their applications were received by county registration commission. *Brumbach v. Weaver*, 525 A.2d 15, 105 Pa.Cmwlth. 526, 1987.

Trial court did not err in invalidating signatures on nomination petition made by signatories whom nominee had stipulated had previously signed another's nomination petition. *Brumbach v. Weaver*, 525 A.2d 15, 105 Pa.Cmwlth. 526, 1987.

Signatures of persons who were not registered voters would be stricken from nomination petition of candidate for representative in the General Assembly, as would a duplicate signature. *Petition of McLaughlin*, 362 A.2d 469, 26 Pa. Cmwlth. 16, 1976.

Assertions that signature on nomination petition was not signature of elector registered and enrolled at address affixed

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to signature in petition, that elector who signed nomination petition was enrolled in another party, that signature was not sufficiently legible as to be capable of identification, that elector affixed his signature twice to petition, that elector signed another nomination petition for same office, that signature was a forgery and that signature showed a date outside period for circulation were proper objections to a nomination petition for the office of United States Senator in a primary election. In *re Elliott*, 362 A.2d 438, 26 Pa.Cmwlth. 20, 1976, affirmed 353 A.2d 446, 466 Pa. 463.

Where nomination petition for primary election for the Democratic party nomination for office of United States Senator contained less than 100 signatures of registered and enrolled members of the Democratic party in each of at least ten counties of Commonwealth, nomination petition was invalid and had to be set aside. In *re Elliott*, 362 A.2d 438, 26 Pa.Cmwlth. 20, 1976, affirmed 353 A.2d 446, 466 Pa. 463.

Signatures which appeared on nomination petition for primary election for the Democratic party nomination for office of United States Senator and which were dated two days after date of circulator's affidavit were invalid. In *re Elliott*, 362 A.2d 438, 26 Pa.Cmwlth. 20, 1976, affirmed 353 A.2d 446, 466 Pa. 463.

Under § 2868 of this title and this section, relating to nomination petitions of candidates for office, signatures by same persons made on same dates on two nomination petitions will not invalidate a petition, but at most, upon objection, signatures will be disregarded in count of nominators, hence where one of candidates for school director withdrew within time prescribed by § 2874 of this title, signatures of persons on his petition, also appearing on petition of another candidate for same office, will be counted as valid signatures for other candidate, since intent of code is merely to prevent counting of duplicate names for more than one candidate. In *re Lower Allen Tp. School Directors*, 16 D. & C.2d 500, 9 Cumb. 149, 1960.

A nomination petition which required 100 signatures, and which contained 101 ostensible signatures, was declared invalid where 2 persons had signed more than 20 days prior to the last day for filing, contrary to § 2868 of this title, and 4

persons had signed petitions for two different candidates for the same office, rendering their signatures on the contested petition invalid under this section. In re Carter's Nomination, 75 Dauph. 19, 1961, affirmed 159 A.2d 691, 398 Pa. 548.

10. Other filings

The requirement that a candidate filing nomination papers as the candidate of a "political body" at the general election shall not have had his name presented as a candidate by nomination petitions for any office to be voted for at the primary election, refers to the status of the candidate at the time of filing the nomination papers and where, as of that date, the only nominating petition filed on behalf of the candidate in connection with the primary election had been refused as defective, the mere fact of its filing did not bar him from filing nomination papers as candidate of a political body other than the political party involved in the primary election. Oberdorf v. Rumberger, 70 D. & C.2d 192, 47 Northumb.L.J. 153, 1975.

Where plaintiff filed nominating papers for the office of sheriff under the independent voters party and the county board of elections refused to accept the nominating papers because of the plaintiff's prior filing of other petition for democratic nomination, which had been set aside for insufficient signatures, plaintiff was not a candidate of another political group at the time his nominating papers were filed and, therefore, was a legitimate candidate of the independent voters party. Oberdorf v. Rumberger, 70 D. & C.2d 192, 47 Northumb.L.J. 153, 1975.

11. Cure of defect

County commissioner candidate who timely filed nomination petition with unsigned statement of financial interest could appear on ballot; candidate amended his petition. Smith v. Brown, 590 A.2d 816, 139 Pa.Cmwth. 304, 1991.

"Mismatched" circulator's affidavit attached to candidate's nomination petition, on which circulator signed her name on proper line of affidavit but name of candidate was printed in body of affidavit form, was amendable defect. In re Graham, 574 A.2d 1182, 133 Pa.Cmwth. 71, 1990.

Failure to affix signature to circulator's affidavit for nominating petition was an

amendable defect where the defect was obvious on the face of the affidavit and the affidavit was merely incomplete. In re Nomination Petition of Fowler, 574 A.2d 127, 132 Pa.Cmwth. 639, 1990.

Party office candidate's nominating petition, which contained material error because pages of petitions were not bound and numbered consecutively, could be amended, where nomination petition papers were handed simultaneously to clerk across counter and were obviously part of same petition. In re Freeman, 540 A.2d 606, 115 Pa.Cmwth. 300, 1988.

Where nominating petition for party office has candidate's name printed correctly on front page but misspelled on other side of petition where circulator's and candidate's affidavits appear, defect is de minimis and court in its discretion may allow amendments to cure defect. In re Freeman, 540 A.2d 606, 115 Pa. Cmwth. 300, 1988.

Nomination petition of candidate who duly swore to content of her affidavits and oaths within her nomination petition, but who failed to subscribe her signature to them, was amendable for purpose of remedying absence of subscribed signatures. In re McAndrew, 524 A.2d 1072, 105 Pa.Cmwth. 503, 1987.

When a party presents an election petition containing a fatal defect, amendment may not be permitted on an allegation that the defect was caused by misunderstanding or misreading of the Election Code. Appeal of Fairview Associates, Inc., 433 A.2d 929, 61 Pa.Cmwth. 404, 1981.

A court may allow later amendment when a party's defective election petition is a result of that party's reasonable reliance on a representation, misrepresentation or mistake by an employee or representative of the board of elections. Appeal of Fairview Associates, Inc., 433 A.2d 929, 61 Pa.Cmwth. 404, 1981.

Certain electors were properly granted leave to file additional signatures nunc pro tunc on their petition to place a local liquor referendum on the primary election ballot of May 15, 1979, where electors' error in obtaining a sufficient number of signatures on the petition by date of filing was made in reasonable reliance on incorrect information provided by the board of elections, which advised electors that only 345 signatures

25 P.S. § 2937

Note 11

were required, when in fact 573 signatures were required, and where electors attempted to verify such figure and were again advised by employee of the board of elections that they needed 345 signatures. Appeal of Fairview Associates, Inc., 433 A.2d 929, 61 Pa.Cmwlt. 404, 1981.

Nomination petitions filed on behalf of one who sought to be a candidate for political party's nomination to the office of township commissioner for a specified ward, which were fatally defective because their circulator was not a resident within the specified ward, could not be amended by substituting a person who was also unqualified to be a circulator in that he did not become a registered member of the political party until after the filing deadline. In re McDermott, 431 A.2d 1180, 60 Pa.Cmwlt. 486, 1981.

Defect in nomination petitions filed on behalf of one who sought to be a candidate for political party's nomination to the office of township commissioner for a specified ward could not be cured by substitute petition filed nine days late. In re McDermott, 431 A.2d 1180, 60 Pa.Cmwlt. 486, 1981.

Where candidate for office of member of state committee of Democratic party appeared before notary public and made appropriate declarations contained in affidavits of candidate and circulator of nomination petition, notary public signed affidavits as having been sworn and subscribed before him but failed to authenticate such acts by impressing his seal upon affidavits, so that affidavits were defective when received by Bureau of Elections on last day for filing, candidate would be allowed to amend his petition nunc pro tunc. Petition of Kloiber, 362 A.2d 484, 26 Pa.Cmwlt. 50, 1976.

Nomination petitions with improperly completed affidavits are amendable at discretion of court, but nomination petitions with no affidavits at all leave nothing to be amended and are, therefore, fatally defective. Petition of Kloiber, 362 A.2d 484, 26 Pa.Cmwlt. 50, 1976.

Permitting candidate who had failed to swear in presence of notary to affidavits in support of nomination petition to amend petition by submitting new supporting affidavits properly sworn to was not an abuse of discretion. Petition of Ross, 190 A.2d 719, 411 Pa. 45, 1963.

ELECTION CODE

Where there was an obvious error in nominating petition in that affidavit to the petition had typed therein the name of the candidate instead of the affiant by whom the affidavit was signed and sworn to, court did not abuse its discretion in permitting, after hearing on petition to set aside nominating petition, an amendment to the affidavit striking out name of candidate and inserting name of the affiant. In re Snyder, 104 A.2d 758, 175 Pa.Super. 382, 1954.

Where a candidate, in accordance with instructions received upon obtaining the nomination petition blanks, took them to a notary and had them notarized before any signatures were obtained thereon, and the subsequent dates beside each signature on the petitions were true and correct, petitioner would be allowed, under § 2936 of this title and this section, to amend the petitions by filing a properly dated candidate's affidavit and loyalty oath and by also filing a properly dated affidavit of circulators. Petition of Dexter Nomination, 69 D. & C.2d 700, 1975.

Where a nomination petition, filed on the last day permitted by law, omitted the circulator's and candidate's affidavits, the candidate will not be permitted to add these by amendment. In re Banks Nomination Petition, 69 D. & C.2d 548, 97 Dauph. 217, 1974.

A material error or defect on the face of a nominating petition may be amended with court approval, but this is not so with respect to defects not apparent on the face of petition. Primary Nomination Petition of Brady, 31 D. & C.2d 711, 26 Fay.L.J. 44, 1964.

12. Jurisdiction

Jurisdiction for challenges to nomination petitions for state senator and state representative lay with Commonwealth Court. In re Vidmer, 442 A.2d 1203, 65 Pa.Cmwlt. 562, 1982, affirmed 444 A.2d 100, 497 Pa. 642.

Equity has no jurisdiction to require Secretary of Commonwealth to reject nomination petitions of candidates for offices of Superior Court judges because of deviation of candidates' appended affidavits from form required by statute and prescribed by Secretary, in view of complete and adequate remedy under Election Code by presentation of petitions in common pleas court of county wherein nomination petitions were filed to set

them aside. *Thompson v. Morrison*, 44 A.2d 55, 352 Pa. 616, 1945.

13. Standing

Member of an opposing party does not have standing to challenge nomination petition of candidate in another party's primary election. In *re Williams*, 625 A.2d 1279, 155 Pa.Cmwlt. 494, 1993.

Registered Republican voters did not have standing to challenge candidate's Democratic party primary nomination petition. In *re Williams*, 625 A.2d 1279, 155 Pa.Cmwlt. 494, 1993.

Committee of political party had standing to challenge nominating petition of candidate for office of county commissioner. In *re Barlip*, 428 A.2d 1058, 59 Pa.Cmwlt. 178, 1981.

14. Service of petition

Failure to serve Secretary of the Commonwealth within seven-day time limit renders objection petition to political party's substitute nomination certificate void; there is no exception to rule, and even if objector places petition in mail within time limit, Secretary must receive copy of petition within time period. In *re Evans*, 631 A.2d 797, Cmwlt.1993, affirmed 632 A.2d 862.

Failure to serve Bureau of Elections with copy of objection petition within three days of filing of substitute nomination certificate rendered petition void. In *re Evans*, 631 A.2d 797, Cmwlt.1993, affirmed 632 A.2d 862.

Failure to timely serve secretary of Commonwealth rendered petition to set aside nomination petition void. In *re Lee*, 578 A.2d 1277, 525 Pa. 155, 1990.

Service by mail of petition to set aside nomination petition was not precluded by the Election Code. Petition of *Acosta*, 578 A.2d 407, 525 Pa. 135, 1990.

Service on the Secretary of the Commonwealth of petition to set aside a nomination petition was not timely where it was mailed on the last day permitted for service but not received until several days later. Petition of *Acosta*, 578 A.2d 407, 525 Pa. 135, 1990.

Service of petition to set aside nomination petition on officer or board with whom nomination petition has been filed, within the time limit prescribed by the

Election Code, is mandatory. Petition of *Acosta*, 578 A.2d 407, 525 Pa. 135, 1990.

This section requiring service of copy of petition to set aside nominating petition upon the appropriate election office, in addition to the court, is not jurisdictional. In *re Lee*, 574 A.2d 1168, 133 Pa.Cmwlt. 1, 1990, reversed 573 A.2d 1026, 524 Pa. 467, writ issued 578 A.2d 1277, 525 Pa.155.

Copy of petition to set aside nomination papers should have been served on Secretary of the Commonwealth within the seven-day period in which objections were to be presented to the court. In *re Lee*, 574 A.2d 1168, 133 Pa.Cmwlt. 1, 1990, reversed 573 A.2d 1026, 524 Pa. 467, writ issued 578 A.2d 1277, 525 Pa. 155.

Even though copy of petition to dismiss nominating petition may not have been timely filed on the Secretary of the Commonwealth, court would not dismiss the objections for that reason where it was faced with a nomination petition which was admittedly lacking the number of valid signatures required by 25 P.S. § 2872.1. In *re Lee*, 574 A.2d 1168, 133 Pa.Cmwlt. 1, Cmwlt.1990, reversed 573 A.2d 1026, writ issued 578 A.2d 1277, 525 Pa. 155.

Under this section, governing challenges to nomination petitions, the lower court has complete control to regulate time and manner of giving notice and fixing of hearings. In *re Morgan*, 428 A.2d 1055, 59 Pa.Cmwlt. 161, 1981.

If personal service of petitions to challenge and strike court's order dismissing petitions challenging nomination petitions cannot be made, because it is avoided, for any reason, court can be asked to authorize other forms of notice. In *re Morgan*, 428 A.2d 1055, 59 Pa.Cmwlt. 161, 1981.

Lower court's action in ordering that individual appellees be personally served with petition to challenge and strike nominating petition of each individual appellee was not inappropriate, in that short time allowed for hearing and disposition of challenge to nomination petitions suggests that persons whose petitions are challenged should be quickly and surely notified. In *re Morgan*, 428 A.2d 1055, 59 Pa.Cmwlt. 161, 1981.

Note 14

Handing petition to challenge and strike nominating petition of each individual appellee to an adult at the home of appellees and leaving such petition at the front door of home of appellees did not comply with the lower court's requirement that the individual appellees be personally served, i.e., be handed a copy of the appellants' respective petitions and the court's order. In re Morgan, 428 A.2d 1055, 59 Pa.Cmwlt. 161, 1981.

Inability to perfect initial service of process of objections to nomination petitions on prospective candidate within time allowed does not defeat court's jurisdiction to determine matter and does not circumvent all objections to nomination petitions. In re Moore, 291 A.2d 531, 447 Pa. 526, 1972.

The evident purpose of provision of this section requiring that petition objecting to nomination petition be served on officer or board with whom nomination petition was filed is to advise official with whom nomination petition was filed that objections thereto have been made so that name of candidate whose petition is attacked will not be placed on ballot until controversy is finally determined. Appeal of Beynon, 88 A.2d 789, 370 Pa. 532, 1952.

Where original petition to set aside nomination petition of candidate for representative in Congress was timely served on Secretary of Commonwealth, purpose of this section relating to serving of such petitions was effectuated and hearings were properly entertained, though no service of either the order reopening such proceedings or the amended petition was made on Secretary of Commonwealth. Appeal of Beynon, 88 A.2d 789, 370 Pa. 542, 1952.

15. Hearing

Order fixing date for hearing on objections to nominating petition and affording prospective candidate less than 24 hours after service of objections on him to prepare defense to objections was not unreasonable and did not deprive prospective candidate of procedural due process. In re Moore, 291 A.2d 531, 447 Pa. 526, 1972.

Provision of this section that hearings on objections to nomination petitions be held within ten days of last allowable day for filing nomination petitions is an encroachment on judicial function and is

considered directory and not mandatory. In re Moore, 291 A.2d 531, 447 Pa. 526, 1972.

Commonwealth Court had jurisdiction, more than ten days after last allowable day for filing nomination petitions, to continue hearing on objections to petitions to afford objector additional opportunity to effect service of process of objections and to hear matter more than ten days after last allowable day for filing petitions, despite statute providing that hearing on objections to nominating petitions shall be held within ten days of last day for filing nominating petitions. In re Moore, 291 A.2d 531, 447 Pa. 526, 1972.

Where candidate knew of objections to nomination petitions at least by 28th of February and on March 1 when personal service of objections had admittedly been made, counsel for prospective candidate was present at hearing but made no motion for brief continuance after his challenge to jurisdiction had been overruled and withdrew from further participation because of lack of authority, prospective candidate's objection to hearing based on shortness of time between service of objections on him and hearing was waived. In re Moore, 291 A.2d 531, 447 Pa. 526, 1972.

Where proceedings to set aside nomination papers were instituted within 5 days after last day for filing nomination papers as required by this section, but because of pressure of judicial business, time for hearing was fixed later than 10 days from date of filing of petition and decision was postponed by necessity for taking testimony and delay was not unreasonable, but warranted by circumstances, court did not err in postponing hearing for more than 10 days. In re Objections to Nomination Papers of "Socialist Labor", 1 A.2d 831, 832 Pa. 78, 1938.

Where the act to be performed within a fixed time involved the exercise of purely judicial functions such as hearing and decision of matters properly before the court, such as objections under this section, or where it is impossible of judicial performance within the time fixed by the Legislature, such statutory provisions will be held to be directory and not mandatory. In re Objections to Nomination Papers of "Socialist Labor", 1 A.2d 831, 832 Pa. 78, 1938.

Objections must be filed within seven days and must be heard within ten days and determined within fifteen days from the last date to file nominating petitions. Primary Nomination Petition of Brady, 31 D. & C.2d 711, 26 Fay.L.J. 44, 1964.

16. Presumptions and burden of proof

Challenges to nomination petitions must overcome presumption of validity. In re Williams, 625 A.2d 1279, 155 Pa. Cmwlt. 494, 1993.

17. Evidence

Signatures on nominating petition for party office could not be found invalid on basis that people who signed petition were not registered members of party or resided outside the confines of voting district, where no testimony or other evidence was presented to dispute signatures challenged. In re Freeman, 540 A.2d 606, 115 Pa.Cmwlt. 300, 1988.

Signatures on nominating petition for party office could not be found invalid on basis that signatures were forgeries, where no testimony was presented to dispute authenticity of signatures. In re Freeman, 540 A.2d 606, 115 Pa.Cmwlt. 300, 1988.

Candidate's nominating petition for party office could not be set aside on basis that dates following signatures on petition appeared to be written by same hand, where no testimony, expert or otherwise, was presented on issue. In re Freeman, 540 A.2d 606, 115 Pa.Cmwlt. 300, 1988.

Candidate's nominating petition for party office could not be set aside on basis that some persons who signed petition did not reside within confines of voting district, two signatures were in same handwriting, one signature was printed, and two signatures were chronologically out of order, where no testimony was offered to substantiate challenge. In re Freeman, 540 A.2d 606, 115 Pa. Cmwlt. 300, 1988.

Candidate's nominating petition for party office could not be set aside on basis that he was not registered democrat and therefore was not qualified as candidate for democratic committee post, where candidate presented card showing that he was registered democrat. In re Freeman, 540 A.2d 606, 115 Pa.Cmwlt. 300, 1988.

Candidate's nominating petition for party office could not be set aside on basis that candidate had supported other party's candidates in past; party challenging petition presented no legal reason why this would preclude candidate's nomination and no credible evidence to support challenge. In re Freeman, 540 A.2d 606, 115 Pa.Cmwlt. 300, 1988.

Where privilege of confidentiality of spousal communication was not asserted by wife of candidate personally and where none of wife's testimony would fall within category of a confidential communication, candidate's objection to having wife testify in hearing on petitions challenging candidate's nomination petitions would be overruled. In re Vidmer, 442 A.2d 1203, 65 Pa.Cmwlt. 562, 1982, affirmed 444 A.2d 100, 497 Pa. 642.

Uncontradicted testimony of handwriting expert was sufficient evidence to require invalidation on ground of forgery of certain signatures appearing on nomination petition for primary election for the Democratic party nomination for office of United States Senator. In re Elliott, 362 A.2d 438, 26 Pa.Cmwlt. 20, 1976, affirmed 353 A.2d 446, 466 Pa. 463.

18. Contempt

Where county election board of Philadelphia designated date for examination and investigation into signing and preparation of nomination paper and certain persons who appeared before the board in response to its subpoena refused to answer certain questions, the common pleas court could not punish the parties for contempt. County Election Bd. of Philadelphia v. Rader, 58 A.2d 187, 162 Pa.Super. 499, 1948.

19. Injunction

The common pleas court, sitting in equity, did not abuse its discretion in dissolving temporary injunction against computation of votes cast at borough referendum election on question of permitting Sunday motion picture exhibitions, where complainant's evidence and pertinent law showed that complainant would be unable to make out case for injunction on final hearing because of his neglect to make timely objection to referendum petition, which did not meet requirements for nomination petitions, under §§ 2868, 2869 of this title. In re Motion Picture

Note 19

Exhibitions on Sunday in Borough of Hellertown, 47 A.2d 273, 354 Pa. 255, 1946.

20. Costs

Court can impose costs, as justice requires, when either the nominating petition is set aside or the petition to set aside the nominating petition is dismissed. In re Lee, 578 A.2d 1277, 525 Pa. 155, 1990.

21. Appeal

The Commonwealth Court had jurisdiction of appeals from dismissals of petitions of challenge and strike nominating petition of each individual appellee pursuant to this section governing challenges of nomination petitions, by virtue of 42 Pa.C.S.A. § 762, governing appeals in courts of common pleas. In re Morgan, 428 A.2d 1055, 59 Pa.Cmwth. 161, 1981.

§ 2938. Withdrawal of nominated candidates

(a) Any person who has been nominated by any political party in accordance with the provisions of this act, as a candidate for the office of presidential elector, United States Senator, Representative in Congress or for any State office, including that of senator, representative and judge of court of record, may withdraw his name from nomination by request in writing, signed by him and acknowledged before an officer qualified to take acknowledgement of deeds, and filed in the office of the Secretary of the Commonwealth. Any person who has been similarly nominated as a candidate for any other office may withdraw his name from nomination by similar request, filed with the county board of elections of the proper county. Such written withdrawals shall be filed with the Secretary of the Commonwealth or the county board of elections, as the case may be, at least eighty-five (85) days previous to the day of the general or municipal election. Such withdrawals to be effective must be received in the office of the Secretary of the Commonwealth not later than five (5) o'clock P.M. on the last day for filing same, and in the office of any county board of elections not later than the ordinary closing hour of said office on the last day for filing same. No name so withdrawn shall be printed upon the ballot or ballot labels. No candidate may withdraw any withdrawal notice already received and filed, and thereby reinstate his nomination.

(b) Any person who has been nominated by any political body in accordance with the provisions of this act, as a candidate for the office of presidential elector, United States Senator, Representative in Congress or for any State office, including that of senator, representative and judge of a court of record, may withdraw his name from nomination by request in writing, signed by him and acknowledged before an officer qualified to take acknowledgement of deeds and filed in the office of the Secretary of the Commonwealth. Any person who has been similarly nominated as a candidate for any other office may withdraw his name from nomination by a similar request, filed with the county board of elections of the proper county. Such written withdrawals shall be filed with the Secretary of the Commonwealth or the county board of elections, as the case may be,

not later than the ordinary closing hour of said office on the seventh day next succeeding the last day for filing nomination papers for said office. No name so withdrawn shall be printed upon the ballot or ballot labels. No candidate may withdraw any withdrawal notice already received and filed and thereby reinstate his nomination. 1937, June 3, P.L. 1333, art. IX, § 978. Amended 1944, Ex.Sess., May 5, P.L. (1945) 1448, § 1; 1945, March 9, P.L. 29, § 6; 1947, March 5, P.L. 35, § 1; 1951, March 6, P.L. 3, § 9; 1963, Aug. 13, P.L. 707, § 13, effective Jan. 1, 1964; 1980, July 11, P.L. 591, No. 127, § 4, imd. effective.

Historical and Statutory Notes

The 1980 amendment designated the former section as subsec. (a), deleted reference to nomination by a political body, and added subsec. (b).

Library References

Elections ⇨146. C.J.S. Elections § 95.
 WESTLAW Topic No. 144. P.L.E. Elections § 51.

Notes of Decisions

Review 2
Time for withdrawal 1

1. Time for withdrawal

Provision in this section setting forth 85-day period for withdrawal of candidates prior to election, was merely directory and not mandatory; board of elections could not refuse to accept substitute nominee duly presented for county controller on ground that withdrawal of candidate was filed three days late. *Perles v. Hoffman*, 213 A.2d 781, 419 Pa. 400, 1965.

A withdrawal of candidacy on October 12, 1923, from an election to be held on November 6, 1923, was filed within time prescribed by act of 1893, June 10, P.L. 419, § 7, as amended, repealed, requiring 25 days for such withdrawal, in view of

provision of § 5 of the act as amended, repealed, as to computation of time. In *re Alexander*, 124 A. 419, 280 Pa. 209, 1924.

If a candidate desires to withdraw, he must declare his intention within the time fixed by Act of 1893, June 10, P.L. 419, § 7, as amended, repealed, in order that his party or the body of citizens that named him may have an opportunity to supply his place. *Com. v. Martin*, 21 C.C. 453, 7 Dist. 666, 1 Dauph. 340, 1898.

2. Review

Superior Court was without jurisdiction to hear appeals from orders restraining County Board of Elections from printing certain names on ballots. *Martonick v. Beattie*, 117 A.2d 715, 383 Pa. 168, 1956.

§ 2938.1. Vacancy in party nomination by failure to pay filing fee or for failure to file loyalty oath

Every person nominated at any primary election as the candidate of any political party for any office, other than a borough, town, township, school district or poor district office, or the office of justice of the peace, or constable, who has not paid the filing fee required by section nine hundred thirteen of this act, as amended,¹ for the filing of a nomination petition for such office, or who has not filed the loyalty oath required by section 14, act of December 22, 1951 (P.L.

1726), known as the "Pennsylvania Loyalty Act", as last amended June 19, 1961 (P.L. 446),² shall pay the amount of such fee to and file such oath with the Secretary of the Commonwealth, or the county board of elections, as the case may be, at least eighty-five (85) days previous to the day of the general or municipal election at which such candidate's name would appear on the ballot. Failure to pay such fee or file such oath within the time herein prescribed shall result in a vacancy in such party nomination. Such vacancy shall be filled in the manner hereinafter provided for the filling of such vacancies happening by reason of the death or withdrawal of any candidate.

1937, June 3, P.L. 1333, art. IX, § 978.1, added 1943, May 27, P.L. 747, § 1. Amended 1944, Ex.Sess., May 5, P.L. (1945) 1448, § 2; 1945, March 9, P.L. 29, § 7; 1945, May 24, P.L. 955, § 2; 1947, March 5, P.L. 35, § 2; 1951, March 6, P.L. 3, § 9; 1963, Aug. 13, P.L. 707, § 13, effective Jan. 1, 1964. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

¹ 25 P.S. § 2873.

² 65 P.S. § 224.

Historical and Statutory Notes

The 1978 amendment deleted reference to the office of alderman.

Section 3(d) of Act 1978, April 28, P.L. 202, No. 53 (the Judiciary Act Repealer Act) [42 P.S. § 20003(d)], provides:

"An express reference in any statute or other law to a justice of the peace or to the office of justice of the peace shall

hereafter be deemed a reference to a district justice or to the office of district justice. Any person appointed or elected to judicial office in a magisterial district shall be known as and hereafter shall be commissioned as the 'district justice' in and for the appropriate magisterial district."

Library References

Elections ⇐147.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 93, 136.
P.L.E. Elections § 41.

Notes of Decisions

Validity 1

scribed in Constitution. Rowe ex rel. Schwartz v. Lloyd, 36 A.2d 317, 348 Pa. 545, 1944.

1. Validity

This section is not invalid as violating the freedom and equality of election pre-

§ 2938.2. Revocation of declaration of candidacy for retention

In the event a justice or a judge had filed a declaration of candidacy for retention under the provisions of section 15 of the Constitution¹ of the Commonwealth of Pennsylvania and thereafter, but on or before the thirteenth Tuesday preceding the primary election, revoked the declaration by notifying the Secretary of the

Commonwealth in writing of the same, the Secretary of the Commonwealth shall include such office in certifications under provisions of section 905.²

1937, June 3, P.L. 1333, art. IX, § 978.2, added 1974, Jan. 16, P.L. 5, No. 2, § 2, imd. effective.

¹ Const. Art. 5, § 15.

² 25 P.S. § 2865.

Library References

Elections ☞ 146.

WESTLAW Topic No. 144.

C.J.S. Elections § 95.

P.L.E. Elections § 51.

§ 2938.3. Vacancy due to revocation of declaration of candidacy for retention

In the event a justice or a judge had filed a declaration of candidacy for retention under the provisions of section 15 of the Constitution¹ of the Commonwealth of Pennsylvania and thereafter, but after the thirteenth Tuesday preceding the primary election and prior to sixty (60) days preceding the municipal election revoked the declaration by notifying the Secretary of the Commonwealth in writing of the same, nomination to fill such vacancy shall be made in accordance with section 993 of this act.

1937, June 3, P.L. 1333, art. IX, § 978.3, added 1974, Jan. 16, P.L. 5, No. 2, § 2, imd. effective.

¹ Const. Art. 5, § 15.

Library References

Elections ☞ 146.

WESTLAW Topic No. 144.

C.J.S. Elections § 95.

P.L.E. Elections § 51.

Notes of Decisions

In general 1

1. In general

Nomination vacancies that occurred when two judges withdrew their declara-

tions of candidacy after last day for filing nomination petition, but more than 60 days preceding municipal election, were properly filled by party nominations. *Friedman v. Lewis*, 598 A.2d 1361, 143 Pa.Cmwlth. 367, 1991.

§ 2938.4. Withdrawal; order of court

Upon petition to the court of common pleas, or the Commonwealth Court, when a court of common pleas is without jurisdiction, by a candidate for nomination or election, or, in the case of the death of such candidate by the treasurer of his political committee, the court

shall order the withdrawal of said candidate's name for nomination or election, except upon a showing of special circumstances.

1937, June 3, P.L. 1333, § 978.4, added 1980, July 11, P.L. 591, No. 127, § 5, imd. effective.

Notes of Decisions

Special circumstances 1

Petition of Dieterick, 583 A.2d 1258, 136 Pa.Cmwlt. 66, 1990.

1. Special circumstances

Printing of election ballots constituted "special circumstances" under this section permitting court to order withdrawal of nominated candidate's name from election ballot at any time, except upon showing of special circumstances; fact that ballots had been printed justified denial of candidate's petition to withdraw.

Probable violation of deadline for receipt of absentee ballots if ballots had to be sent again to military personnel constituted "special circumstances" under this section permitting court to order withdrawal of nominated candidate's name from election ballot, except upon showing of special circumstances. Petition of Dieterick, 583 A.2d 1258, 136 Pa. Cmwlt. 66, 1990.

§ 2939. Substituted nominations by parties

Any vacancy happening or existing after the date of the primary in any party nomination, by reason of the death or withdrawal of any candidate after nomination, or by reason of the death before or on the day of the primary election of a candidate for nomination who had received a plurality of votes of his party electors cast for the office for which he sought nomination, may be filled by a substituted nomination made by such committee as is authorized by the rules of the party to make nominations in the event of vacancies on the party ticket: Provided, however, That no substitute nomination certificate shall nominate any person who has already been nominated by any political party or by any other political body for the same office. Upon the making of any such substituted nomination, in accordance with the party rules, it shall be the duty of the chairman and secretary or secretaries of the party committee making the nomination to file with the Secretary of the Commonwealth in the case of United States Senator, Representative in Congress and all State officers, including judges of courts of records, senators and representatives, and with the proper county board of elections in the case of other offices, a nomination certificate which shall be signed by the chairman and secretary or secretaries of the said committee, and which shall set forth the following:

(a) The office and district, if any, for which it is filed; (b) the cause of the vacancy; (c) the rule or rules of the political party, setting forth the provisions applicable to a substituted nomination; (d) that a quorum of the committee, caucus or convention, as provided by the party rules, duly convened, and the names of those present at said meeting, or their proxies; that said persons are the duly appointed or

elected members of said committee, caucus or convention; (e) the name, residence and occupation of the candidate duly nominated at said meeting. Every such certificate of nomination shall be sworn to or affirmed by the chairman and secretary or secretaries before an officer qualified to administer oaths.

1937, June 3, P.L. 1333, art. IX, § 979. Amended 1943, May 6, P.L. 196, § 1.

Law Review Commentaries

This section is unconstitutional. 56
Temp.L.Q. 799 (1983).

Library References

Elections ⇨146.
WESTLAW Topic No. 144.

C.J.S. Elections § 95.
P.L.E. Elections § 52.

Notes of Decisions

- In general 3**
- Death 7**
- Parties 4**
- Persons substituted 8**
- Prior nomination 5**
- Purpose 2**
- Review 9**
- Vacancy 6**
- Validity 1**

1. Validity

This section, prohibiting a political party's substitute nomination of "any person who has already been nominated * * * by any other political body for the same office", did not violate First or Fourteenth Amendment rights of political party that filed a substituted nomination certificate naming as its congressional candidate a nominee who had already been separately nominated for the same office as a candidate of a political body. (Per Roberts, J., with two Judges concurring and one Judge concurring in the result.) In re Street, 451 A.2d 427, 499 Pa. 26, 1982.

This section governing substituted nomination by parties was not unconstitutionally overbroad in its application to prevent nomination of candidate running as independent from appearing as party candidate on same election ballot. In re Street, 447 A.2d 1052, 67 Pa.Cmwlth. 441, 1982, affirmed 451 A.2d 427, 499 Pa. 26.

Where all that this section governing substituted nominations by party denied

candidate for congressional seat was double access to ballot, section was not unconstitutional on theory it burdened minority parties, political parties and their candidates. In re Street, 447 A.2d 1052, 67 Pa.Cmwlth. 441, 1982, affirmed 451 A.2d 427, 499 Pa. 26.

Nothing in this section governing substituted nomination for parties prohibits members of organized party from joining with political group and promoting candidacy of minor candidate from political group and nothing in this section prevents prospective candidate from seeking to form coalition of local party with political body to enhance his or her candidacy, therefore, this section did not have effect of harming minority parties on theory that it made coalition between political party and political body impossible and discouraged candidates from seeking nominations because of impossibility. In re Street, 447 A.2d 1052, 67 Pa.Cmwlth. 441, 1982, affirmed 451 A.2d 427, 499 Pa. 26.

"Party raiding" provisions of election code, limiting nominations to one political party, do not constitute an unconstitutional interference with freedom of elections. Krull v. City and County of Philadelphia, 114 A.2d 119, 382 Pa. 1, 1955.

2. Purpose

This section governing substituted nominations by parties is part of anti-raiding provisions of Code, purpose of which is to prevent election ballot from being cluttered by candidates who are

Note 2

seeking to multiply number of times their name appears on ballot under various inviting labels. In re Street, 447 A.2d 1052, 67 Pa.Cmwth. 441, 1982, affirmed 451 A.2d 427, 499 Pa. 26.

3. In general

Under Election Code, an authorized political party committee can make a substituted nomination only if a vacancy happens after the date of the primaries and where there has been a duly nominated party candidate, who has died or withdrawn, thereby producing the vacancy. *Watson v. Witkin*, 22 A.2d 17, 343 Pa. 1, 1941.

Where election was invalid, the appropriate party committee of the county must select a nominee for the office pursuant to this section. In re Jefferson Tp. Primary Election, 53 D. & C.2d 182, 1971.

4. Parties

Where a body of electors which did not have the status of a political party by reason of not having cast a large enough vote at the preceding election, and which under act of 1893, June 10, P.L. 419, § 11, repealed, acting merely as a body of citizens, might have made nominations and also authorized a committee to make further nominations in the event of the death or withdrawal of any of the candidates chosen at the convention, did not pretend to act as a mere body of citizens and as such appoint a committee to act for them, but acted as a political party and appointed a committee designated as the executive committee of a political body, the authority given the executive committee cannot be construed to give its members power to act as a committee of citizens upon discovery being made that the convention appointing them was not duly constituted as a political body. *Brown v. Leib*, 110 A. 463, 267 Pa. 24, 1920.

The law makes a distinction between combinations existing as political parties and those not parties by providing a distinctive procedure for each to follow to secure a place for candidates on the official ballot, and, in determining whether such procedure has been adopted in a given case, the law applicable to the particular character of the combination must be the guiding principle. *Brown v. Leib*, 110 A. 463, 267 Pa. 24, 1920.

5. Prior nomination

Statutory provision prohibiting persons already nominated by one political party from being nominated as substitute candidate by another political party for "same office" does not apply to candidates for positions on courts of common pleas. In re Evans, 631 A.2d 797, Cmwth.1993, affirmed 632 A.2d 862.

Where political party failed to make any nomination for office of state legislator before the primary election the party could not, after the election, file a substitute nomination certificate. *Essler v. Davis*, 419 A.2d 217, 53 Pa.Cmwth. 580, 1980.

6. Vacancy

And where no nomination has been made by political party at primary, no vacancy exists, and thereafter no substituted nomination can be made by nomination paper. *Com. v. King*, 6 D. & C. 155, 1924.

7. Death

Under this section and § 2882 of this title relating to a candidate who shall have died before or on the day of the primary election and shall nevertheless receive a plurality of votes for the office, there is an express direction that the candidate's name shall remain on the ballot in the event of his death on or before the primary, unless there is a substitution made. *Shroyer v. Thomas*, 23 Northumb.L.J. 187, 1952, affirmed 81 A.2d 435, 368 Pa. 70.

8. Persons substituted

Limitations placed upon substituted nominations by political bodies by § 2940 of this title, were inapplicable to substituted nominations made by political party, and therefore Republican County Committee was at liberty to substitute as nominees for vacancies on ticket for November election individuals who had filed nomination petitions as candidates on Democratic ticket at May primary election and had been there defeated. *Mar-tonick v. Beattie*, 117 A.2d 715, 383 Pa 168, 1956.

9. Review

The assumption of duties which bear a direct and substantial relationship to selection of public officials by the electoral process by political party organization has marked the entry by such organiza-

tions into an area of public activity which renders their activities in such area amenable to judicial supervision. *Bentman v.*

Seventh Ward Democratic Executive Committee, 218 A.2d 261, 421 Pa. 188, 1966.

§ 2940. Substituted nominations by political bodies

In case of the death or withdrawal of any candidate nominated by any political body by nomination papers, the committee named in the original nomination papers may nominate a substitute in his place by filing in the proper office a substituted nomination certificate, which shall set forth the facts of the appointment and powers of the committee (naming all its members), of the death or withdrawal of the candidate and of the action of the committee thereon, giving the name, residence and occupation of the candidate substituted thereby, and the truth of these facts shall be verified by the affidavit annexed to the certificate of at least two members of the committee. In the case of a vacancy caused by the death of any candidate, said substituted nomination certificate shall be accompanied by a death certificate, properly certified: Provided, however, That no substitute nomination certificate shall nominate any person who was a candidate for nomination by any political party for any office to be filled at the ensuing November election, whether or not nominated for such office by such political party, or who has already been nominated by any other political body for any office to be filled at the ensuing November or special election.

1937, June 3, P.L. 1333, art. IX, § 980. Amended 1947, July 5, P.L. 1358, § 3.

Library References

Elections ⇨142.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 91, 107.
P.L.E. Elections § 52.

Notes of Decisions

In general 2
Validity 1

1. Validity

“Party raiding” provisions of election code, limiting nominations to one political party, do not constitute an unconstitutional interference with freedom of elections. *Krull v. City and County of Philadelphia*, 114 A.2d 119, 382 Pa. 1, 1955.

2. In general

Limitations placed upon substituted nominations by political bodies by this

section were inapplicable to substituted nominations made by political party, and therefore Republican County Committee was at liberty to substitute as nominees for vacancies on ticket for November election individuals who had filed nomination petitions as candidates on Democratic ticket at May primary election and had been there defeated. *Martonick v. Beattie*, 117 A.2d 715, 383 Pa. 168, 1956.

§ 2941. Time for filing substituted nomination certificates

(a) Substituted nomination certificates to fill vacancies caused by the withdrawal of candidates nominated at primaries or by nomination papers shall be filed with the Secretary of the Commonwealth or proper county board of elections, as the case may be, at least seventy-five (75) days before the day of the general or municipal election: Provided, however, That no substituted nomination certificate by a political body may be filed until after the primary election.

(b) Substituted nomination certificates to fill vacancies caused by the death of candidates nominated at primaries or by nomination papers shall be filed at the proper office at any time prior to the day on which the printing of ballots is started.

1937, June 3, P.L. 1333, art. IX, § 981. Amended 1944, Ex.Sess., May 5, P.L. (1945) 1448, § 3; 1945, March 9, P.L. 29, § 8; 1947, March 5, P.L. 35, § 3; 1947, July 5, P.L. 1358, § 4; 1951, March 6, P.L. 3, § 10; 1963, Aug. 13, P.L. 707, § 13, effective Jan. 1, 1964.

Library References

Elections ⇨ 145.
WESTLAW Topic No. 144.

C.J.S. Elections § 137.
P.L.E. Elections § 52.

Notes of Decisions**In general 1****1. In general**

Secretary of the Commonwealth was required to accept substituted nomination certificate of political body's candidate for vice-president of the United States, even though the substitution request was filed after the candidate substitution deadline, where there was no showing of fraud or intent to subvert the basic tenets of the election laws. *Anderson v. Davis*, 419 A.2d 806, 54 Pa.Cmwlth. 60, 1980.

Where on last day for withdrawing petitions for party primary election a candidate for office of United States Congressman filed a withdrawal, the party committee was not entitled, after the primary, to file a substitute nominating petition for another candidate. *Essler v. Davis*, 419 A.2d 217, 53 Pa.Cmwlth. 580, 1980.

Fifty-five-day period set forth in this section for substitution of a nominee for a withdrawn candidate is merely directory and not mandatory, and a substituted nomination may be made at any time prior to day on which printing of ballots is started. *In re Mayor of City of Altoo-*

na, Blair County, 196 A.2d 371, 413 Pa. 305, 1964.

Election Code sections providing for substitution candidates to fill vacancies caused by death of candidates nominated at primaries or by nomination papers, prior to day on which printing of ballots is started, are merely directory and not mandatory and a substituted nomination for a deceased candidate could be made so long as time permitted the correction of ballots accordingly, even though they had been printed. *In re Substitute Nomination for Vacancy in the Democratic Nomination for Office of County Com'r of Allegheny County*, 118 A.2d 750, 383 Pa. 372, 1956.

An attempt to file a substituted nomination certificate after close of normal business day of county board of elections on last day for filing such certificates is too late. *Appeal of Glinsky*, 15 D. & C.2d 238, 59 Lack.Jur. 85, 1959.

The word "day" as understood in this section relating to the filing of certificates, means that portion of calendar day which comprises the ordinary and customary business hours of office in question, and not the entire twenty-four-hour

period. Appeal of Glinsky, 15 D. & C.2d 238, 59 Lack.Jur. 85, 1959.

A nomination certificate will not be set aside on ground it was not filed within time, on testimony that shortly before time for closing the election bureau on

last date for filing of certificate, a clerk was unable to produce it, stating that he didn't know where it was, where there is other evidence that it had in fact been filed earlier in the afternoon. In re Kie-lar Nomination Certificate, 78 D. & C. 606, 1953.

§ 2941.1. Affidavits of candidates

Each candidate for any State, county, city, borough, incorporated town, township, ward, school district, poor district or election district office, or for the office of United States Senator or Representative in Congress, selected as provided in sections 979 and 980 of this act,¹ shall file with the substituted nomination certificate an affidavit stating—(a) his residence, with street and number, if any, and his post-office address; (b) his election district, giving city, borough, town or township; (c) the name of the office for which he consents to be a candidate; (d) that he is eligible for such office; (e) that he will not knowingly violate any provision of this act, or of any law regulating and limiting election expenses and prohibiting corrupt practices in connection therewith; (f) unless he is a candidate for judge of a court of common pleas, the Philadelphia Municipal Court or the Traffic Court of Philadelphia, or for the office of school board in a district where that office is elective or for the office of justice of the peace, that he is not a candidate for the same office of any party or political body other than the one designated in such certificate; and (g) that he is aware of the provisions of section 1626 of this act² requiring election and post-election reporting of campaign contributions and expenditures. In cases of certificates for candidates for the General Assembly, the candidate's affidavit shall state (1) that the candidate will satisfy the eligibility requirements contained in sections 5 and 7 of Article II of the Constitution of Pennsylvania; (2)(i) that, in the case of a candidate for the office of Senator in the General Assembly, the candidate will be twenty-five (25) years of age on or before the first day of the term for which the candidate seeks election or (ii) that, in the case of a candidate for the office of Representative in the General Assembly, the candidate will be twenty-one (21) years of age on or before the first day of the term for which the candidate seeks election; (3) that the candidate shall have been a citizen and an inhabitant of Pennsylvania four (4) years and an inhabitant of the respective district one (1) year next before the election (unless absent on the public business of the United States or of this State); and (4) that the candidate has not been convicted of

embezzlement of public moneys, bribery, perjury or other infamous crime.

1937, June 3, P.L. 1333, No. 320, § 981.1, added 1985 April 18, P.L. 5, No. 4, § 6, imd. effective. Amended 1986, Feb. 19, P.L. 29, No. 11, § 10, imd. effective.

¹ 25 P.S. §§ 2939 and 2940.

² 25 P.S. § 3246.

Historical and Statutory Notes

The 1986 amendment substituted "common pleas, the Philadelphia Municipal Court or the Traffic Court of Philadelphia" for "record".

Library References

Elections ⇨21.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 19, 149.

Notes of Decisions

In general

1. In general

Statutory provision prohibiting persons already nominated by one political party

from being nominated as substitute candidate by another political party for "same office" does not apply to candidates for positions on courts of common pleas. In re Evans, 631 A.2d 797, Cmwlth.1993, affirmed 632 A.2d 862.

§ 2942. Objections to substituted nomination certificates

All substituted nomination certificates may be objected to, as provided in section 977 of this act,¹ except objections to substituted nomination certificates must, in any case, be filed within three (3) days after the filing of the substituted nomination certificate: Provided, however, That no objections as to form and conformity to law, shall be received after the day on which the printing of ballots is started. For purposes of this section, a certificate shall include all affidavits required to be filed with such certificate under this act.

1937, June 3, P.L. 1333, art. IX, § 982. Amended 1985, April 18, P.L. 5, No. 4, § 7, imd. effective.

¹ 25 P.S. § 2937.

Historical and Statutory Notes

The 1985 amendment added the provision that a certificate shall include all affidavits required to be filed with such certificate under this act.

Library References

Elections ⇨150.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 120, 143.

P.L.E. Elections § 50.

Notes of Decisions

Service 2

Time of filing objections 1

1. Time of filing objections

Compliance with requirement that objections to substitute nomination certificate be filed and served within three days of filing of certificate is mandatory. In re Evans, 632 A.2d 862, Sup.1993.

Failure to comply with mandatory requirement that petition to set aside substitute nomination certificate of candidate for Common Pleas Court judge be filed and served within three days of filing of certificate precluded consideration of objection petition. In re Evans, 632 A.2d 862, Sup.1993.

Court refused to restrain the county election board from certifying the election of a councilman even though a political party improperly filed a substitute nomination certificate for defendant in violation of section of this title, where plaintiff did not raise any objection to the

substitute nomination certificate within three days after its filing as required by this section, but waited until three days after the election. Sherwood v. Elk County Bd. of Elections, 33 D. & C.2d 230, 1965.

2. Service

Failure to serve Secretary of the Commonwealth within seven-day time limit renders objection petition to political party's substitute nomination certificate void; there is no exception to rule, and even if objector places petition in mail within time limit, Secretary must receive copy of petition within time period. In re Evans, 631 A.2d 797, Cmwlth.1993, affirmed 632 A.2d 862.

Failure to serve Bureau of Elections with copy of objection petition within three days of filing of substitute nomination certificate rendered petition void. In re Evans, 631 A.2d 797, Cmwlth.1993, affirmed 632 A.2d 862.

§ 2943. Preservation of nomination petitions, certificates and papers

All nomination petitions, certificates and papers shall be preserved in the offices where they have been filed for a period of at least two years.

1937, June 3, P.L. 1333, art. IX, § 983.

Library References

Records ☞13.

WESTLAW Topic No. 326.

C.J.S. Records §§ 34, 40.

P.L.E. Records § 8.

§ 2944. Certification of nominees by Secretary of the Commonwealth to county boards

The Secretary of the Commonwealth shall, as soon as possible after the last day fixed for the filing of substituted nomination certificates for any November election of presidential electors, United States Senator, Representative in Congress or State officers, including judges of courts of record, senators and representatives, or upon constitutional amendments or other questions to be submitted to the electors of the State at large, transmit to the county board of elections of each county, in which such election is to be held, an official list, certified by him, of all of the candidates who have been

nominated in accordance with the provisions of this act, to be voted for in such county at such election, substantially in the form of the ballots to be used therein, and also a copy of the text of all constitutional amendments and other questions to be voted upon at such election, together with a statement of the form in which they are to be printed on the ballots or ballot labels.

1937, June 3, P.L. 1333, art. IX, § 984. Amended 1963, Aug. 13, P.L. 707, § 14, effective Jan. 1, 1964.

Library References

Elections ⇨ 126(5), 216, 217.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 118, 194, 204 et seq.
P.L.E. Elections §§ 53, 63.

Notes of Decisions

Duty to certify 1
Order of candidates 3
Revocation of certification 2

1. Duty to certify

After objections are dismissed, the secretary of the commonwealth must certify to the county commissioners the name of a candidate whose nomination papers were duly filed. *Commonwealth v. Reeder*, 20 C.C. 113, 6 Dist. 605, 1897.

2. Revocation of certification

Under act of 1913, July 12, P.L. 719, § 9, repealed, and act 1917, May 18, P.L. 244, repealed, when secretary of commonwealth has certified to county commissioners list of candidates of each party

for various offices to be filled, as shown by petitions filed with him, and has notified candidates that their names have been so certified, his action is final and conclusive and he cannot afterwards issue another certificate to the effect that nominee is not qualified and his name should not be printed on official ballot. *Com. v. Hard*, 2 D. & C. 520, 1922.

3. Order of candidates

Under this section the arrangement or order of candidates as forwarded by Secretary of Commonwealth, is mandatory upon the election board of each county. *In re Mistake in Printing of Ballots and Ballot Labels for 1946 General Election*, 57 D. & C. 649, 39 Berks 57, 1947.

(D) NOMINATIONS AND ELECTIONS IN COUNTIES ABOUT TO UNDERGO A CHANGE IN CLASSIFICATION

§ 2950. County boards to ascertain offices to be filled

Whenever, pursuant to the provisions of The General County Law,¹ the Governor certifies a change of classification to any county, the board of county commissioners shall, immediately after the recording of such change, notify the county board of elections of the change in classification. The board of elections shall thereupon promptly ascertain all county offices to be filled at the ensuing municipal election as a result of the impending change in classification and any existing county offices which are not to be filled at said election. For this purpose, it shall be the duty of the chairman of the county committee of each party to send to the board a written notice setting forth all party offices to be filled in the county at the ensuing municipal election.

1937, June 3, P.L. 1333, art. IX, § 990, added 1951, May 24, P.L. 363, § 1.

¹ 16 P.S. § 1 et seq.

Library References

Elections § 126(1).
WESTLAW Topic No. 144.

C.J.S. Elections § 111 et seq.
P.L.E. Elections § 41.

§ 2951. Procedure upon ascertaining offices

When the board shall have ascertained all offices to be filled at the ensuing municipal election, it shall proceed, as already provided in this article,¹ if it is still possible to secure nominations for such offices in accordance with this article at the primary election. But if notice of an impending change in classification, as hereinbefore provided for, does not come to the election board in time for it to ascertain the county offices for the primary election, then all candidates who have been or are nominated for county offices pursuant to subdivision (a) or to subdivision (b) of this article² shall, in all cases where the offices for which they are nominated are the same under the county's present classification and under its new classification which is impending as a result of the Governor's certification, be the candidates for those offices, except for deaths or withdrawals provided for in this act:³ Provided, however, That no office which is not automatically established by law for the impending classification shall be deemed to be established by this section. Any nomination, either for joint county offices or for any separate county office, when such offices or office will become either partly or wholly separate, or will become joint with one or more presently separate county office, upon the ensuing first Monday of January, shall not be construed as a nomination for any of the said offices, but any person being such a nominee may be nominated for any new office or offices ascertained. All offices ascertained, which are to be filled at the municipal election in anticipation of the new classification and for which nominations have not been made pursuant to the foregoing provisions of this subdivision, may have candidates nominated for them as if vacancies had occurred as to the candidates for such offices and as if they were substituted nominations, in accordance with the procedure, insofar as it is applicable, provided by sections 979, 980 and 981(b) of this act,⁴ for substituted nominations, except that the cause of vacancy set out in the nomination certificates shall not be death or withdrawal, but that the office was not ascertained for nominations in time for the regular procedures established by this article.

Upon the ascertainment of the offices to be filled at the ensuing municipal election, if it shall appear that any candidates have been or will be nominated for offices which are to be abolished as a result of the impending change in classification, the county board of elections shall proceed to keep off or to remove from the ballots or ballot labels all such nominations, together with the offices involved.

Upon the ascertainment of offices to be filled at the municipal election pursuant to notice of change in classification, the board shall give notice of all such offices by newspaper publication, at least twice, in accordance with section 106 of this act,⁵ indicating whether the nominations thereto were obtained at the primary election or are to be obtained as hereinbefore provided. Notice of the November election shall be given, as provided in section 1201 of this act,⁶ and shall set forth, (1) any existing county offices which will cease to exist on the ensuing first Monday of January, indicating that those offices and any candidates therefor will not appear as such upon the ballots or ballot labels; (2) existing county offices which will subsist and the candidates therefor; (3) county offices which will come into existence on the ensuing first Monday of January and the candidates therefor.

1937, June 3, P.L. 1333, art. IX, § 991, added 1951, May 24, P.L. 363, § 1.

¹ 25 P.S. § 2861 et seq.

² 25 P.S. §§ 2861 et seq., 2911 et seq.

³ 25 P.S. § 2600 et seq.

⁴ 25 P.S. §§ 2939, 2940, 2941(b).

⁵ 25 P.S. § 2606.

⁶ 25 P.S. § 3041.

Library References

Elections ⇨ 126(1).

WESTLAW Topic No. 144.

C.J.S. Elections § 111 et seq.

P.L.E. Elections § 41 et seq.

(E) NOMINATIONS TO FILL CERTAIN VACANCIES

§ 2953. Filing of certain vacancies in public office by means of nomination certificates and nomination papers

(a) In all cases where a vacancy shall occur for any cause in an elective public office, including that of judge of a court of record, at a time when such vacancy is required by the provisions of the Constitution or the laws of this Commonwealth to be filled at the ensuing election but at a time when nominations for such office cannot be made under any other provision of this act, nominations to fill such vacancies shall be made by political parties in accordance with party rules relating to the filling of vacancies by means of nomination certificates in the form prescribed in section nine hundred ninety-four of this act,¹ and by political bodies by means of nomination papers in accordance with the provisions of sections nine hundred fifty-one, nine hundred fifty-two and nine hundred fifty-four of this act.² No such nomination certificate shall nominate any person who has already been nominated by any other political party or by any political body for the same office unless such person is a candidate for the office of judge of a court of common pleas, the Philadelphia

Municipal Court or the Traffic Court of Philadelphia, or for the office of school director in districts where that office is elective or for the office of justice of the peace. No such nomination papers shall nominate any person who has already been nominated by any political party or by any other political body for any office to be filled at the ensuing November election, unless such person is a candidate for the office of judge of a court of common pleas, the Philadelphia Municipal Court or the Traffic Court of Philadelphia, or for the office of school director in districts where that office is elective or for the office of justice of the peace.

(b) Said nomination certificates and nomination papers for State public offices and judges of courts of records shall be filed in the office of the Secretary of the Commonwealth at least fifty (50) days prior to a general or municipal election, as the case may be. Nomination certificates and nomination papers for public offices in counties, cities, boroughs, towns, townships, wards and school districts and for the offices of aldermen and justices of the peace shall be filed in the office of the county board of elections at least fifty (50) days prior to a municipal election.

(c) The provisions of this subdivision shall not be construed to apply to elective public offices for which a method is provided in this act for the holding of special elections to fill vacancies in certain public offices, or to the filling of vacancies in the office of presidential electors in accordance with the provisions of section nine hundred eighteen of this act.³ Nor shall the provisions of this subdivision be construed to apply to any public office for which, by the provisions of any statute, a vacancy is required to be filled at the next election appropriate to the office, if said vacancy occurs at any time within two (2) calendar months immediately preceding a general or municipal election, as the case may be.

1937, June 3, P.L. 1333, art. IX, § 993, added 1953, Aug. 26, P.L. 1479, § 1. Amended 1963, Aug. 13, P.L. 707, § 15, effective Jan. 1, 1964; 1972, July 7, P.L. 732, No. 171, § 3, imd. effective; 1974, June 27, P.L. 413, No. 146, § 2, imd. effective; 1986, Feb. 19, P.L. 29, No. 11, § 11, imd. effective.

¹ 25 P.S. § 2954.

² 25 P.S. §§ 2911, 2912 and 2914.

³ 25 P.S. § 2878.

Historical and Statutory Notes

The 1974 amendment provided for cross-filing by candidates for the office of justice of the peace.

Section 3(d) of Act 1978, April 28, P.L. 202, No. 53 (the Judiciary Act Repealer Act) [42 P.S. § 20003(d)] provides:

“An express reference in any statute or other law to a justice of the peace or to the office of justice of the peace shall hereafter be deemed a reference to a district justice or to the office of district justice. Any person appointed or elected to judicial office in a magisterial district

shall be known as and hereafter shall be commissioned as the 'district justice' in and for the appropriate magisterial district."

The 1986 amendment in subsec. (a) substituted references to the court of

common pleas, the Philadelphia Municipal Court and the Traffic Court of Philadelphia for references to courts of record.

Law Review Commentaries

Sprague v. Casey and its seven deadly sins. Mark C. Rahdert, 62 Temp.L.Rev. 625 (1989).

Library References

Elections ⇨147.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 93, 136.
P.L.E. Elections § 41.

Notes of Decisions

In general 1 Municipal officers 2

1. In general

Nomination vacancies that occurred when two judges withdrew their declarations of candidacy after last day for filing nomination petition, but more than 60 days preceding municipal election, were properly filled by party nominations. *Friedman v. Lewis*, 598 A.2d 1361, 143 Pa.Cmwlth. 367, 1991, appeal dismissed 621 A.2d 995, 533 Pa. 305.

Political party's county committee acted within authority granted to it by one of its rules in nominating candidate for vacant seat on school board in accordance with this section providing that a political party could nominate a candidate to fill a vacancy by filing nominating certificate with county election bureau. In re Nomination Certificate of Luzerne County Republican Executive Committee, 436 A.2d 262, 62 Pa.Cmwlth. 284, 1981.

Where candidate for judgeship delayed in bringing mandamus action seeking order to compel secretary of Commonwealth to certify that vacancy caused by death of judge was to be filled at forthcoming municipal election, and such delay precluded electorate from selecting

candidate for additional judgeship through political parties and political bodies, issuance of mandamus would result in vacancy being filled without being subjected to any nominative political process, and thus, Commonwealth Court would not issue such an order. *Frank v. Tucker*, 346 A.2d 848, 21 Pa.Cmwlth. 383, 1975, affirmed 345 A.2d 62 Pa. Cmwlth. 284, 1981.

2. Municipal officers

The Legislature, by failing to amend Election Code to specifically authorize election of mayor in other than municipal election in odd-numbered year, acquiesced in and, in effect, approved Supreme Court's construction that Election Code requires that election for mayor, whether for full regular term or to fill vacancy in office, must be held in odd-numbered year. *Cali v. City of Philadelphia*, 177 A.2d 824, 406 Pa. 290, 1962.

This section does not require the holding of a primary election for a municipal elected position in an even-numbered year and, in the absence of such a primary, the nominating petition of the candidates may be filed by their political parties. In re Upper Providence Tp., 29 D. & C.3d 261, 1984.

§ 2954. Number, form and requirements of nomination certificates to fill certain vacancies

(a) Each political party shall be entitled to nominate and to file nomination certificates in accordance with the provisions of section

nine hundred ninety-three of this act ¹ for the purpose of supplying as many candidates as each elector will be entitled to vote for at the ensuing November election. Every nomination certificate for a November election required under the provisions of section nine hundred ninety-three of this act shall be in the form prescribed by the Secretary of the Commonwealth and shall set forth the following:

- (1) The office and district, if any, for which it is filed;
- (2) The cause of the vacancy;
- (3) The rule or rules of the political party setting forth the provisions applicable to the nomination of a candidate or candidates to fill said vacancy;
- (4) That a quorum of the committee, caucus or convention as provided by the party rules duly convened and the names of those present at said meeting or their proxies that said persons are the duly appointed or elected members of said committee, caucus or convention;
- (5) The name, residence and occupation of the candidate duly nominated at said meeting.

(b) Every such certificate of nomination shall be signed by the presiding officer and the secretary or secretaries of the committees, caucus or convention and shall be sworn or affirmed to by them before any officer qualified to administer oaths.

1937, June 3, P.L. 1333, art. IX, § 994, added 1953, Aug. 26, P.L. 1479, § 1.

¹ 25 P.S. § 2953.

Library References

Elections ⇄ 147.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 93, 136.
P.L.E. Elections § 41.

Notes of Decisions

In general 1

1. In general

Nomination certificate, which was filed with county election bureau for purpose of nominating candidate for vacant seat

on school board, was shown to contain information required by this section relating to the form of such nomination certificates. In re Nomination Certificate of Luzerne County Republican Executive Committee, 436 A.2d 262, 62 Pa.Cmwlth. 284, 1981.

§ 2955. Secretary of the Commonwealth or county board of elections to examine nomination certificates and nomination papers to fill certain vacancies; review

(a) It shall be the duty of the Secretary of the Commonwealth or the proper county board of elections, as the case may be, to examine as to legal sufficiency, in the manner and under the provisions of

section nine hundred seventy-six of this act,¹ all nomination certificates and nomination papers brought to his or its office for the purpose of filing for the nomination of candidates for a general or municipal election, as the case may be, in accordance with the provisions of section nine hundred ninety-three of this act,² and if manifestly defective they shall not be filed.

(b) No such certificate of nomination or nomination paper shall be refused by the Secretary of the Commonwealth or the county board of elections except for a reason provided for in section nine hundred seventy-six of this act.

(c) The action of the Secretary of the Commonwealth or the county board of elections in refusing to accept and file any such certificate or paper may be reviewed by the court upon an application to compel its reception and filing as of the date when it was brought to said office.

1937, June 3, P.L. 1333, art. IX, § 995, added 1953, Aug. 26, P.L. 1479, § 1. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

¹ 25 P.S. § 2936.

² 25 P.S. § 2953.

Historical and Statutory Notes

The 1978 amendment in subsec. (c) deleted a reference to application for mandamus in a court of common pleas.

Library References

Elections ⇨147.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 93, 136.

P.L.E. Elections § 41.

§ 2956. Objections to certificates of nomination and nomination papers filed to fill certain vacancies for a November election; hearing; determination

(a) All certificates of nomination and nomination papers to fill certain vacancies in accordance with the provisions of section nine hundred ninety-three of this act¹ which have been accepted and filed shall be deemed to be valid unless, within three (3) days next succeeding the last day for filing such certificates or papers, objections thereto are duly made in writing and filed in the court and with the officer or board with whom said nomination certificates or papers were filed. Any objections shall set forth specifically the matters objected to.

(b) Upon the filing of the objections, the court shall make an order fixing a time for hearing, which shall not be later than seven (7) days

after the last day for filing nomination certificates or papers, and specifying the time and manner of notice that shall be given to the candidate named in the nomination certificate or paper objected to. On the day fixed for said hearing, the court shall proceed without delay to hear said objections and shall give such hearing precedence over any other business before it and shall finally determine said matter promptly.

1937, June 3, P.L. 1333, art. IX, § 996, added 1953, Aug. 26, P.L. 1479, § 1. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

¹ 25 P.S. § 2953.

Historical and Statutory Notes

The 1978 amendment in subsec. (a) deleted reference to the court of common pleas.

Library References

Elections ⇄ 154(1).
WESTLAW Topic No. 144.

C.J.S. Elections §§ 123, 148.
P.L.E. Elections §§ 41, 50.

§ 2957. Withdrawals of candidates nominated to fill certain vacancies at a November election

(a) Any person who has been nominated by any political party or political body to fill certain vacancies at a November election in accordance with the provisions of section nine hundred ninety-three of this act ¹ may withdraw his name from nomination by a request in writing signed by him and acknowledged ² before an officer qualified and empowered to administer oaths and filed in the office of the officer or board with whom the nomination certificate or nomination papers were filed within three (3) days next succeeding the last day for filing nomination certificates or papers. Such withdrawals to be effective must be received at the office of the Secretary of the Commonwealth not later than five (5) o'clock P.M. or at the county board of elections not later than the ordinary closing hour of its office on the last day for filing same.

(b) No name so withdrawn shall be printed on the ballot or ballot labels.

(c) No candidate may withdraw any withdrawal notice already received and filed and thereby reinstate his nomination.

1937, June 3, P.L. 1333, art. IX, § 997, added 1953, Aug. 26, P.L. 1479, § 1.

¹ 25 P.S. § 2953.

² Enrolled bill reads "acknowledge".

Library References

Elections ⇨ 146.
WESTLAW Topic No. 144.

C.J.S. Elections § 95.
P.L.E. Elections §§ 41, 51.

§ 2958. Substituted nominations to fill certain vacancies for a November election

(a) Any vacancy happening or existing in any party nomination made in accordance with the provisions of section nine hundred ninety-three of this act¹ for a November election by reason of the death or withdrawal of any candidate may be filled by a substituted nomination made by such committee as is authorized by the rules of the party to make nominations in the event of vacancies on the party ticket, in the form prescribed by section nine hundred ninety-four of this act.² But no substituted nomination certificate shall nominate any person who has already been nominated by any other political party or by any political body for the same office, unless such person is a candidate for the office of judge of a court of common pleas, the Philadelphia Municipal Court or the Traffic Court of Philadelphia, or for the office of school director in districts where that office is elective or for the office of justice of the peace.

(b) In case of the death or withdrawal of any candidate nominated by a political body for an election, the committee named in the original nomination papers may nominate a substitute in his place by filing a substituted nomination certificate in the form and manner prescribed by section nine hundred eighty of this act.³ In the case of a vacancy caused by the death of any candidate, said nomination certificate shall be accompanied by a death certificate properly certified. No substituted nomination certificate shall nominate any person who has already been nominated by any political party or by any other political body for any office to be filled at the ensuing November election, unless such person is a candidate for the office of judge of a court of common pleas, the Philadelphia Municipal Court or the Traffic Court of Philadelphia, or for the office of school director in districts where that office is elective or for the office of justice of the peace.

(c) Substituted nomination certificates to fill vacancies caused by the withdrawal of candidates nominated for a November election in accordance with the provisions of section nine hundred ninety-three of this act shall be filed with the officer or board with whom the original nomination certificates or papers were filed not later than seven (7) days after the last day for filing the original nomination certificates or papers.

(d) Substituted nomination certificates to fill vacancies caused by the death of candidates nominated for a November election in

accordance with the provisions of section nine hundred ninety-three of this act shall be filed in the office of the officer or board with whom the original nomination certificates or papers were filed at any time prior to the day in which the printing of ballots is started. 1937, June 3, P.L. 1333, art. IX, § 998, added 1953, Aug. 26, P.L. 1479, § 1. Amended 1972, July 7, P.L. 732, No. 171, § 3, imd. effective; 1974, June 27, P.L. 413, No. 146, § 2, imd. effective; 1986, Feb. 19, P.L. 29, No. 11, § 11, imd. effective.

¹ 25 P.S. § 2953.

² 25 P.S. § 2954.

³ 25 P.S. § 2940.

Historical and Statutory Notes

The 1974 amendment provided for cross-filing by candidates for the office of justice of the peace.

Section 3(d) of Act 1978, April 28, P.L. 202, No. 53 (the Judiciary Act Repealer Act) [42 P.S. § 20003(d)], provides:

“An express reference in any statute or other law to a justice of the peace or to the office of justice of the peace shall hereafter be deemed a reference to a district justice or to the office of district

justice. Any person appointed or elected to judicial office in a magisterial district shall be known as and hereafter shall be commissioned as the ‘district justice’ in and for the appropriate magisterial district.”

The 1986 amendment substituted “court of common pleas, the Philadelphia Municipal Court or the Traffic Court of Philadelphia” for “court of record” in subssecs. (a) and (b).

Library References

Elections ⇨ 146.
WESTLAW Topic No. 144.

C.J.S. Elections § 95.
P.L.E. Elections §§ 41, 52.

§ 2959. Objections to substituted nomination certificates filed to fill certain vacancies for November election

All substituted nomination certificates for a November election filed in accordance with the provisions of section nine hundred ninety-eight of this act ¹ may be objected to as provided in section nine hundred eighty-two of this act.²

1937, June 3, P.L. 1333, art. IX, § 999, added 1953, Aug. 26, P.L. 1479, § 1.

¹ 25 P.S. § 2958.

² 25 P.S. § 2942.

Library References

Elections ⇨ 149.
WESTLAW Topic No. 144.

C.J.S. Elections § 120 et seq.
P.L.E. Elections §§ 41, 50.

§ 2960. Candidates to fill certain vacancies; certification of nominees by Secretary of the Commonwealth to county election boards

The Secretary of the Commonwealth shall certify, in accordance with section nine hundred eighty-four of this act,¹ the names and residences of and parties or political bodies represented by all candidates whose nomination certificates or papers have been filed with him in accordance with the provisions of section nine hundred ninety-three or subdivision (e) of this act² for a general or municipal election, as the case may be, and have not been found and declared invalid, and to be voted for in the county or any district or districts thereof.

1937, June 3, P.L. 1333, art. IX, § 999.1, added 1953, Aug. 26, P.L. 1479, § 1.

¹ 25 P.S. § 2944.

² 25 P.S. §§ 2953 or 2953 to 2960.

Library References

Elections ⇨156.

WESTLAW Topic No. 144.

C.J.S. Elections § 135.

P.L.E. Elections §§ 41, 53.

ARTICLE X. BALLOTS

Constitutional Provisions

Const. Art. 7, § 4, provides: "All elections by the citizens shall be by ballot or by such other method as may be pre-

scribed by law: Provided, That secrecy in voting be preserved."

§ 2961. Official ballots to be used

All primaries and elections in this Commonwealth shall be conducted by ballot, except in districts in which voting machines are used under the provisions of Article XI of this act.¹ All ballots used at primaries and elections in election districts in which ballots are used, shall be provided by the respective county boards of elections, in accordance with the provisions of this act, and, except as otherwise provided in this act, only official ballots furnished by the county boards of elections shall be cast or counted at any primary or election in any district in which ballots are used.

1937, June 3, P.L. 1333, art. X, § 1001.

¹ 25 P.S. §§ 3001 to 3018.

Library References

Elections ⇨162.

WESTLAW Topic No. 144.

C.J.S. Elections § 149 et seq.

P.L.E. Elections §§ 42, 63.

§ 2962. Form of official primary ballot

(a) At primaries separate official ballots shall be prepared for each party which shall be in substantially the following form:

Official Primary ballot.
(Name of Party)
..... District, Ward, City of,
County of State of Pennsylvania
..... Primary election held on the day of
19.....

Make a cross (×) or check (✓) in the square to the right of each candidate for whom you wish to vote. If you desire to vote for a person whose name is not on the ballot, write, print or paste his name in the blank space provided for that purpose. Mark ballot only in black lead pencil, indelible pencil or blue, black or blue-black ink in fountain pen or ball point pen. Use the same pencil or pen for all markings you place on the ballot.

President of the United States.

(Vote for one)

John Doe
Richard Roe
John Stiles

United States Senator.

(Vote for one)

John Doe
Richard Roe
John Stiles

Governor.

(Vote for one)

John Doe
Richard Roe
John Stiles

Representative in Congress District.

(Vote for one)

John Doe
Richard Roe
John Stiles

Delegates at Large to National Convention.
(Vote for)

John Doe

(Committed to Jeremiah Smith)

John Stiles

(Uncommitted)

Delegate to National Convention District.
(Vote for)

John Doe

(Committed to Jeremiah Smith)

John Stiles

(Uncommitted)

Senator in the General Assembly District.
(Vote for one)

John Doe

Richard Roe

John Stiles

Member of State Committee.
(Vote for one)

John Doe

Richard Roe

John Stiles

Party Committeemen.
(Vote for)

John Doe

Richard Roe

John Stiles

(b) On the back of each ballot shall be printed in prominent type the words "OFFICIAL PRIMARY BALLOT OF PARTY FOR" followed by the designation of the election district for which it is prepared, the date of the primary and the facsimile signatures of the members of the county board of elections. The names of candidates shall in all cases be arranged under the title of the office for which they are candidates, and be printed thereunder in the order determined by the casting of lots as provided by this act. Under the title of such offices where more than one candidate is to be voted for,

shall be printed "Vote for not more than" (the blank space to indicate the number of candidates to be voted for the particular office.) At the right of the name of each candidate there shall be a square of sufficient size for the convenient insertion of a cross (×) or check (√) mark. There shall be left at the end of the list of candidates for each office (or under the title of the office itself in case there be no candidates who have filed nomination petitions therefor) as many blank spaces as there are persons to be voted for, for such office, in which space the elector may insert the name of any person whose name is not printed on the ballot as a candidate for such office. Opposite or under the name of each candidate, except candidates for the office of President of the United States and candidates for delegate or alternate delegate to a national party convention, who is to be voted for by the electors of more than one county, shall be printed the name of the county in which such candidate resides; and opposite or under the name of each candidate except candidates for delegate or alternate delegate to a National Party Convention who is to be voted for by the electors of an entire county or any congressional, senatorial or representative district within the county, shall be printed the name of the city, borough, township or ward, as the case may be, in which such candidate resides.

(c) The ballot shall vary in form only as the names of districts, offices, candidates or the provisions of this act may require.

(d) At the written request of a State committee, filed with the party rules and on the deadline provided by section 808.1 of this act,¹ a party may have a "no preference" column added to the list of candidates for the office of President of the United States at the primary election. The ballot position for "no preference" shall be drawn in the same manner as the other candidates for that office: Provided, however, That this position shall be drawn by the Secretary of the Commonwealth or his or her designee.

¹ 25 P.S. § 2838.1.

1937, June 3, P.L. 1333, art. X, § 1002. Amended 1960, Jan. 8, P.L. (1959) 2142, § 1; 1963, Aug. 13, P.L. 707, § 16, effective Jan. 1, 1964; 1971, Dec. 22, P.L. 618, No. 165, § 13; 1972, March 17, P.L. 114, No. 40, § 1, imd. effective; 1976, Dec. 2, P.L. 1221, No. 269, § 5, imd. effective; 1979, July 21, P.L. 189, No. 63, § 4, imd. effective.

Historical and Statutory Notes

The 1976 amendment in subsec. (b) inserted the provision relating to offices where more than one candidate is to be voted for.

The 1979 amendment added subsec. (d).

Library References

Elections § 166.
WESTLAW Topic No. 144.

C.J.S. Elections § 156 et seq.
P.L.E. Elections § 63.

Notes of Decisions

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board of elections to determine the position of his name on the ballot. *Shroyer v. Thomas*, 23 Northumb.L.J. 187, 1952, affirmed 81 A.2d 435, 368 Pa. 70.

4. Blank spaces

The nomination of a candidate will be declared invalid where primary ballot failed to provide a blank space for said office. *Westfall Tp. Supervisor Election*, 69 D. & C. 372, 11 Monroe L.R. 109.

5. Party ballot

Where Progressive Party in general election of 1948 polled sufficient votes to constitute it a political party within the state, county board of elections was under duty to provide for use at September primary in 1949 a Progressive Party ballot whose facilities for making nominations, even though by write-ins, were not inferior to the nominating facilities of the ballots furnished voters of the major parties, though the Progressive Party in that particular county did not poll at general election in 1948 a number of votes sufficient to qualify it separately as a political party within the county. *Kerns v. Kane*, 69 A.2d 388, 363 Pa. 276, 1950.

6. Defective ballots

Ballot which was properly marked in pencil next to name of one candidate in councilmanic election but which also contained very light semicircular line made with ink in box opposite opposing candidate's name and small scratch marks made with ink on ballot above names of all candidates was not invalid on theory that voter had attempted to vote for three candidates for two council seats or that voter marked his ballot with two separate writing instruments where voter who cast ballot voted for total of eleven candidates for various offices and, in each instance, and X marked in pencil was properly placed in box opposite candidate's name. *In re Second Ward, Second Precinct of Borough of Canonsburg, Washington County*, 290 A.2d 69, 447 Pa. 304, 1972.

1. Form of name

A candidate for the office of county commissioner was entitled to have his name printed upon the ballot as "John W. 'Bud' Angst", where from the evidence it appeared that he had always transacted his business and social affairs in the name of "Bud Angst" as well as "John W. Angst", and "Bud" was, consequently, a part of his legal name. *Angst v. Walker*, 42 D. & C.2d 492, 1967.

While a candidate is permitted to have printed on ballot a name which he has adopted and under which he transacts private and official business, a mere nickname may not be included. *Persing v. Northumberland County Bd. of Elections*, 70 D. & C. 325, 1950.

2. Writing in

The anti-party raiding statutes forbid filing of petitions for nomination of same person by, and printing of his name on primary election ballots as candidate of, more than one political party for same office, but do not prohibit voter from writing or pasting in name of person whose name is not printed on ballot of political party of which such voter is a member. *Appeal of Magazzu*, 49 A.2d 411, 355 Pa. 196, 1946.

Elector may vote for person whose name is not printed on ballot by writing or pasting name of such person in blank space provided for that purpose. *Liberal Party's Petition*, 17 D. & C. 176, 1931.

3. Deceased candidates

When a candidate dies before the last day permitted for his withdrawal, and no substitution has been made, deceased candidate's name must remain on the ballot and a lot may be cast by the county

§ 2963. Form of official election ballot

(a) The official ballots for general, municipal and special elections shall be in substantially the following form:

OFFICIAL BALLOT

..... District, Ward, City of County of
....., State of Pennsylvania election held on the
..... day of, 19.. A cross (×) or check (✓) mark in the
square opposite the name of any candidate indicates a vote for that
candidate.

To vote a straight party ticket, mark a cross (×) or check (✓) in the square, in the Party Column, opposite the name of the party of your choice. To vote for an individual candidate of another party after making a mark in the party square, mark a cross (×) or check (✓) opposite his name. For an office where more than one candidate is to be voted for, the voter, after marking in the party square, may divide his vote by marking a cross (×) or check (✓) to the right of each candidate for whom he or she desires to vote. For such office votes shall not be counted for candidates not individually marked.

To vote for a person whose name is not on the ballot, write, print or paste his name in the blank space provided for that purpose. A cross (×) or check (✓) mark in the square opposite the names of the candidates of any party for President and Vice-President of the United States indicates a vote for all the candidates of that party for presidential elector. To vote for individual candidates for presidential elector, write, print or paste their names in the blank spaces provided for that purpose under the title "Presidential Electors." Mark ballot only in black lead pencil, indelible pencil or blue, black or blue-black ink, in fountain pen or ball point pen; use the same pencil or pen for all markings you place on the ballot.

Before leaving the voting compartment, fold this ballot, without displaying the markings thereon, in the same way it was folded when received, then leave the compartment and exhibit the ballot to one of the election officers who shall ascertain by an inspection of the number appearing upon the right hand corner of the back of the ballot whether the ballot so exhibited to him is the same ballot which the elector received before entering the voting compartment. If it is the same, the election officer shall direct the elector, without unfolding the ballot, to remove the perforated corner containing the number, and the elector shall immediately deposit the ballot in the ballot box. Any ballot deposited in a ballot box at any primary or election

without having the said number torn off shall be void and shall not be counted.

Party Column	Presidential Electors
To vote a Straight Party ticket mark a Cross (×) or Check (✓) in this Column.	(Vote for the candidates of one party for President and Vice-President, or insert the names of candidates.)
Democratic	For John Stiles and Richard Doe, Democratic
Republican	for John Doe and Richard Roe, Republican
Socialist	for John Smith and William Jones, Socialist
Citizens	

United States Senator.
(Vote for one)

Richard Roe	Democratic
John Doe	Republican
Richard Stiles	Socialist

Governor.
(Vote for one)

Richard Roe	Democratic
John Doe	Republican
Richard Stiles	Socialist

Representatives in Congress,
..... District.
(Vote for one)

Richard Roe	Democratic
John Doe	Republican
Richard Stiles	Socialist

Senator in the General Assembly,
..... District.
(Vote for one)

John Doe	Democratic
Richard Roe	Republican

(b) On the back of each ballot shall be printed in prominent type the words "Official Ballot," followed by the designation of the elec-

tion district for which it is prepared, the date of the election and the facsimile signatures of the members of the county board of elections. The names of candidates shall be arranged under the title of the office for which they are candidates, and shall be printed thereunder in the order of the votes obtained by the parties or bodies at the last gubernatorial election, beginning with the party obtaining the highest number of votes: Provided, however, That in the case of parties or bodies not represented on the ballot at the last gubernatorial election, the names of the candidates of such parties shall be arranged alphabetically, according to the party name or political appellation. In the case of offices for which two or more candidates are to be voted for, the candidates of each party shall be arranged together in the order of the number of votes obtained by them at the primary, beginning with the candidates obtaining the highest number of votes, and the candidates of each political body shall be arranged in the order in which their names were placed in their nomination paper. Under the title of such offices where more than one candidate is to be voted for, shall be printed "Vote for not more than" (the blank space to indicate the number of candidates to be voted for the particular office.) Opposite or under the name of each candidate shall be printed the name or appellation of the political party or political body nominating him, and at the right of such name or appellation there shall be a square of sufficient size for the convenient insertion of a cross (×) or check (✓) mark.

(c) When presidential electors are to be elected, their names shall not be printed upon the ballot, but in lieu thereof, the names of the candidates of their respective parties or political bodies for President and Vice-President of the United States shall be printed together in pairs under the title "Presidential Electors". All ballots marked for the candidates for President and Vice-President of a party or political body shall be counted as votes for each candidate for presidential elector of such party or political body.

(d) Whenever any candidate shall receive more than one nomination for the same office, his name shall be printed once, and the names of each political party so nominating him shall be printed opposite the name of such candidate, arranged in the same order as candidates names are required to be arranged. At the right of all the party names or appellation shall be a single square of sufficient size for the convenient insertion of a cross (×) or check (✓) mark.

(e) There shall be left at the end of the group of candidates for President and Vice-President of the United States under the title "Presidential Electors," as many blank spaces as there are presidential electors to be elected, in which spaces the elector may insert the names of any individual candidates for presidential electors for

whom he desires to vote. There shall also be left at the end of each group of candidates for each other office (or under the title of the office itself in case no candidates have been nominated therefor), as many blank spaces as there are persons to be voted for for such office, in which space the elector may insert the name of any person or persons whose name is not printed on the ballot as a candidate for such office.

(f) In order that each elector may have the opportunity of designating his choice for all the candidates nominated by one political party or political body, there shall be printed on the extreme left of the ballot, and separated from the rest of the ballot by a space of at least one-half inch, a list of the names of all the political parties or political bodies represented on such ballot which have nominated candidates to be voted for at such election. Such names shall be arranged in the order of the votes obtained at the last gubernatorial election by the candidate for Governor of the parties or bodies nominating, beginning with the party that received the highest number of votes cast. Following the names of such political parties and political bodies shall be the names of the parties and bodies not represented on the ballot at the last gubernatorial election, arranged alphabetically, according to the party name or appellation. A square of sufficient size for the convenient insertion of a cross mark shall be placed at the right of each party name or appellation.

(g) The official ballots shall vary in form only as the names of districts, offices, candidates or the provisions of this act may require. When constitutional amendments or other questions are submitted to a vote of the electors, each amendment or other question so submitted may be printed upon the ballot below the groups of candidates for the various offices, and, when required by law, shall be so printed. Constitutional amendments so submitted shall be printed in brief form, to be determined by the Secretary of the Commonwealth, and other questions so submitted shall be printed in brief form, to be determined by the Secretary of the Commonwealth in the case of questions to be voted on by the electors of the State at large, and by the county boards in other cases. To the right of each question there shall be placed the words "yes" and "no," together with appropriate squares to the right of each for the convenient insertion of a cross mark.

1937, June 3, P.L. 1333, art. X, § 1003. Amended 1947, April 24, P.L. 68, § 1; 1960, Jan. 8, P.L. (1959) 2142, § 2; 1963, Aug. 13, P.L. 707, § 17, effective Jan. 1, 1964; 1968, July 16, P.L. 354, No. 175, § 1; 1974, Dec. 10, P.L. 835, No. 280, § 2; 1976, Dec. 2, P.L. 1221, No. 269, § 6, imd. effective.

Historical and Statutory Notes

The 1976 amendment inserted in subsection (a) a paragraph relating to procedure for the folding and deposit of ballots after marking.

The 1976 amendment in subsec. (b) inserted penultimate sentence.

Library References

Elections \Leftrightarrow 166.
WESTLAW Topic No. 144.

C.J.S. Elections § 156 et seq.
P.L.E. Elections § 63.

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required by Const. Art. 1, § 5. Oughton v. Black, 61 A. 346, 212 Pa. 1, 1905.

2. Instructions

A direction in official election ballot that voter voting a straight party ticket by marking party column could vote for individual candidates of another party implied that his vote would be counted for all candidates of party marked except candidates for office as to which he had voted for another. In re Opening of Ballot Box in Third Election Dist. of Forty-First Ward, 195 A. 890, 328 Pa. 535, 1938.

A direction in official election ballot that voter marking party column could divide his vote for office where more than one candidate was to be voted for by marking each candidate for whom he desired to vote, but that his straight party vote would not be counted, so far as that office was concerned, for candidates not individually marked, implied that straight party vote would be counted for all other candidates. In re Opening of Ballot Box in Third Election Dist. of Forty-First Ward, 195 A. 890, 328 Pa. 535, 1938.

3. Form of ballot

Officer cannot change form of ballot regulated by Legislature. Davidowitz v. Philadelphia County, 187 A. 585, 324 Pa. 17, 1936.

When a judicial candidate cross-files in a primary on both the Democratic and Republican tickets, and he comes in second on the Democratic ticket and first on the Republican ticket, his name must appear in the second row or column of each ticket at the general election, because his position is to be determined by the number of votes he receives as a candidate of the party entitled to priority on the primary ballot, in this case the Democratic party, since its candidate for governor

1. Validity of prior statute

The provision of the act of 1897, July 9, P.L. 223, § 5, repealed, that the name of a candidate should not appear more than once on the official ballot, was held void. Com. v. Martin, 20 C.C. 117, 6 Dist. 645, 1897; Rhoades' Nomination Paper, 27 C.C. 20, 12 Dist. 50, 1902; Com. v. McCormick, 22 C.C. 322, 8 Dist. 117, 2 Dauph. 46, 1899; Gunster's Nomination Certificate, 1 Dauph. 370, 1898; but see Citizens' Party Nomination Papers, 11 Dist. 208, 49 Pitts. 293, 1902.

The provision as to voting on public questions in § 14 of the act of 1893, June 10, P.L. 419, repealed, was held unconstitutional, on the ground that the title gave no notice of it, and it was accordingly held that such questions could not properly appear on the official ballot. Com. v. Weir, 15 C.C. 425, 42 Pitts. 126, 1894; Evans v. Willistown Township, 32 A. 87, 168 Pa. 578, 1895, affirming 15 C.C. 326, 3 Dist. 395, 1894; Millvale Borough Annexation, 18 C.C. 155, 5 Dist. 726, 43 Pitts. 411, 1896.

Act of 1893, June 10, P.L. 419, § 14, as amended, repealed, providing that there shall be printed on the left of the ballots a list of the names of all the political parties represented on such ballots, with a square of sufficient size for the insertion of a cross-mark at the right of each party named, with certain instructions as to the method of voting for the entire party ticket, are not unconstitutional, as interfering with the freedom and equality of elections

25 P.S. § 2963

Note 3

obtained the greater number of votes in the last gubernatorial election, 1973 Op. Atty.Gen. No. 63.

The name of the Republican candidate who placed second in the primary must be inserted in the first Republican position on the general election ballot so that no blank spaces appear on either the Democratic or Republican tickets, when candidate who placed first in the primary and cross-filed on both the Democratic and Republican tickets occupies second position in both the Democratic and Republican tickets. 1973 Op. Atty.Gen. No. 63.

4. Blank spaces

The provision for leaving blank spaces on ballots "under the title of the office itself in case no candidates have been nominated therefor" authorizes the leaving of such blank spaces under the title of the office itself only when parties have had an opportunity to nominate candidate for public office in the primaries and have failed to do so. *Watson v. Witkin*, 22 A.2d 17, 343 Pa. 1, 1941.

Provision that blank spaces shall be left at the end of list of candidates for office or "under the title of the office itself in case no candidates have been nominated therefor", did not authorize the placing of mayoralty office on ballots for November, 1941, election, leaving blank space thereunder where office of mayor became vacant through death of incumbent at such late date that candidates therefor could not be nominated at primaries, because until offices to be filled at election have been ascertained, certified, and advertised as required by statute, board of elections has no authority to place such office on official ballot. *Watson v. Witkin*, 22 A.2d 17, 343 Pa. 1, 1941.

5. Defective ballot

Alleged "gap" between Republican and Democratic columns on left of ballot for councilmen (columns A and B) and columns E, F and G on right of ballot did not unconstitutionally discriminate against independent candidates in columns E, F, and G on theory known as the "law of proximity", where there was no evidence as to extent and magnitude of alleged discrimination, and the "gap" existed because the constitutional party in column C and the American Independent Party in column D failed to run candidates for any office. *Gilhool v. Chairman*

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and Com'rs, Philadelphia County Bd. of Elections, 306 F.Supp. 1202, D.C.1969.

Where an irregularity in a ballot could not reasonably have misled the voters and did not result in the question at issue being presented to them unintelligibly, the election would not be judicially overturned because of some innocuous deviation from a statutory requirement which might have been previously rectified through resort to the remedy given by Act June 10, 1893, P.L. 426, § 15 for that purpose. *Oncken v. Ewing*, 8 A.2d 402, 336 Pa. 43, 1939.

In absence of a declaration that a certain irregularity in a ballot shall be fatal, the court will endeavor to discern whether deviation from prescribed forms of law had or had not so vital an influence on the proceedings as probably prevented a free and full expression of the popular will, and if it had, the irregularity will vitiate the entire election return, and otherwise it is considered immaterial and does not affect the result of the election. *Oncken v. Ewing*, 8 A.2d 402, 336 Pa. 43, 1939.

Where a law declares a specific irregularity in a ballot to be fatal, the courts will follow the command, irrespective of their views of the importance of the requirement. *Oncken v. Ewing*, 8 A.2d 402, 336 Pa. 43, 1939.

6. Marking ballot

Ballots marked with cross after erected candidate's name and also after contestant's name, which latter cross was erased, held invalid. In re *Eckert's Election*, 162 A. 223, 308 Pa. 375, 1932.

Ballots improperly marked, having crosses omitted, held illegal. In re *Eckert's Election*, 162 A. 223, 308 Pa. 375, 1932.

Where stickers bearing name of party's substitute nominee were used, ballots bearing sticker and cross in party square should be counted for all nominees of party, instead of for only substitute nominee. In re *Arnold Borough Contested Election*, 161 A. 536, 307 Pa. 536, 1932.

A ballot is not invalid because it contains a cross opposite the name of a candidate which the voter apparently attempted to erase. *Pfaff v. Bacon*, 95 A. 71, 249 Pa. 297, 1915.

Act of 1893, June 10, P.L. 419, § 14, as amended, repealed, does not substantially change the law by the use of the word "may" for the word "shall" in the provision relating to the marking of ballots. Appeal of Dailey, 81 A. 655, 232 Pa. 540, 1911.

7. Stickers and "write ins"

When no other markings appeared on ballots, stickers bearing candidate's name and attached to ballot indicated an unmistakable intention to register a vote for that candidate, and fact that candidate's name was printed on ballot did not absent a showing of fraud, justify voiding the votes. Appeal of James, 105 A.2d 64, 377 Pa. 405, 1954.

The fact that person's name appeared on voting machine as candidate for Republican nomination for office of representative in General Assembly did not render him ineligible to receive write-in votes for nomination as Democratic candidate for such office. Appeal of Magazzu, 49 A.2d 411, 355 Pa. 196, 1946.

The anti-party raiding statutes forbid a candidate to file petitions of more than one political party for the same office and the printing of the name of a candidate of more than one political party, but do not prohibit voter from writing or pasting in name of person whose name is not print-

ed on ballot of political party of which such voter is a member. Appeal of Magazzu, 49 A.2d 411, 355 Pa. 196, 1946.

Under Election Code, repealing prior statute authorizing the use of a "sticker" in cases where no candidate has been nominated for an office, board of elections had no legal authority to prepare ballots on which such stickers should be used, and Superior Court was without power to direct preparation of such ballots, since courts have no legislative power. *Watson v. Witkin*, 22 A.2d 17, 343 Pa. 1, 1941.

County Board in computing votes, had no authority to cumulate votes of similar but not identical true names of "write-in" candidates on irregular ballots but must compute them exactly as written. *Petition of Hafer*, 38 Berks 11, 55 D. & C. 139, 1946.

Where a voter seeks to "write in" the name of a candidate on a ballot, under this section and § 3063(a), of this title, the name must be written in or pasted on by the voter within the square provided for it on the ballot. If a name is placed at any other point than that designated, it may not be counted. *In re Whitpain Tp. Election Case*, 44 D. & C. 374, 58 Montg. 188, 1942.

§ 2964. Form of ballots; printing ballots; stubs; numbers

From the lists furnished by the Secretary of the Commonwealth under the provisions of sections 915 and 984,¹ and from petitions and papers filed in their office, the county election board shall print the official primary and election ballots in accordance with the provisions of this act: Provided, however, That in no event, shall the name of any person consenting to be a candidate for nomination for any one office, except the office of judge of a court of common pleas, the Philadelphia Municipal Court or the Traffic Court of Philadelphia, or the office of school director in districts where that office is elective or the office of justice of the peace be printed as a candidate for such office upon the official primary ballot of more than one party. All ballots for use in the same election district at any primary or election shall be alike. They shall be at least six inches long and four inches wide, and shall have a margin extending beyond any printing thereon. They shall be printed with the same kind of type (which shall not be smaller than the size known as "brevier" or "eight point body") upon white paper of uniform quality, without any impression or mark to distinguish one from another, and with sufficient thickness

to prevent the printed matter from showing through. Each ballot shall be attached to a stub, and all the ballots for the same election district shall be bound together in books of fifty, in such manner that each ballot may be detached from its stub and removed separately. The ballots for each party to be used at a primary shall be bound separately. The stubs of the ballots shall be consecutively numbered, and in the case of primary ballots, the number shall be preceded by an initial or abbreviation designating the party name. The number and initial or abbreviation which appears upon the stub shall also be printed in the upper right hand corner of the back of the ballot, separated from the remainder of the ballot by a diagonal perforated line so prepared that the upper right hand corner of the back of the ballot containing the number may be detached from the ballot before it is deposited in the ballot box and beside that corner shall also be printed, "Remove numbered stub immediately before depositing your ballot in ballot box."

1937, June 3, P.L. 1333, art. X, § 1004. Amended 1972, July 7, P.L. 732, No. 171, § 4, imd. effective; 1974, June 27, P.L. 413, No. 146, § 2, imd. effective; 1974, Dec. 10, P.L. 835, No. 280, § 3; 1986, Feb. 19, P.L. 29, No. 11, § 12, imd. effective.

¹ 25 P.S. §§ 2875 and 2944.

Historical and Statutory Notes

Act 1974, No. 146, inserted in the proviso the phrase "or the office of justice of the peace".

Act 1974, No. 280, added to the last sentence the phrase "and beside that corner shall also be printed, 'remove numbered stub immediately before depositing your ballot in ballot box'."

The 1986 amendment substituted "court of common pleas, the Philadelphia Municipal Court or the Traffic Court of Philadelphia" for "court of record" in the first sentence.

Library References

Elections ⇨ 166.
WESTLAW Topic No. 144.

C.J.S. Elections § 156 et seq.
P.L.E. Elections §§ 61, 63.

Notes of Decisions

Detachment of stub 2 Validity 1

1. Validity

The provision of this section permitting nomination of candidates for offices of judges of courts of record on more than one party ticket, is not unconstitutional as creating unreasonable classification discriminating against candidates for other offices, who may run on only one ticket. *Thompson v. Morrison*, 44 A.2d 55, 352 Pa. 616, 1945.

Although there may be a variance between ballots in an election district where two different school districts are located, there is no irreconcilable inconsistency between this section, which requires that all ballots in the same election district shall be alike, and § 3-306 of Title 24, which refers to a special situation and under § 563 of Title 46, is controlling where applicable. *Esbenshade v. Department of Public Instruction*, 68 Dauph. 247, 1956, affirmed 124 A.2d 478, 181 Pa.Super. 232, affirmed 127 A.2d 678, 387 Pa. 281.

BALLOTS

25 P.S. § 2965

Note 1

2. Detachment of stub

Detachment of a ballot from its stub by the election officer in charge so as to leave attached to the stub the perforated corner of the ballot containing the serial number, in violation of this section and

§ 3054 of this title, is a mere irregularity which does not warrant rejection of the vote so cast unless the election officer acted fraudulently or corruptly. In re Morganroth Election Contest, 50 D. & C. 143, 1944.

§ 2964.1. Placement of certain candidates on ballots and voting machines

Notwithstanding any other provisions of this act to the contrary, the names of candidates for the party offices of delegate or alternate delegate to a National Party Convention, member of the State committee, member of a county committee and any other party office as prescribed by the by laws of the political party shall appear at the end of the ballot after the names of the candidates for all public offices. In any case where voting machines are used, the names of the candidates for the aforementioned offices shall appear in the final columns or rows, as the case may be, of the voting machine.

1937, June 3, P.L. 1333, § 1004.1, added 1976, Dec. 2, P.L. 1221, No. 269, § 7, imd. effective.

§ 2965. Candidates with similar surnames, occupation to be printed

If two or more candidates for the same office shall have the same or similar surnames, the county board of elections shall, upon the request of any such candidate filed in writing not later than five days after the last day for filing nomination petitions, certificates or papers, print the occupation or residence of any such candidate, so filing a request, on the ballot or ballot labels opposite or under his name.

1937, June 3, P.L. 1333, art. X, § 1005.

Library References

Elections ⇨168(1).
WESTLAW Topic No. 144.

C.J.S. Elections § 159.
P.L.E. Elections § 63.

Notes of Decisions

In general 1
Time for demand 2

1. In general

Since, in respect to election for the office of judge of the court of common pleas of Allegheny County, there was obviously no possibility of confusing the name of candidate D. Stephen Ferito with any of the appointed judges other than

Judge Farino, the right created by this section, in the event of the same or a similar surname, to have one's occupation printed on the ballot was not applicable to the other appointed judges; and as to "Farino" and "Ferito," who lived in different municipalities of the election district, the provision of the section for printing the candidates' places of residence, an alternative to printing their occupations, would sufficiently distinguish

25 P.S. § 2965

Note 1

them from each other to avoid confusion. *Bigley v. Flaherty*, 372 A.2d 408, 472 Pa. 253, 1977.

"Similar surnames," in Act of 1913, July 12, P.L. 719, § 5, as amended, repealed, refer to names resembling each other or somewhat alike, but not identical. *Com. v. County Commissioners*, 14 Erie 33, 18 D. & C. 169, 1932.

Names McCreary, McCray and McCarty are "similar," and county commissioners must, upon written request therefor, print on ballot bearing all three as names

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of candidates statement of occupation of persons so requesting. *Com. v. County Commissioners*, 14 Erie 33, 18 D. & C. 169, 1932.

2. Time for demand

Nominee for election may, equitably, have occupation of rival with same surname printed on ballot, notwithstanding period for demanding it elapsed while validity of nominating petition was being tested. *In re Sullivan*, 160 A. 853, 307 Pa. 221, 1932.

§ 2966. Names of substituted candidates to be printed on ballots

As soon as any substituted candidate shall have been duly nominated, at any time prior to the day on which the printing of ballots is started, his name shall be substituted in place of that of the candidate who has died or withdrawn.

1937, June 3, P.L. 1333, art. X, § 1006.

Library References

Elections ⇨172.
WESTLAW Topic No. 144.

C.J.S. Elections § 161 et seq.
P.L.E. Elections § 63.

Notes of Decisions

In general 1

1. In general

Provision in § 2938 of this title setting forth 85-day period for withdrawal of candidates prior to election, was merely directory and not mandatory; board of elections could not refuse to accept substitute nominee duly presented for county controller on ground that withdrawal of candidate was filed three days late. *Perles v. Hoffman*, 213 A.2d 781, 419 Pa. 400, 1965.

Fifty-five-day period set forth in § 2941 of this title for substitution of a nominee for a withdrawn candidate is merely directory and not mandatory, and a substituted nomination may be made at any

time prior to day on which printing of ballots is started. *In re Mayor of City of Altoona, Blair County*, 196 A.2d 371, 413 Pa. 305, 1964.

Election Code sections providing for substitution candidates to fill vacancies caused by death of candidates nominated at primaries or by nomination papers, prior to day on which printing of ballots is started, are merely directory and not mandatory and a substituted nomination for a deceased candidate could be made so long as time permitted the correction of ballots accordingly, even though they had been printed. *In re Substitute Nomination for Vacancy in the Democratic Nomination for Office of County Com'r of Allegheny County*, 118 A.2d 750, 383 Pa. 372, 1956.

§ 2967. Number of ballots to be printed; specimen ballots

The county board of each county shall provide for each election district in which a primary is to be held, one book of fifty official ballots of each party for every forty-five registered and enrolled voters of such party and fraction thereof, appearing upon the district

register, and shall provide for each election district in which an election is to be held one book of fifty official ballots for every forty-five registered electors and fraction thereof appearing upon the district register. They may also, in addition to the number of ballots required to be printed for general distribution, have printed for each election district in which a primary is to be held not less than one book of fifty official ballots of each party for the use of the absentee electors and for each election district in which an election is to be held not less than one book of official ballots for the use of the absentee electors. They shall also, in addition to the number of ballots required to be printed for general distribution, have printed ten (10) per centum of such number, to be known as reserve official ballots, and, on tinted paper, two (2) per centum of such number to be known as reserve specimen ballots, which ballots shall be kept at the office of the county board for the use of any district, the ballots for which may be lost, destroyed or stolen. They shall also cause to be printed on tinted paper, and without the facsimile endorsements, permanent binding or stubs, copies of the form of ballots provided for each voting place at each primary or election therein, which shall be called specimen ballots, and which shall be of the same size and form as the official ballots, and at each election they shall deliver to the election officers, in addition to the official ballots to be used at such election, specimen ballots for the use of the electors equal in number to one-fifth of the number of official ballots delivered to such election officers. At each primary, specimen ballots of each party shall be furnished, equal in number to one-fifth of the number of official ballots of such party furnished to the election officers as above provided.

1937, June 3, P.L. 1333, art. X, § 1007. Amended 1963, Aug. 13, P.L. 707, § 18, effective Jan. 1, 1964.

Library References

Elections ¶163.
WESTLAW Topic No. 144.

C.J.S. Elections § 155.
P.L.E. Elections § 61.

§ 2968. Forms of ballots on file and open to public inspection; ballots and diagrams to be furnished to candidates and parties

(a) The county board of elections shall have on file in its office, on and after the Thursday preceding each primary and election, open to public inspection, forms of the ballots and ballot labels, with the names and such statements and notations as may be required by the provisions of this act, printed thereon, which shall be used in each election district within the county.

(b) On the Thursday preceding each primary, the county board shall, upon request made at their office, there deliver to each candidate whose name is printed on the ballot of any party, or to his authorized representative, without charge, three specimen ballots of such party for the entire district in which such candidate is to be voted for, and the candidate may, at his own expense, have printed on different colored paper as many copies as he requires for conducting his campaign.

(c) On the Thursday preceding each November election, the county board shall, upon request made at their office, there deliver to the county chairman or other authorized representative of each political party and political body in the county, without charge, two specimen ballots or diagrams for each election district within the county in which candidates of such party or political body are to be voted for, and such political party or political body may, at its own expense, have printed on different colored paper as many copies as it requires for conducting its campaign.

1937, June 3, P.L. 1333, art. X, § 1008.

Library References

Elections ⇨166.
WESTLAW Topic No. 144.

C.J.S. Elections § 156 et seq.
P.L.E. Elections § 63.

§ 2969. County boards to cause ballots to be accurately printed

It shall be the duty of the county board of elections of each county to cause all the ballots and ballot labels to be used therein to be accurately printed, and they shall be responsible for the safekeeping of the same while in their possession or that of their subordinates or agents.

1937, June 3, P.L. 1333, art. X, § 1009.

Library References

Elections ⇨54.
WESTLAW Topic No. 144.

C.J.S. Elections § 54 et seq.
P.L.E. Elections §§ 6, 63, 64.

Notes of Decisions

In general 1 Deceased candidates 2

1. In general

It is the duty of those specially charged with the preparation and distribution of the official ballot to see that the name or title of every office is distinctly designated thereon. *Lawlor's Contested Election*, 37 A. 92, 180 Pa. 566, 1897.

Printing on official ballots names of persons certified by secretary of commonwealth as candidates at primary election is merely ministerial duty of county commissioners and its performance will be enforced by mandamus. *Com. v. Hard*, 2 D. & C. 520, 1922.

2. Deceased candidates

This section does not apply to printing or nonprinting of deceased candidate's

name on ballots and does not by virtue of use of word "accurate" require that ballot be printed without name of deceased candidate. *Shroyer v. Thomas*, 81 A.2d 435, 368 Pa. 70, 1951.

The requirement that ballots be accurately printed means proper spelling and spacing, correct position, and in general

refers to all clerical errors, as well as mistakes and omissions of the county board of elections, and has no application to the printing or non-printing of a deceased candidate's name on the ballot. *Shroyer v. Thomas*, 23 Northumb.L.J. 187, 1952, affirmed 81 A.2d 435, 368 Pa. 70.

§ 2970. Correction of mistakes appearing on ballot

When it is shown by affidavit that mistake or omission has occurred in the printing of official ballots or ballot labels for any primary or election, the court of common pleas of the proper county, or any judge thereof, may, upon the application of any qualified elector of the county, require the county board of elections to correct the mistake or omission, or to show cause why they should not do so. 1937, June 3, P.L. 1333, art. X, § 1010.

Library References

Elections ⇐186(1).
WESTLAW Topic No. 144.

C.J.S. Elections § 173.
P.L.E. Elections § 64.

Notes of Decisions

In general 1
Mandamus 2

1. In general

Generally, one who does not utilize opportunity afforded by statute to object to irregularities in a ballot before an election may not afterwards raise objections thereto. *Oncken v. Ewing*, 8 A.2d 402, 336 Pa. 43, 1939.

Where a ballot, though defective, is not lacking in any essential to a free expression of the voters' will in the statutory form, the remedy, in the absence of fraud, is to sue for correction under this provision, and not by a proceeding to set aside the election after it has been held. *Knight v. Borough of Coudersport*, 92 A. 299, 246 Pa. 284, 1914.

This section may be applicable only to clerical errors, but in any event it applies solely to cases where the error or omission was made by the county election board and not to where the alleged error in the order and arrangement of the ballot labels was approved by the Secretary of the Commonwealth and followed by

the county election board in printing the ballots. In *re Mistake in Printing of Ballots and Ballot Labels for 1946 General Election*, 57 D. & C. 649, 39 Berks 57, 1947.

But the mistake or omission in the publication of names or descriptions of candidates or in the printing of the ballot mentioned in act of 1893, June 10, P.L. 419, § 15, repealed, refers to a clerical or incidental error and does not apply where the commissioners wilfully and intentionally refuse to print the name of a candidate who claims to be entitled to have his name printed on the ballot. *Sinclair's Nomination*, 22 Dist. 1016, 40 C.C. 359, 61 Pitts. 141, 1913.

2. Mandamus

Under this section, the proper procedure to correct an error in the printing of official ballots or ballot labels is mandamus, and not a petition for a rule upon the county commissioners to correct the mistake. In *re Mistake in Printing of Ballots and Ballot Labels for 1946 General Election*, 57 D. & C. 649, 39 Berks 57, 1947.

§ 2971. Record of ballots to be kept

The county board shall keep a record of the number of official ballots printed and furnished to each election district at each primary and election, and of the number of stubs, unused ballots and cancelled ballots subsequently returned therefrom, and also of the disposition of the additional official ballots provided, as required by section 1007 of this act.¹

1937, June 3, P.L. 1333, art. X, § 1011.

¹ 25 P.S. § 2967.

Library References

Elections ⇨162.

WESTLAW Topic No. 144.

C.J.S. Elections § 149 et seq.

P.L.E. Elections § 62.

ARTICLE XI. VOTING MACHINES**Cross References**

Voting machines, authorization, see Const. Art. 7, § 6.

§ 3001. Definition of terms

The list of offices and candidates, and the statements of questions on the voting machine shall be deemed an "official ballot."

As used in this act:

(1) The words "**ballot labels**" shall mean the cards, paper or other material, containing the names of offices and candidates and statements of questions to be voted on;

(2) The word "**diagram**" shall mean an illustration of the official ballot, when placed upon the machine, showing the names of the parties, bodies, offices and candidates, and statements of the questions, in their proper places, and shall be considered a specimen ballot;

(3) The word "**question**" shall mean a statement of such constitutional amendment or other proposition as shall be submitted to a popular vote at any election;

(4) The words "**irregular ballot**" shall mean the paper or other material on which a vote is cast on a voting machine for persons whose names do not appear on the ballot labels;

(5) The words "**vote indicator**" shall mean those devices with which votes are indicated for candidates, or for or against questions;

(6) The words "**candidate counters,**" and "**question counters,**" shall mean the counters on which are registered numerically the votes cast for candidates, and on questions, respectively;

(7) The words "**public counter**" shall mean a counter or other device which shall, at all times, publicly indicate how many times the machine has been operated at an election;

(8) The words "**protective counter**" shall mean a counter or protective device or devices that will register each time the machine is operated, and shall be constructed and so connected that it cannot be reset, altered or operated, except by operating the machine;

(9) The words "**voting machine booth**" shall mean the enclosure occupied by the voter when voting;

(10) The word "**model**" shall mean a mechanically operating model of a portion of the face of the machine, illustrating the manner of voting;

(11) The word "**custodian**" shall mean the person charged with the duty of testing and preparing the voting machine for the election and instructing the election officers in the use of the voting machine;

(12) The words "**election**" and "**elections**," whenever used in this act, shall be held to include and mean all general, municipal, primary, and special elections;

(13) The word "**borough**" shall be held to include incorporated towns;

(14) The word "**seal**," and other words of the singular number relative thereto, shall include the plural number as applied to a voting machine, designed to be made secure with two or more seals.
1937, June 3, P.L. 1333, art. XI, § 1101.

Library References

Elections ⇨22, 27.
WESTLAW Topic No. 144.

§ 3002. Authorization of voting machines

Any county, city, borough or township may, by a majority vote of its qualified electors voting thereon cast at any general or municipal election, authorize and direct the use of voting machines for registering or recording and computing the vote at all elections held in such county, city, borough or township, or in any part thereof.

1937, June 3, P.L. 1333, art. XI, § 1102.

Library References

Elections ⇨222.
WESTLAW Topic No. 144.

C.J.S. Elections § 203.
P.L.E. Elections § 65.

Notes of Decisions

In general 1

Use of voting machines in elections should not be restrained by courts unless legislative or constitutional provision is clearly violated. *Davidowitz v. Philadelphia County*, 187 A. 585, 324 Pa. 17, 1936.

1. In general

County commissioners must exercise their discretion in determining whether use of voting machine is possible or practicable in given situation. *Zaleski v. Kilgore*, 181 A.2d 293, 407 Pa. 524, 1962.

§ 3003. Placing the question on the ballot; election thereon

(a) The county election board may, upon their own motion, submit to the qualified electors of the county, or of any city, borough or township thereof, at any general or municipal election, the question "Shall voting machines be used in the (county, city, borough or township) of"?"

(b) The county election board, upon receipt of a request from the council of any city or borough, or from the commissioners or supervisors of any township, said request being evidenced by the filing of a copy of a resolution certified by the secretary or clerk of the council, commissioners or supervisors, or upon the filing of a petition with them signed by qualified electors of the county, city, borough or township, equal in number to at least ten per cent of the total number of electors who voted in said county, city, borough or township at the preceding general or municipal election, but in no case less than fifty, unless the total number of electors who voted therein at the preceding general or municipal election was less than one hundred, in which case one-half of the number so voting shall be sufficient, shall, at the next general or municipal election, occurring at least sixty days thereafter, submit to the qualified electors of such county, city, borough or township, the question "Shall voting machines be used in the (county, city, borough or township) of"?"

(c) The county board shall cause the said question to be printed upon the ballots to be used at the election, in the form and manner provided by the laws governing general and municipal elections.

(d) The election on said question shall be held at the places, during the hours, and under the regulations, provided by law for holding general and municipal elections, and shall be conducted by the election officers provided by law to conduct such elections. The election officers shall count the votes cast at the elections on said question, and shall make return thereof to the county election board of the county, as required by law. Said returns shall be computed by the county election board, or other return board, and, when so computed, a certificate of the total number of electors voting "Yes"

and of the total number of electors voting "No" on such question shall be filed in the office of the county election board, and copies thereof, certified by the county election board, shall forthwith be furnished to the Secretary of the Commonwealth, and to the county commissioners or other appropriating authority.

(e) Where the qualified electors of any city, borough or township vote in favor of the adoption of voting machines in such city, borough or township, a vote on the question of adoption of voting machines by the qualified electors of the entire county containing therein such city, borough or township, held at the same time or at a subsequent time, the result of which vote is against the adoption of voting machines, shall not be considered as a vote to discontinue the use of voting machines in such city, borough or township.

(f) If a majority of the electors of any county, city, borough or township, voting on such question, shall vote against the adoption of voting machines, the question shall not again be submitted to the voters of such political subdivision within a period of one hundred and three weeks.

(g) Whenever, under the provisions of this section, the question of the adoption of voting machines is about to be submitted to the electors of any county, city, borough or township, it shall be the duty of the county commissioners, or other authority which levies taxes for county purposes in such county, to ascertain whether current funds will be available to pay for said machines, if adopted and purchased, or whether they have power to increase the indebtedness of the county in an amount sufficient to pay for the same without the consent of the electors and, if such current funds will not be available and the power to increase the indebtedness of the county in a sufficient amount without the consent of the electors is lacking, it shall be the duty of the county commissioners, or other authority aforesaid, to submit to the electors of the county, in the manner provided by law, at the same election at which the adoption of voting machines is to be voted on, the question whether the indebtedness of such county shall be increased, in an amount specified by them, sufficient to pay for such voting machines, if adopted.

1937, June 3, P.L. 1333, art. XI, § 1103. Amended 1980, July 11, P.L. 600, No. 128, § 3, imd. effective.

Historical and Statutory Notes

The 1980 amendment in subsec. (b) substituted "ten per cent" for "one per cent".

Library References

Elections ⇨33.

WESTLAW Topic No. 144.

C.J.S. Elections § 79.
P.L.E. Elections § 65.

Notes of Decisions

In general 1

ardless of whether they voted on the question. *Munce v. O'Hara*, 16 A.2d 532, 340 Pa. 209, 1941.

1. In general

Under § 3001 et seq. of this title authorizing county by a "majority vote of its qualified electors cast at any general election" to direct discontinuance of use of voting machines, and providing that question of discontinuance be submitted in same manner as question of adoption of machines, a majority of votes cast upon the question of discontinuance is all that is required, and not a majority vote of all qualified electors of county or of those participating in the election, re-

Where a proposition, such as whether to discontinue use of voting machines, to which proposition statutory provision requiring a majority vote relates, is to be submitted at a general election, the submission of the proposition is regarded as a "special election" for that purpose, and votes cast thereon are considered separately and apart from any votes cast for candidates for office or upon other questions. *Munce v. O'Hara*, 16 A.2d 532, 340 Pa. 209, 1941.

§ 3004. Installation of voting machines

(a)(1) If a majority of the qualified electors voting on the question shall vote in the affirmative, the county election board of the said county shall purchase for each election district of such county, city, borough or township, one or more voting machines, of a kind or kinds approved by the Secretary of the Commonwealth, as hereinafter provided, and of sufficient capacity to accommodate the names of a reasonable number of candidates for all public and party offices which, under the provisions of existing laws and party rules, are likely to be voted for at any future election, and shall notify the Secretary of the Commonwealth, in writing, that they have done so. The county election board shall provide machines in good working order, and shall preserve and keep them in repair. Voting machines of different kinds may be used for different districts in the same county, city, borough or township. In each election district in which voting machines are used, the county election board may provide one voting machine for each three hundred and fifty registered voters, or fraction thereof, therein, and shall provide one voting machine for each six hundred registered voters, or fraction thereof, therein: Provided, however, That the courts of quarter sessions, upon petition presented by either the county election board or by ten or more qualified electors of any such election district, may order that one additional voting machine be provided for any such election district, if the court shall be of the opinion that such additional voting machine shall be necessary in such district for the convenience of the voters and the public interests.

(2) In any city of the first class, whenever there shall be a number of candidates in a primary election so great as to require voting

machines limited to the candidates of one political party, there shall be two voting machines of the same kind in any district for any party which has more than three hundred and fifty (350) registered voters in that district.

(b) Such voting machines shall be installed, either simultaneously or gradually, in political subdivisions which adopt them. Upon the installation of voting machines in any election district, the use of paper ballots therein shall be discontinued, except as otherwise provided herein.

(c) If voting machines are installed gradually, they may be introduced, in the case of counties, in alphabetical order—by cities, boroughs and townships, so that they will first be used in the city, borough or township, the name of which is first in alphabetical order, and then in the city, borough or township, the name of which is next in alphabetical order, and so on. In cities, boroughs and townships, they shall be introduced in numerical or alphabetical order by wards and election districts, if any, so that they will first be used in the first election district of the first ward, and then in the second election district of the first ward, and so on. After they have been installed in all the election districts in the first ward, they may be installed, in the same manner, in the second ward, then in the third ward, and so on. In any event, the machines shall be installed as rapidly as practicable after the electors have voted in favor of them.

If voting machines are installed gradually they may also be introduced in the case of counties by legislative districts with priority in installation being given to municipalities therein in the order of their descending population rank according to the last official decennial census. Within such municipality the voting machines shall be introduced in numerical order by wards and election districts, if any, so that they will first be used in the first election district of the first ward and then in the second election district of the first ward and so on. After they have been installed in all the election districts in the first ward, they shall be installed in the same manner in the second ward, then in the third ward, and so on.

(d) If the question hereinbefore provided shall have been submitted to the qualified electors of the county, city, borough or township, and the majority of the electors voting thereon shall have voted favorably thereon, and if the county election board shall not, within one year, have executed their contract or contracts providing for the purchase or procurement of voting machines for use at the next general, municipal or primary election, occurring at least one year and sixty days after the referendum, then the Secretary of the Commonwealth shall forthwith, in writing, notify the said county

election board that, after the expiration of thirty days, he, under the authority of this act, on behalf of the said county, will award, make, and execute such contract or contracts, unless the said county election board meanwhile shall have made and executed the same.

(e) If, upon the expiration of said thirty days, the county election board still shall not have made and executed the contract or contracts providing for the delivery of machines as aforesaid, the Secretary of the Commonwealth, on behalf of the said county and upon the approval of the Attorney General as to form, shall thereupon award, make, and execute a contract or contracts for the purchase or procurement of a sufficient number of voting machines, approved as required by this act, for each election district within each such county, city, borough or township; and the cost of such voting machines, including the delivery thereof, and of making and entering into the said contract or contracts, including the preparation and printing of specifications and all other necessary expense incidental thereto, shall be the debt of the said county, and, upon the certificate of the Secretary of the Commonwealth, it shall be the duty of the controller, if any, to allow, and of the treasurer of the county to pay, the sum out of any appropriation available therefor, or out of the first unappropriated moneys that come into the treasury of the county.

(f) Provided, however, That if the county election board or the Secretary of the Commonwealth, as the case may be, shall find it impracticable to procure a voting machine or voting machines for each election district of the county, city, borough or township, for use at the general, municipal or primary election then next ensuing, they or he shall provide as many machines as it shall be practicable to procure, and, as soon thereafter as practicable, shall provide the remainder of such machines required hereunder. The machines shall be installed in the election district or districts, in the manner provided for the gradual introduction of voting machines in paragraph (c) of this section.

(g) Any county, city, borough or township may, by a majority vote of its qualified electors cast at any general election held not earlier than one hundred and three weeks after they have voted to adopt such machines, direct the discontinuance of the use of voting machines at elections held in such county, city, borough or township. The question for the discontinuance of the use of such voting machines shall be submitted to the voters, subject to the same requirements as to resolution or petition and signatures thereon, as is required for the submission of the question on the authorization of the use of such voting machines. Such question for discontinuance must be submitted to the qualified electors of the county or municipality which voted on the question of the adoption of voting ma-

chines, and the question of discontinuance shall not be submitted to the qualified electors of any city, borough or township forming a part only of any county which has previously voted to adopt voting machines for the entire county, unless the qualified electors of such city, borough or township have previously, by separate vote of its qualified electors, voted in favor of the adoption of voting machines. Where the qualified electors of any city, borough or township and the qualified electors of the entire county containing therein such city, borough or township, both have voted by separate questions in favor of the adoption of voting machines, a subsequent vote by the qualified electors of the entire county in favor of discontinuance shall not be considered as a vote to discontinue the use of voting machines in such city, borough or township.

Such question as to the discontinuance of the use of voting machines shall be submitted in the following form:

“Shall the use of voting machines be continued in the (city, borough or township), of?”

(h) If it shall appear at any election that the county board requires additional voting machines for the use of the electors, said county board shall have authority to enter into a contract or contracts for the rental of a sufficient number of machines for said election. 1937, June 3, P.L. 1333, art. XI, § 1104. Amended 1965, Dec. 27, P.L. 1226, § 2; 1979, P.L. 189, No. 63, § 5, imd. effective.

Historical and Statutory Notes

The 1979 amendment in subsec. (a) designated the former subsection as subd. (1) and added subd. (2).

Library References

Elections ⇨222.
WESTLAW Topic No. 144.

C.J.S. Elections § 203.
P.L.E. Elections § 65.

Notes of Decisions

Validity of prior law 1

1. Validity of prior law

Act of 1929, April 18, P.L. 549, § 4, repealed, authorizing installation of voting machines if voted by electors of any county or municipality, and requiring secretary of commonwealth to contract for the machines if local authorities fail to act, was not unconstitutional as “local” or “special law.” Clark v. Beamish, 169 A. 130, 313 Pa. 56, 1933.

Act of 1929, April 18, P.L. 549, § 4, repealed, directing secretary of common-

wealth to contract, on county’s behalf, for voting machines voted at election, if county commissioners fail to act, was not unconstitutional as delegating to “special commission” power to supervise or interfere with municipal “money,” “property,” or “effects,” or perform municipal function. Clark v. Beamish, 169 A. 130, 313 Pa. 56, 1933.

In determining whether Act of 1929, April 18, P.L. 549, § 4, repealed, requiring secretary of commonwealth to purchase voting machines for county in certain cases is constitutional, wisdom of

Note 1

legislation is immaterial. *Clark v. Beamish*, 169 A. 130, 313 Pa. 56, 1933.

Act of 1929, April 18, P.L. 549, § 4, repealed, directing secretary of commonwealth to contract for voting machines on

county's behalf if county commissioners fail to do so did not violate constitutional provision relating to indebtedness of Philadelphia. *Clark v. Beamish*, 169 A. 130, 313 Pa. 56, 1933.

§ 3004.1. Temporary use of approved voting machines in certain cases

If the question hereinbefore provided shall have been submitted to the qualified electors of the county, and the majority of the electors voting thereon shall have voted favorably thereon, and if the county election board has made a gradual installation of voting machines approved by the Secretary of the Commonwealth, then such county board of elections may, upon their own motion, authorize the temporary installation of voting machines approved by the Secretary of the Commonwealth for primaries and elections in one or more election districts of the county and the use of such voting machines shall be as valid for all purposes as if the voting machines had been permanently installed.

1937, June 3, P.L. 1333, art. XI, § 1104.1, added 1965, Dec. 27, P.L. 1226, § 3.

Library References

Elections ⇨222.

WESTLAW Topic No. 144.

C.J.S. Elections § 203.

§ 3005. Changing the boundaries of election districts

(a) The courts shall, upon petition, divide or redivide any borough, township or ward, where voting machines are adopted, into election districts of compact and contiguous territory, or shall consolidate election districts therein into new districts, each having between six hundred and eight hundred registered voters as nearly as may be, except that districts having less than six hundred registered voters may be created whenever the court shall be of opinion that the convenience of the voters and the public interests will be promoted thereby.

(b) Proceedings for such division or redivision shall be conducted under the provisions of sections 502, 503, 504, 505 and 506.¹

1937, June 3, P.L. 1333, art. XI, § 1105. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

¹ 25 P.S. §§ 2702 to 2706.

Historical and Statutory Notes

The 1978 amendment in subsec. (a) deleted reference to the court of quarter sessions.

Library References

Elections ⇨48.
WESTLAW Topic No. 144.

C.J.S. Elections § 54.
P.L.E. Elections § 5.

§ 3006. Examination and approval of voting machines by the Secretary of the Commonwealth

(a) Any person or corporation owning, manufacturing or selling, or being interested in the manufacture or sale of, any voting machine, may request the Secretary of the Commonwealth to examine the machine. Any ten or more persons, being qualified electors of this Commonwealth, may, at any time, request the Secretary of the Commonwealth to reexamine any voting machine theretofore examined and approved by him. Before any such examination or reexamination, the person, persons, or corporation, requesting such examination or reexamination, shall pay to the treasurer of the Commonwealth an examination fee of four hundred and fifty dollars (\$450). The Secretary of the Commonwealth may, at any time, in his discretion, reexamine any voting machine.

(b) The Secretary of the Commonwealth shall thereupon require such machine to be examined or reexamined by three examiners, whom he shall appoint for the purpose, of whom one shall be an expert in patent law, and the other two shall be experts in mechanics, and shall require of them a written report on such machine, attested by their signatures; and the Secretary of the Commonwealth himself shall examine the machine, and shall make and file in his office, together with the reports of the examiners appointed by him, his own report, attested by his signature and the seal of his office, stating whether, in his opinion and in consideration of the reports of the examiners aforesaid, the kind of machine so examined can be safely used by electors at elections, as provided in this act. If his report states that the machine can be so used, the machine shall be deemed approved, and machines of its kind may be adopted for use at elections, as herein provided.

(c) No kind of voting machine not so approved shall be used at any election, and if, upon the reexamination of any voting machine previously approved, it shall appear that the machine so reexamined can no longer be safely used by electors at elections as provided in this act, the approval of the same shall forthwith be revoked by the Secretary of the Commonwealth, and no such voting machine shall thereafter be purchased for use in this Commonwealth.

(d) When a machine has been so approved, no improvement or change that does not impair its accuracy, efficiency or capacity, shall render necessary a reexamination or reapproval of the machine, or of its kind.

(e) Neither the Secretary of the Commonwealth, nor any examiner appointed by him for the purpose prescribed by this section, nor any member of a county election board shall have any pecuniary interest in any voting machine, or in the manufacture or sale thereof.

(f) Each examiner appointed hereunder shall receive a compensation of one hundred and fifty dollars (\$150) for each different type of voting machine examined by him.

1937, June 3, P.L. 1333, art. XI, § 1106.

Library References

Elections ☞ 222.

WESTLAW Topic No. 144.

C.J.S. Elections § 203.

P.L.E. Elections § 65.

Notes of Decisions

In general 1

1. In general

A county election board must have the arrangement of voting machines and bal-

lots approved by the Secretary of the Commonwealth; approval by the chief of the bureau of elections is insufficient. *Lesniak v. Lawler*, 30 D. & C. 424, 1938.

§ 3007. Requirements of voting machines

No voting machine shall, upon any examination or reexamination, be approved by the Secretary of the Commonwealth, or by any examiner appointed by him, unless it shall, at the time, satisfy the following requirements:

(a) It shall provide facilities for voting for such candidates as may be nominated, and upon such questions as may be submitted.

(b) It shall permit each voter, at other than primary elections, to vote a straight political party ticket in one operation, and, in one operation, to vote for all the candidates of one political party for presidential electors, and, in one operation, to vote for all the candidates of one political party for every office to be voted for, except those offices as to which he votes for individual candidates.

(c) It shall permit each voter, at other than primary elections, to vote a ticket selected from the nominees of any and all political parties, from the nominees of any and all political bodies, and from persons not in nomination.

(d) It shall permit each voter to vote, at any election, for any person and for any office for whom and for which he is lawfully

entitled to vote, whether or not the name of such person appears upon a ballot label as a candidate for nomination or election, and to vote for as many persons for an office as he is entitled to vote for, and to vote for or against any question upon which he is entitled to vote.

(e) It shall preclude each voter from voting for any candidate, or upon any question, for whom or upon which he is not entitled to vote, and from voting for more persons for any office than he is entitled to vote for, and from voting for any candidate for the same office or upon any question more than once, except in districts and for offices where cumulative voting is authorized by law.

(f) It shall be capable of adjustment by election officers, so as to permit each voter at a primary election to vote only for the candidates for nonpartisan nomination, if any, and for the candidates seeking nomination by the political party in which he is registered and enrolled, if he is enrolled as a member of a political party, and so as to preclude him from voting for the candidates seeking nomination by any political party in which he is not enrolled.

(g) It shall permit each voter to deposit, write in, or affix upon receptacles or devices provided for the purpose, ballots containing the names of persons for whom he desires to vote, whose names do not appear upon the machine.

(h) It shall permit each voter to change his vote for any candidate, or upon any question appearing upon the ballot labels, up to the time he begins the final operation to register his vote, or indicates or expresses his intention to register his vote.

(i) It shall permit and require voting in absolute secrecy, and shall be so constructed that no person can see or know for whom any other elector has voted or is voting, save a voter whom he has assisted or is assisting in voting, as prescribed by law.

(j) It shall have voting devices for separate candidates and questions, which shall be arranged in separate parallel rows or columns, so that, at any primary election, one or more adjacent rows or columns may be assigned to the candidates of a party, and shall have parallel office columns or rows transverse thereto.

(k) It shall have a counter, or other devise, the register of which is visible from the outside of the machine, which shall show during any period of voting the total number of voters who have operated the machine during said period of voting.

(l) It shall have a protective counter, or other device, the register of which cannot be reset, which shall record the cumulative total number of movements of the operating mechanism.

(m) It shall be provided with a lock or locks, by the use of which, immediately after the polls are closed, or the operation of the machine for an election is completed, all movement of the registering mechanism is absolutely prevented.

(n) It shall be provided with a screen, hood or curtain, which shall conceal the actions of the voter while voting.

(o) It shall be constructed of material of good quality, in a neat and workmanlike manner.

(p) It shall, when properly operated, register or record correctly and accurately every vote cast.

(q) It shall be so constructed that a voter may readily learn the method of operating it.

(r) It shall be safely transportable.

(s) It shall be so constructed and controlled that, during the progress of voting, it shall preclude every person from seeing or knowing the number of votes registered for any candidate, and from tampering with any of the registering mechanism.

(t) If it is of a type equipped with mechanism for printing paper proof sheets, and not requiring the counters to be made visible in order to canvass the votes recorded on the machine, the door, or other device, concealing such counters, or keeping the same concealed, may be equipped with a lock or locks, requiring the simultaneous use of three separate and substantially different keys to open or operate the same.

1937, June 3, P.L. 1333, art. XI, § 1107.

Library References

Elections ⇐222.
WESTLAW Topic No. 144.

C.J.S. Elections § 203.
P.L.E. Elections § 65.

Notes of Decisions

Change vote 3
Construction 1
Straight political party ticket 2

1. Construction

In absence of a manifestly contrary intention on part of legislature, construction of two statutes which allows both to operate is mandatory. Appeal of Yerger, 333 A.2d 902, 460 Pa. 537, 1975.

When dealing with a comprehensive and carefully drawn legislative scheme for the conduct of elections, court must take care not to consider the particular

elements of the scheme without regard to their place in the entire structure. Appeal of Yerger, 333 A.2d 902, 460 Pa. 537, 1975.

2. Straight political party ticket

Under Act of 1929, April 18, P.L. 549, as amended, repealed, voting machine need provide a single lever to record straight vote only for candidates of regularly constituted "political parties," and not for "political bodies" arising by pre-emption, where voting machine cannot accommodate them. Davidowitz v. Philadelphia County, 187 A. 585, 324 Pa. 17, 1936.

Under Act of 1929, April 18, P.L. 549, as amended, repealed, single parallel row on voting machine for all candidates of political group is not necessary, but candidates of different groups can be placed on single row. *Davidowitz v. Philadelphia County*, 187 A. 585, 324 Pa. 17, 1936.

3. Change vote

The specific language of section 3056 of this title, providing that an irregular ballot cast on a voting machine for any per-

son whose name appears on the machine as a candidate shall be void, as applied in circumstance that a voter who lifts the write-in slide on machine may not thereafter cast a regular vote for one of the candidates listed on the machine, prevails over the general provisions of this section requiring that voting machine permit each voter to change his vote for any candidate up to the time that he begins the final operation to register his vote. *Appeal of Yerger*, 333 A.2d 902, 460 Pa. 537, 1975.

§ 3008. Payment for machines

The county commissioners, or such other authority as levies the taxes for county purposes of any county which adopts voting machines, or of any county in which a city, borough or township is located which adopts voting machines, shall, upon the purchase thereof, provide for payment therefor by the county: Provided, however, That bonds or other evidences of indebtedness, payable not later than thirty years from their dates of issuance, may be issued in accordance with the provisions of law relating to the increase of indebtedness of counties, to meet all or any part of the cost of the voting machines.

1937, June 3, P.L. 1333, art. XI, § 1108. Amended 1965, Dec. 27, P.L. 1226, § 4.

Library References

Counties ⇨158.
WESTLAW Topic No. 104.

C.J.S. Counties § 198.
P.L.E. Counties § 95.

§ 3009. Demonstration of voting machines

Whenever a referendum is about to be held upon the adoption of voting machines in any county, city, borough or township, the county election board shall purchase, lease or borrow a reasonable number of voting machines for demonstration purposes in such county, city, borough or township, prior to such referendum.

1937, June 3, P.L. 1333, art. XI, § 1109.

Library References

Elections ⇨33.
WESTLAW Topic No. 144.

C.J.S. Elections § 79.
P.L.E. Elections § 65.

§ 3010. Form of ballot labels on voting machines

(a) The papers, cards or strips, enclosed within the ballot frame or frames of any voting machine, and containing the names of a candi-

date or candidates, or political party, or the statement of a question to be voted upon, hereinafter referred to as ballot labels, shall be printed in black ink, upon clear white material, of such size as will fit the ballot frame, and in plain clear type so as to be easily readable by persons with normal vision.

(b) If the construction of the machine shall require it, the ballot label for each candidate, group of candidates, political party, or question, to be voted on, shall bear the designating letter or number of the counter on the voting machine which will register or record votes therefor. Each question to be voted on shall appear on the ballot labels, in brief form, of not more than seventy-five words, to be determined by the Secretary of the Commonwealth in the case of constitutional amendments or other questions to be voted on by the electors of the State at large, and by the county election board in other cases.

(c) The ballot label for each candidate or group of candidates nominated or seeking nomination by a political party, shall contain the name or designation of the political party.

(d) The titles of offices may be arranged horizontally or vertically, with the names of candidates for an office arranged transversely under or opposite the title of the office. Under the title of such offices where more than one candidate is to be voted for, shall be printed "Vote for not more than" (the blank space to indicate the number of candidates to be voted for the particular office.)

(e) The names of all candidates, nominated or seeking nomination by a political party, shall appear in adjacent rows or columns containing generally the names of candidates nominated or seeking nomination by such party, provided that the names of individual candidates for presidential elector shall not appear upon the ballot labels, but, in lieu thereof, the names of the candidates of said party for President and Vice-President shall be printed on a single ballot label, together with the name of said party.

(f) When the same person has been nominated for the same office by more than one political party, his name shall appear in the rows or columns containing generally, the names of candidates nominated by each such party, his position in such rows or columns to be determined by the number of votes he received at the primary in the party entitled to priority on the ballot as determined by the votes obtained in the State at the last gubernatorial election by the candidate for Governor.

(g) The form and arrangement of ballot labels shall be prepared by the county election board.

(h) The names of all candidates of a political party shall appear in the same row or column, and except in cases of names of presidential commitments of nominees for delegate or alternate delegate to political party National conventions no other names shall appear in the same row or column, to the left or top of which shall be a straight party lever, by means of which an elector may, in one operation, vote for all the candidates of that political party for every office to be voted for. Where the names of the delegate or alternate delegate and the presidential candidate he is supporting shall both appear, the print size of the name of the delegate or alternate delegate shall be equal to the size of the name of the particular presidential candidate to whom he is committed, or in the case where he is uncommitted, the word "uncommitted" shall appear in the same size print. The names of such candidates shall be arranged under or opposite the title of the office for which they are candidates, and shall appear in the order of the votes obtained by the candidate for Governor of the party nominated at the last gubernatorial election, beginning with the party obtaining the highest number of votes: Provided, however, That in the case of parties or bodies not represented on the ballot at the last gubernatorial election, the names of the candidates of such parties shall be arranged alphabetically, according to the party or body name. The names of all candidates of a political body shall appear in the same row or column, and, if the number of parties and bodies permits, each political body shall be entitled exclusively to a separate row or column, with a straight party lever. If, however, the number of political parties and political bodies renders it impossible or impracticable to so arrange the political bodies, in such case said bodies shall not be entitled to a separate row or column and a straight party lever, but shall be listed by political appellations on the first left hand or top row, with the designating letter and number of the ballot label where their candidates may be found, together with the political appellations of other political bodies, whose candidates may be interspersed on the same row or column. Subject to the aforesaid limitations, the form and arrangement of ballot labels, as to the placing thereon of political bodies, shall be within the discretion of the county board.

(i) In primary elections, the ballot labels, containing the names of candidates seeking nomination by a political party, shall be segregated on the face of the machine in adjacent rows or columns by parties, the priority of such political parties on the ballot labels to be determined in the same manner as provided for determining priority on paper ballots in section 1003(f) herein.

(j) In primary elections, if it shall be impossible or impracticable to place on the ballot labels of one machine the names of all candidates seeking nomination in all political parties, the county election board

may arrange for each election district the names of the candidates on separate voting machines: Provided, however, That the names of all the candidates seeking nomination in any one political party shall appear on one machine.

(k) Except as hereinafter provided in primary elections where there are a sufficient number of ballot frames on one row or column to accommodate all the candidates of a political party, the names of all the candidates shall appear on that row or column in the order that was established under the provisions of sections 915 and 916 of this act.¹ Where there are four or more candidates for a particular office, the names of the candidates may be divided between the rows or columns as equally as possible so long as the order as provided in sections 915 and 916 is maintained.

(l) At the written request of a State committee, filed with the party rules and on the deadline prescribed by section 808.1 of this act,² a party may have a "no preference" column added to the list of candidates for the office of President of the United States at the primary election. The ballot position for "no preference" shall be drawn in the same manner as the other candidates for that office: Provided, however, That this position shall be drawn by the Secretary of the Commonwealth or his or her designee.

(m) Notwithstanding any other provision of this section, a county election board may, to avoid voter confusion, provide for the use of a color scheme to identify all the candidates for a specific office.

1937, June 3, P.L. 1333, art. XI, § 1110. Amended 1947, April 24, P.L. 68, § 1; 1951, Sept. 29, P.L. 1571, § 1; 1963, Aug. 8, P.L. 614, § 1; 1971, Dec. 22, P.L. 620, No. 165, § 14; 1976, Dec. 2, P.L. 1221, No. 269, § 8, imd. effective; 1979, July 21, P.L. 189, No. 63, § 6, imd. effective; 1990, Dec. 17, P.L. 681, No. 169, § 3, effective in 60 days.

¹ 25 P.S. §§ 2875, 2876.

² 25 P.S. § 2838.1.

Historical and Statutory Notes

The 1976 amendment, in subsec. (d), added the second sentence.

The 1990 amendment added subsec. (m).

The 1979 amendment added subsec. (l).

Library References

Elections ⇨222.

WESTLAW Topic No. 144.

C.J.S. Elections § 203.

P.L.E. Elections § 65.

Notes of Decisions

Arrangement of names and labels 1

Political appellations 4

Laches 5

Party levers 3

Separate machines 2

1. Arrangement of names and labels

Alleged "gap" between Republican and Democratic columns on left of ballot for councilmen (columns A and B) and columns E, F, and G, on right of ballot did not unconstitutionally discriminate against independent candidates in columns E, F, and G on theory known as the "law of proximity" where there was no evidence as to extent and magnitude of alleged discrimination, and the "gap" existed because the constitutional party in column C and the American Independent Party in column D failed to run candidates for any office. *Gilhool v. Chairman and Com'rs, Philadelphia County Bd. of Elections*, 306 F.Supp. 1202, D.C.1969.

The fact that the number of candidates seeking nomination in one party for a particular office requires that some of the candidates' names be placed over levers on the voting machines upon a lower row than their opponents does not make the use of a single machine "impossible or impracticable" under the provisions of this section. *Miller v. Reider*, 75 D. & C.2d 446, 98 Dauph. 179, 1976.

In a primary election for the nomination of two Republican candidates for the office of township supervisor where there were three candidates with the names of two appearing on row "D" of the ballot and the third candidate's name on row "E," although there were two blank ballot frames at the end of row "D," and where the third candidate received substantially less votes than either of the other two, as a result of which a petition contesting the election was filed, the election will be declared invalid, since this section is mandatory in requiring that the names of all candidates of a political party for a particular office be listed on one row, if possible, and the act applies even though the violation was not raised until after election. In re Republican Election for Sup'rs of Derry Tp., 53 D. & C.2d 454, 94 Dauph. 73, 1971.

The Republican primary election of May 18, 1971, for the nomination of two candidates for township supervisor in Derry Township was declared invalid where the names of two of the candidates appeared on one row of the ballot but the name of the third candidate, who received the lowest number of votes, ap-

peared on the following row. In re Republican Election for Sup'rs of Derry Tp., 53 D. & C.2d 454, 94 Dauph. 73, 1971.

The requirement of this section, that the names of all candidates appear on the same row or column, except where there are four or more candidates, is mandatory. In re Republican Election for Sup'rs of Derry Tp., 53 D. & C.2d 454, 94 Dauph. 73, 1971.

Where Secretary of Commonwealth had approved order of names of political parties on ballot labels and voting machines under this section prior to the 1951 amendment, neither a county board of elections nor a court or common pleas had power to alter such order. In re Mistake in Printing of Ballots and Ballot Labels for 1946 General Election, 57 D. & C. 649, 39 Berks 57, 1947.

Where, at a primary election, two ballot labels become transposed, thereby confusing the voters, it is possible that in proper proceedings under 25 P.S. § 3049, the election might be contested and set aside, but the court cannot grant a petition to modify the election return by adding the vote of electors who, because of the confusion, cast votes in a vacant space. In re Election in Third Dist. of Ransom Tp., 38 D. & C. 609, 1941.

An arrangement of voting machines by which ballot labels of all candidates for the Democratic party were in the top row and the ballot labels of all candidates for the Republican party were in the third row, the second row being vacant, was improper and confusing if in previous years the party rows had been contiguous and if they were contiguous upon the ballots for the same election. *Lesniak v. Lawler*, 30 D. & C. 424, 1938.

The name of the Republican candidate who placed second in the primary must be inserted in the first Republican position on the general election ballot so that no blank spaces appear on either the Democratic or Republican tickets, when candidate who placed first in the primary and cross-filed on both the Democratic and Republican tickets occupies second position in both the Democratic and Republican tickets. 1973 Op.Atty.Gen. No. 63.

2. Separate machines

The right of a candidate for nomination at a primary election to require that a

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separate machine be placed at each polling place for each major political party is limited to situations where it is impossible or impracticable to place the names of all candidates seeking nomination in all parties on one machine. *Miller v. Reider*, 75 D. & C.2d 446, 98 Dauph. 179, 1976.

3. Party levers

Electors were not entitled to injunction to restrain city from utilizing voting machines employing state party voting levers on ground that voting instructions favored straight party voting to prejudice of independent candidates, where new instructions made clear to voter that he need not first pull a party lever before "splitting" his vote among other candidates. *Gilhool v. Chairman and Com'rs, Philadelphia County Bd. of Elections*, 306 F.Supp. 1202, D.C.1969.

In view of showing that voter wishing to vote for independent candidate for city council had just as many ways of voting for that candidate as he had for voting for candidate of one of regular political parties, electors seeking to enjoin use of party levers failed to sustain their burden of proving that use of party levers attained dimension of an "invidious discrimination" proscribed by the Federal Constitution. *Gilhool v. Chairman and Com'rs, Philadelphia County Bd. of Elections*, 306 F.Supp. 1202, D.C.1969.

A mandamus by nominee for councilman-at-large demanding that the election machines be so arranged that he might be voted for by means of a separate lever on a separate line, apart from and independent of all other offices being voted upon in the election, was dismissed, since the Election Code directs that the voting machines and ballot labels thereon be so arranged as to permit each voter to vote a straight political party ticket in one operation "for all the candidates of one political party for every office to be voted for". *Leon v. Philadelphia*, 9 D. & C.2d 706, 1958.

4. Political appellations

Provision of Act of 1893, June 10, P.L. 419, § 14, as amended, repealed, requiring listing of party appellations on ballot is mandatory, and must be complied with when voting machine is used by listing party appellations on lefthand column or top of machine. *Davidowitz v. Philadelphia County*, 187 A. 585, 324 Pa. 17, 1936.

Provision in Act of 1929, April 18, P.L. 549, as amended, repealed, authorizing Secretary of Commonwealth to determine form and arrangement of ballot labels on voting machines, "as nearly as may be" in accordance with law and regulations of paper ballot, does not permit secretary to disregard mandatory provisions of Act of 1893, June 10, P.L. 419, § 14, as amended, repealed, relating to listing of party appellations. *Davidowitz v. Philadelphia County*, 187 A. 585, 324 Pa. 17, 1936.

Where number of political organizations participating in election was so large that not all parties could be provided with full row on voting machines, names of organizations without presidential candidates could be printed in type large enough to be clearly and quickly seen and placed one under the other in remaining rows for party names, followed by specific number and letter of ballot label where their candidates could be found unless number of parties was greater than remaining rows, in which event paper ballots would have to be used. *Davidowitz v. Philadelphia County*, 187 A. 585, 324 Pa. 17, 1936.

5. Laches

The fact that a violation of the form of the ballot was not attacked prior to the election will not defeat an action to declare the election invalid where a sample ballot had not been available for inspection prior to the election. In re *Republican Election for Sup'rs of Derry Tp.*, 53 D. & C.2d 454, 94 Dauph. 73, 1971.

§ 3011. Preparation of voting machines by county election boards

(a) The county election board of each county shall cause the proper ballot labels to be placed on each voting machine which is to be used in any election district within such county; and shall cause

each machine to be placed in proper order for voting; shall examine each machine before it is sent out to a polling place; shall see that each registering counter, except the protective counter, on each machine is set at zero (000); shall lock each machine so that the counting machinery cannot be operated, and shall seal each machine with a numbered seal. The county election board or their duly authorized agent shall adjust each machine to be used at a primary election, so that the election officers may lock it on primary election day, in such a way that each voter can vote only for the candidates for nonpartisan nomination, if any, and for the candidates seeking nomination by the political party in which he is enrolled, if he is enrolled as a member of a political party, and so that no voter can vote for the candidates seeking nomination by any political party in which he is not enrolled.

(b) The county election board shall appoint one custodian of voting machines, and such deputy custodians as may be necessary, whose duty it shall be to prepare the machines to be used in the county at the elections to be held therein. Each custodian and deputy custodian shall receive from the county, for each day he is actually employed under the provisions of this act, such compensation as shall be fixed by the county election board, but not less than five dollars (\$5.00) per day. Such custodian shall, under the direction of the county election board, have charge of and represent the county election board during the preparation of the voting machines as required by this act, and he and the deputy custodians, whose duty it shall be to assist him in the discharge of his duties, shall serve at the pleasure of the county election board. Each custodian shall take the constitutional oath of office, which shall be filed with the county election board.

(c) On or before the fortieth day preceding an election, the county election board shall mail to the chairman of the county committee of each political party, which shall be entitled under existing laws to participate in primary elections within the county, and to the chairman or presiding officer of any organization of citizens within the county having as its purpose or among its purposes the investigation or prosecution of election frauds, which has registered its name and address, and the names of its principal officers with the county election board at least fifty (50) days before such election, a written notice stating the times when and the place or places where preparation of the machines for use in the several election districts in the county will be started. One representative of each of such political parties, certified by the respective chairmen of the county committees of such parties, and one representative of each such organization of citizens, certified by the respective chairmen or presiding officers of such organizations, shall be entitled to be present, during the prepa-

ration of the machines, and to see that the machines are properly prepared and are placed in proper condition and order for use: Provided, however, That such representatives shall not interfere with preparation of the machines, and the county board may make such reasonable rules and regulations governing the conduct of such representatives.

(d) The custodian and deputy custodians of voting machines shall make a certificate, in writing, which each shall sign, and request each representative of a party or a citizens organization as aforesaid, present at the preparation of the machine to attest, and which shall be filed with the county election board, stating—(1) the identifying number or other designation of the voting machine; (2) that each registering counter of the machine was set at zero (000); (3) the number registered on the protective counter or other device of the machine; and (4) the number on the seal with which the machine is sealed.

(e) No member of the county election board, nor custodian, nor other employe of the county election board, shall, in any way, prevent free access to and examination of all voting machines, which are to be used at the election, by any of the duly appointed representatives aforesaid; and the county election board and their employes shall afford to each such representative every facility for the examination of all registering counters, protective counters, and public counters of each and every voting machine.

(f) The county election board shall furnish, at the expense of the county, all ballot labels, forms of certificates, returns, and other papers and supplies, required under the provisions of this act, all of which shall be in the form, and according to the specifications, prescribed, from time to time, by the Secretary of the Commonwealth.

1937, June 3, P.L. 1333, art. XI, § 1111.

Library References

Elections ⇨222.

WESTLAW Topic No. 144.

C.J.S. Elections § 203.

P.L.E. Elections § 65.

§ 3012. Delivery of voting machines and supplies by county election boards to election officers

(a) The county election board shall deliver the proper voting machine or voting machines, properly furnished with ballot labels, to the polling places of the respective election districts, at least one hour before the time set for opening the polls at each election, and shall cause each machine to be set up in the proper manner for use in

voting. Each machine shall then remain sealed until the examination immediately preceding the opening of the polls prescribed by this act.

(b) The county election board shall provide ample protection against molestation of and injury to the voting machine, and, for that purpose, shall and may call upon any police or elected peace officer of this Commonwealth to furnish such assistance as may be necessary, and it shall be the duty of police and elected peace officers to furnish such assistance when so requested by the county election board.

(c) The county election board shall furnish, at the expense of the county, and deliver with each voting machine:

1. A lantern, or a proper substitute for one, which shall give sufficient light to enable voters, while in the voting machine booth, to read the ballot labels, and suitable for the use of election officers in examining the counters. The lantern, or proper substitute therefor, shall be prepared and in good order for use before the opening of the polls.

2. Two diagrams or sample ballots, of suitable size, representing such part of the face of such voting machine as will be in use in the election, and accompanied by directions for voting on the machine. Such diagrams shall be posted prominently outside the enclosed space within the polling place.

3. A mechanically operated model of a portion of the face of a voting machine, for the instruction of electors. Such model shall be placed in the polling place and at or outside of the guard-rail or barrier.

4. A seal, for sealing the machine after the polls are closed; an envelope for the return of the keys, if the construction of the voting machine shall permit their separate return; and such other election materials and supplies as may to necessary, or as may be required by law.

1937, June 3, P.L. 1333, art. XI, § 1112.

Library References

Elections Ⓒ222.
WESTLAW Topic No. 144.

C.J.S. Elections § 203.
P.L.E. Elections § 65.

§ 3013. Election officers; polling places

(a) The election board in each election district in which a voting machine is used shall consist of a judge of election, two inspectors of election, and one clerk of election chosen by the minority inspector, as is provided by this act.

(b) Where more than one machine is to be used in an election district, the county election board shall, prior to each election, appoint, for each additional voting machine to be used in such district, one elector of the county, qualified to serve as an election officer, to serve as machine inspector in such district at such election, who shall receive the same compensation as an inspector of election, and whose duty it shall be to have charge of the operation of one of the voting machines under the supervision of the judge of election. Each machine inspector shall be sworn to the faithful discharge of his duties.

(c) In election districts in which voting machines are used, the county election board may, in its discretion, procure and provide portable or movable polling places of adequate size and facilities for any or all of such districts.

1937, June 3, P.L. 1333, art. XI, § 1113.

Library References

Elections Ⓒ51.

WESTLAW Topic No. 144.

C.J.S. Elections § 57 et seq.

P.L.E. Elections § 6.

§ 3014. Delivery of voting machine keys to judge of election

(a) The county election board shall deliver the keys, which unlock the operating mechanism and the registering counters or counter compartment of the voting machine, to the judge of election, not earlier than the Saturday preceding an election, nor later than three-quarters of an hour before the time set for the opening of the polls, and shall take his receipt therefor. The keys shall be enclosed in a sealed envelope, on which shall be written or printed: (1) the number of the voting machine; (2) the name or designation of the election district; (3) the number of the seal; (4) the number registered on the protective counter or device as reported by the custodian: Provided, however, That if the type of voting machine used requires the simultaneous use of three keys to unlock the registering counters or counter compartment, only two of said keys shall be enclosed in said sealed envelope, the third key being retained by the custodian, the county election board, or such other person as they shall have authorized.

(b) No election officer shall open an envelope so delivered, until the minority inspector shall be present in the polling place, and shall have examined the envelope to see that it has not been opened.

1937, June 3, P.L. 1333, art. XI, § 1114. Amended 1949, April 21, P.L. 693, § 4.

Library References

Elections ⇨222.
WESTLAW Topic No. 144.

C.J.S. Elections § 203.
P.L.E. Elections § 65.

§ 3015. Instruction of voters before an election

(a) During the thirty days next preceding an election, the county election board shall place on public exhibition, in such public places, and at such times as it may deem most suitable for the information and instruction of the voters, one or more voting machines, containing the ballot labels, and showing the offices and questions to be voted upon, the names and arrangements of parties, and, so far as practicable, the names and arrangements of the candidates to be voted for. Such machine or machines shall be under the charge and care of a person competent as custodian and instructor. No voting machine, which is to be assigned for use in an election, shall be used for such public exhibition and instruction, after having been prepared and sealed for the election.

(b) During such public exhibition and instruction, the counting mechanism of the voting machine shall be concealed from view, and the doors, or cover concealing the same, shall be opened, if at all, only temporarily, and only upon written authorization from the county election board.

(c) Prior to any election, the county board may cause copies of any diagram or diagrams, required to be furnished with voting machines at polling places, to be made, either in full size or in reduced size, and to be posted, published, advertised or distributed among the electors in such manner as they may deem desirable.

1937, June 3, P.L. 1333, art. XI, § 1115.

Library References

Elections ⇨222.
WESTLAW Topic No. 144.

C.J.S. Elections § 203.
P.L.E. Elections § 65.

§ 3016. Voting by ballot

If a method of election for any candidates or offices is prescribed by law, in which the use of voting machines is not possible or practicable, or in case, at any election, the number of candidates nominated or seeking nomination for any office renders the use of voting machines for such office at such election impracticable, or if, for any other reason, at any election the use of voting machines is not possible or practicable, the county election board may arrange to have the voting for such or all offices conducted by paper ballots. In such cases, ballots shall be printed for such or all offices, and the

election conducted by the election officers herein provided for, and the ballots counted and return thereof made in the manner required by law for such offices, in so far as paper ballots are used.

1937, June 3, P.L. 1333, art. XI, § 1116.

Library References

Elections § 163.
WESTLAW Topic No. 144.

C.J.S. Elections § 155.
P.L.E. Elections § 61.

Notes of Decisions

Commissioners' discretion 1 Discontinued use of machines 2

1. Commissioners' discretion

Considering overall benefits to be derived from use of properly authorized voting machines rather than paper ballots in primary election, county commissioners abused their discretion in deciding to substitute paper ballots, although there might be inconvenience in utilizing write-in slots on machines, and some difficulty in distinguishing male and female candidates. *Zaleski v. Kilgore*, 181 A.2d 293, 407 Pa. 524, 1962.

County commissioners must exercise their discretion in determining whether use of voting machine is possible or prac-

ticable in given situation. *Zaleski v. Kilgore*, 181 A.2d 293, 407 Pa. 524, 1962.

Court will not interfere with county commissioner's exercise of discretion as to whether voting machines can be used after Secretary of Commonwealth certified form and arrangement of ballots to them, except when bad faith, abuse of discretion, fraud, or violation of law appears. *Davidowitz v. Philadelphia County*, 187 A. 585, 324 Pa. 17, 1936.

2. Discontinued use of machines

Board of county commissioners acting as county election board is bound by legislative expression of conditions under which use of voting machine may be discontinued once they have been approved. *Zaleski v. Kilgore*, 181 A.2d 293, 407 Pa. 524, 1962.

§ 3017. Unofficial ballot labels; repair of machine, or use of paper ballots

(a) If ballot labels for an election district, at which a voting machine is to be used, shall not be delivered to the election officers as required by section 1209(b)(2) of this act,¹ the judge of election of such district shall cause other labels to be prepared, printed, or written, as nearly in the form of official ballot labels as practicable, and the election officers shall cause the labels, so substituted, to be used at the election, in the same manner, as near as may be, as the official labels. Such labels, so substituted, shall be known as unofficial ballot labels.

(b) If any voting machine being used in any election shall become out of order during such election, it shall, if possible, be repaired or another machine substituted by the custodian or county election board as promptly as possible, for which purpose the county board may purchase as many extra voting machines as they may deem necessary, but in case such repair or substitution cannot be made,

paper ballots, printed or written, and of any suitable form, may be used for the taking of votes.

1937, June 3, P.L. 1333, art. XI, § 1117.

1 25 P.S. § 3049.

Library References

Elections ⇨164, 222.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 149, 203.
P.L.E. Elections §§ 61, 65.

§ 3018. Custody of voting machines and keys

(a) The county election board shall designate a person or persons who shall have the custody of the voting machines of the county, city, borough or township, and the keys therefor, when the machines are not in use at an election, and shall provide for his compensation and for the safe storage and care of the machines and keys.

(b) All voting machines, when not in use, shall be properly boxed or covered, and stored in a suitable place or places.

1937, June 3, P.L. 1333, art. XI, § 1118.

Library References

Elections ⇨222.
WESTLAW Topic No. 144.

C.J.S. Elections § 203.
P.L.E. Elections § 65.

ARTICLE XI-A. ELECTRONIC VOTING SYSTEMS

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

§ 3031.1. Definitions

As used in this article:

"Automatic tabulating equipment" means any apparatus which automatically examines and computes votes registered on paper ballots, ballot cards or district totals cards or votes registered electronically and which tabulates such votes.

"Ballot" means ballot cards or paper ballots upon which a voter registers or records his vote or the apparatus by which the voter registers his vote electronically and shall include any ballot envelope, paper or other material on which a vote is recorded for persons whose names do not appear on the ballot labels.

"Ballot card" means a card which is compatible with automatic tabulating equipment and on which votes may be registered.

"Ballot label" means the cards, papers, booklets, pages or other materials which contain the names of offices and candidates and the

statements of questions to be voted on and which are used in conjunction with the voting device.

"Counting center" means one or more locations selected by the county board of elections for the automatic tabulation of votes.

"Custodian" shall mean the person charged with the duty of testing and preparing voting devices and automatic tabulating equipment for elections and instructing election officials in the use of such voting devices and equipment.

"District totals cards" means a card or other data storage device which is compatible with automatic tabulating equipment and may be used in any voting system which provides for the initial computation and tabulation of votes at the district level to record the total number of votes cast for each candidate whose name appears on the ballot, the total number of write-in votes properly cast for each office on the ballot and the total number of votes cast for or against any question appearing on the ballot.

"Election" and **"Elections"** shall mean all general, municipal, primary and special elections.

"Electronic voting system" means a system in which one or more voting devices are used to permit the registering or recording of votes and in which such votes are computed and tabulated by automatic tabulating equipment. The system shall provide for a permanent physical record of each vote cast.

"Municipality" means a city, borough, incorporated town and township.

"Official ballot" means the list of offices and candidates and the statement of questions reflected on the voting device.

"Paper ballot" means a printed paper ballot which conforms in layout and format to the voting device in use.

"Public counter" shall mean a counter or other element which shall at all times publicly indicate how many ballots have been cast during the course of the election.

"Question" shall mean the statement of a constitutional amendment or other proposition which is submitted to a popular vote at any election.

"Voting booth" shall mean the enclosure occupied by the voter when voting.

"Voting device" means either an apparatus in which paper ballots or ballot cards are used in connection with an implement by which a voter registers his votes with ink or other substance or by punching, or an apparatus by which such votes are registered electronically, so

that in either case the votes so registered may be computed and tabulated by means of automatic tabulating equipment.

1937, June 3, P.L. 1333, art. XI-A, § 1101-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.2. Authorization of electronic voting systems for use at polling places

Any county or municipality may, by a majority vote of its qualified registered electors voting thereon cast at any primary or election, authorize and direct the use of an electronic voting system for registering or recording and computing the vote at all elections and primaries held at polling places in such county or municipality.

1937, June 3, P.L. 1333, art. XI-A, § 1102-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.3. Placing the question on the ballot; election thereon

(a) The county election board may, upon their own motion, submit to the qualified registered electors of the county or municipality, at any primary or election, the question "shall an electronic voting system be used at polling places in the (county or municipality) of?"

(b) The county election board, upon receipt of a request from the governing body of a municipality, said request being evidenced by the filing of a copy of a resolution certified by the secretary or clerk of the municipality, or upon the filing of a petition with them signed by qualified registered electors of the county or municipality, equal in number to at least ten (10) per centum of the total number of electors who voted in said county or municipality, at the preceding general or municipal election, but in no case less than fifty, shall, at the next primary or election, occurring at least sixty days thereafter, submit to the qualified registered electors of such county or municipality, the question "shall an electronic voting system be used at polling places in the (county or municipality) of?"

(c) The county board shall cause the said question to be submitted at the primary or election, in accordance with the provisions of this act relating to elections.

(d) The election on said question shall be held at the places, during the hours, and under the regulations, provided by law for holding primaries and elections, and shall be conducted by the election officers provided by law to conduct such elections. The election officers shall count the votes cast at the elections on said question, and shall make return thereof to the county election board of the county, as required by law. Said returns shall be computed by the county election board, or other return board, and, when so comput-

ed, a certificate of the total number of electors voting "Yes" and of the total number of electors voting "No" on such question shall be filed in the office of the county election board, and copies thereof, certified by the county election board, shall forthwith be furnished to the Secretary of the Commonwealth, and to the county commissioners or other appropriating authority of the county or municipality.

(e) If a majority of the electors of any county or municipality, voting on such question, shall vote against the adoption of an electronic voting system the question shall not again be submitted to the voters of such county or municipality within a period of one hundred three weeks.

(f) Whenever, under the provisions of this act, the question of the adoption of an electronic voting system is to be submitted to the electors of any county, the county board of elections shall purchase, lease or otherwise procure those parts of the system used by the voter in a quantity sufficient for reasonable demonstration of the system or systems in such county prior to the general or municipal election in question.

1937, June 3, P.L. 1333, art. XI-A, § 1103-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.4. Installation of electronic voting systems

(a) If a majority of the qualified registered electors voting on the question in any county or municipality vote in favor of the adoption of an electronic voting system, the county board of elections of that county shall purchase, lease, or otherwise procure for each election district of such county or municipality, the components of an electronic voting system of a kind approved, as hereinafter provided, by the Secretary of the Commonwealth, and the board shall thereafter notify the Secretary of the Commonwealth, in writing, that they have done so.

(b) The installation throughout the county or municipality of the electronic voting system adopted by the county board of elections may be accomplished either simultaneously in all election districts or in stages at the discretion of the county board, and the manner of implementation as among election districts shall also be at the discretion of the county board: Provided, however, That the electronic voting system adopted by the county board shall be fully implemented throughout the county or municipality within one hundred and three weeks after the approval of the adoption of an electronic voting system by the electors of the county or municipality. Upon the installation of an electronic voting system in any election district, the use therein of paper ballots and of voting machines shall be discontinued, except as otherwise provided herein.

(c) If the question hereinbefore provided shall have been submitted to the qualified registered electors of the county or municipality and the majority of the electors voting thereon shall have voted favorably thereon, and if the county board of elections shall not, within one year after such vote, have executed a contract or contracts providing for the purchase, lease or other procurement of an electronic voting system for use at the general, municipal, primary or special election occurring at least one year and sixty days after such vote, then the Secretary of the Commonwealth shall forthwith in writing, notify the said county board of elections that, after the expiration of thirty days, he, under the authority of this act, will award, make and execute such contract or contracts on behalf of the said county, unless the said county board of elections shall make and execute the same prior to the expiration of that period and shall notify him, in writing, that they have done so.

(d) If, upon the expiration of said thirty days, the county board of elections still shall not have made and executed a contract or contracts providing for the purchase, lease or other procurement of an electronic voting system as aforesaid, the Secretary of the Commonwealth, on behalf of the said county and upon the approval of the Attorney General as to form, shall thereupon award, make and execute a contract or contracts for the purchase, lease or other procurement of an Electronic Voting System, approved as required by this act, for each election district within such county or municipality, and the cost of such system, including the preparation and printing of specifications and all other necessary expenses incidental thereto, shall be the debt of the said county, and upon the certificate of the Secretary of the Commonwealth, it shall be the duty of the controller, if any, to allow, and of the treasurer of the county to pay, the sum out of any appropriation available therefore or out of the first unappropriated moneys that come into the treasury of the county. If the Secretary of the Commonwealth shall find it impracticable to procure an electronic voting system for installation in each election district of the county or municipality for use at the election then next ensuing, he shall provide for the installation of such a system in as many election districts of the county or municipality as shall be practicable and, as soon thereafter as practicable, shall provide for the installation of such system in the remainder of the election districts of the county or municipality.

(e) Any county or municipality may, by a majority vote of its qualified registered electors cast at any general or municipal election held not earlier than one hundred and three weeks after they have voted to adopt an electronic voting system, direct the discontinuance of the use of such a system at all elections held in such county or municipality. Upon the receipt by the county board of elections of a

petition signed by qualified registered electors of the county or municipality equal in number to at least ten (10) per centum of the total number of electors who voted in said county or municipality at the last preceding general or municipal election, the question for the discontinuance of the use of such an electronic voting system shall be submitted to the qualified registered electors of that county or municipality, subject to the same requirements as to the conduct of the election as is required for the submission of the question on the authorization of the use of an electronic voting system. The question as to the discontinuance of the use of an electronic voting system shall be submitted in the following form: "Shall the use of an electronic voting system be continued in the (county or municipality) of"?

1937, June 3, P.L. 1333, art. XI-A, § 1104-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.5. Examination and approval of electronic voting systems by the Secretary of the Commonwealth

(a) Any person or corporation owning, manufacturing or selling, or being interested in the manufacture or sale of, any electronic voting system, may request the Secretary of the Commonwealth to examine such system. Any ten or more persons, being qualified registered electors of this commonwealth, may, at any time, request the Secretary of the Commonwealth to reexamine any electronic voting system theretofore examined and approved by him. Before any such examination or reexamination, the person, persons, or corporation, requesting such examination or reexamination, shall pay to the Treasurer of the Commonwealth an examination fee of four hundred fifty dollars (\$450). The Secretary of the Commonwealth may, at any time, in his discretion, reexamine any such system therefore examined and approved by him. The Secretary of the Commonwealth may issue directives or instructions for implementation of electronic voting procedures and for the operation of electronic voting systems.

(b) Upon receipt of a request for examination or reexamination of an electronic voting system as herein provided for or in the event he determines to reexamine any such system, the Secretary of the Commonwealth shall require such electronic voting system to be examined or reexamined by three examiners whom he shall appoint for that purpose, of whom one shall be an expert in patent law and the other two shall be experts in electronic computer systems, automatic tabulating equipment or such other fields as in the judgment of the Secretary of the Commonwealth shall be reasonably related to the operation of the electronic voting system under examination, and he shall require of them a written report on such system, attested by their signatures; and the Secretary of the Commonwealth himself

shall examine the electronic voting system and shall make and file in his office, together with the reports of the examiners appointed by him, his own report, attested by his signature and the seal of his office, stating whether, in his opinion and in consideration of the reports of the examiners aforesaid, the system so examined can be safely used by voters at elections as provided in this act and meets all of the requirements hereinafter set forth. If his report states that the system can be so used and meets all such requirements, such system shall be deemed approved and may be adopted for use at elections, as herein provided. With respect to any electronic voting system approved for use in this Commonwealth by the secretary, the report of the secretary shall specify the capacity of the components of that system, the number of voters who may reasonably be accommodated by the voting devices and automatic tabulating equipment which comprise such system and the number of additional clerks, if any, that may be required based on the number of registered electors in any election district in which the voting system is to be used, such specifications being based upon the reports of the examiners and the secretary's own examination of the system. Any county which thereafter may adopt any such approved system shall provide the components of such system in a number no less than that sufficient to accommodate the voters of that county or municipality in accordance with the minimum capacity standards so prescribed by the secretary.

(c) No electronic voting system not so approved shall be used at any election, and if, upon the reexamination of any such system previously approved, it shall appear that the system so reexamined can no longer be used safely by voters at elections as provided in this act or does not meet the requirements hereinafter set forth, the approval of that system shall forthwith be revoked by the Secretary of the Commonwealth, and that system shall not thereafter be used or purchased for use in this Commonwealth.

(d) When an electronic voting system has been so approved, no improvement or change that does not impair its accuracy, efficiency or capacity or its compliance with the requirements hereinafter set forth, shall render necessary the reexamination or reapproval of such system.

(e) Neither the Secretary of the Commonwealth, nor any examiner appointed by him for the purposes prescribed by this section, nor any member of a county board of elections shall have any pecuniary interest in any electronic voting system or in any of the components thereof, or in the design, manufacture or sale thereof.

(f) Each examiner appointed hereunder shall receive a compensation of one hundred and fifty dollars (\$150) for each type of electronic voting system examined by him.

1937, June 3, P.L. 1333, art. XI-A, § 1105-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.6. Experimental use of electronic voting systems

The county board of elections of any county may provide for experimental use at any primary or election in one or more election districts of said county, of an electronic voting system, and the use of such system shall be as valid for all purposes as if the electronic voting system had been adopted in accordance with the provisions of this act.

1937, June 3, P.L. 1333, art. XI-A, § 1106-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.7. Requirements of electronic voting systems

No electronic voting system shall, upon any examination or reexamination, be approved by the Secretary of the Commonwealth, or by any examiner appointed by him, unless it shall be established that such system, at the time of such examination or reexamination:

(1) Provides for voting in absolute secrecy and prevents any person from seeing or knowing for whom any voter, except one who has received or is receiving assistance as prescribed by law, has voted or is voting.

(2) Provides facilities for voting for such candidates as may be nominated and upon such questions as may be submitted.

(3) Permits each voter, at other than primary elections, to vote a straight political party ticket by one mark or act and, by one mark or act, to vote for all the candidates of one political party for presidential electors and, by one mark or act, to vote for all the candidates of one political party for every office to be voted for, and every such mark or act shall be equivalent to and shall be counted as a vote for every candidate of the political party so marked including its candidates for presidential electors, except with respect to those offices as to which the voter has registered a vote for individual candidates of the same or another political party or political body, in which case the automatic tabulating equipment shall credit the vote for that office only for the candidate individually so selected, notwithstanding the fact that the voter may not have individually voted for the full number of candidates for that office for which he was entitled to vote.

(4) Permits each voter, at other than primary elections, to vote a ticket selected from the nominees of any and all political parties, from the nominees of any and all political bodies, and from any persons whose names are not in nomination and do not appear upon the official ballot.

(5) Permits each voter to vote for any person and any office for whom and for which he is lawfully entitled to vote, whether or not

the name of such person appears upon the ballot as a candidate for nomination or election.

(6) Permits each voter to vote for as many persons for any office as he is entitled to vote for and to vote for or against any question upon which he is entitled to vote and precludes each voter from voting or from having his vote tabulated for any candidate, or upon any question, for whom or upon which he is not entitled to vote.

(7) If it is of a type that registers the vote electronically, the voting system shall preclude each voter from voting for more persons for any office than he is entitled to vote for or upon any question more than once.

(8) Precludes each voter from voting or from having his vote tabulated more than once for any candidate for the same office or upon any question, except in districts and for offices where cumulative voting is authorized by law.

(9) Permits each voter at a primary election to vote only for the candidates seeking nomination by a political party in which such voter is registered and enrolled, and for any candidate for nonpartisan nomination, and for any question upon which he is entitled to vote.

(10) If it is of a type that registers the vote electronically, the voting system shall permit each voter to change his vote for any candidate or upon any question appearing on the official ballot up to the time that he takes the final step to register his vote and to have his vote computed. If it is of a type that uses paper ballots or ballot cards to register the vote and automatic tabulating equipment to compute such votes, the system shall provide that a voter who spoils his ballot may obtain another ballot; any ballot thus returned shall be immediately cancelled and at the close of the polls shall be enclosed in an envelope marked "Spoiled" which shall be sealed and returned to the county board.

(11) Is suitably designed for the purpose used, is constructed in a neat and workmanlike manner of durable material of good quality, is safely and efficiently useable in the conduct of elections and, with respect to the counting of ballots cast at each district, is suitably designed and equipped to be capable of absolute accuracy, which accuracy shall be demonstrated to the Secretary of the Commonwealth.

(12) Provides acceptable ballot security procedures and impoundment of ballots to prevent tampering with or substitution of any ballots or ballot cards.

(13) When properly operated, records correctly and computes and tabulates accurately every valid vote registered.

(14) Is safely transportable.

(15) Is so constructed that a voter may readily learn the method of operating it.

(16) If the voting system is of a type which provides for the computation and tabulation of votes at the district level, the district component of the automatic tabulating equipment shall include the following mechanisms or capabilities:

(i) A public counter, the register of which is visible from the outside of the automatic tabulating equipment component into which the ballots are entered, which shall show during any period of operation the total number of ballots entered for computation and tabulation.

(ii) A lock, or locks, by the use of which all operation of the tabulation element of the automatic tabulating equipment is absolutely prevented immediately after the polls are closed or where the tabulation of votes is completed.

(iii) It shall be so constructed and controlled that, during the progress of voting, it shall preclude every person from seeing or knowing the number of votes theretofore registered for any candidate or question; and it shall preclude every person from tampering with the tabulating element.

(iv) If the number of choices recorded for any office or on any question exceeds the number for which the voter is entitled to vote, it shall reject all choices recorded on the ballot for that office or question, provided, that if used during the period of voting it may also have the capacity to indicate to a voter that he has improperly voted for more candidates for any office than he is entitled to vote for, and in such case it shall have the capacity to permit the voter to mark a new ballot or to forego his opportunity to make such correction.

(v) It shall be equipped with an element which generates a printed record at the beginning of its operation which verifies that the tabulating elements for each candidate position and each question and the public counter are all set to zero and with an element which generates a printed record at the finish of its operation of the total number of voters whose ballots have been tabulated, the total number of votes cast for each candidate whose name appears on the ballot, and the total number of votes cast for, or against, any question appearing on the ballot.

(17) If the voting system is of a type which provides for the computation and tabulation of all votes at a central counting center or if it provides for the tabulation of district totals at such a central

counting center, the central automatic tabulating equipment shall include the following mechanisms or capabilities:

(i) It shall be constructed so that every person is precluded from tampering with the tabulating element during the course of its operation.

(ii) If the number of choices for any office or on any question exceeds the number for which the voter is entitled to vote, it shall reject all choices recorded on the ballot for that office or question.

(iii) It shall have a means by which to verify that the counters for each candidate position and for each question are all set to zero and shall be able to generate a printed record of each election district showing the total number of voters whose ballots have been tabulated, the total number of votes cast for each candidate whose name appears on the ballot, and the total number of votes cast for, or against, any question appearing on the ballot. It may also be capable of generating cumulative election reports.

1937, June 3, P.L. 1333, art. XI-A, § 1107-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.8. Payment for machines

The county commissioners or such other authority as levies the taxes for county purposes of any county which adopts an electronic voting system shall, upon the purchase, lease or other procurement thereof, provide for payment therefor by the county. Bonds or other evidences of indebtedness may be issued in accordance with the provisions of the act of July 12, 1972 (P.L. 781, No. 185) known as the "Local Government Unit Debt Act,"¹ to meet all or any appropriate part of the cost of any such system.

1937, June 3, P.L. 1333, art. XI-A, § 1108-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

¹ 53 P.S. § 6780-1 et seq.

§ 3031.9. Forms

(a)(1) Ballot labels used in conjunction with ballot cards shall, as far as practicable, be in the same order or arrangement as provided for paper ballots or voting machine ballots, except that such information may be printed in vertical columns or in a number of separate pages which are placed on the voting device.

(2) The pages placed on the voting device shall be of sufficient number to include, following the listing of particular candidates, the names of candidates for any nonpartisan offices and any measures for which a voter may be qualified to vote on a given election day, provided further that for municipal, general or special elections, the

first ballot page shall list in the order that such political parties are entitled to priority on the ballot, the names of such political parties with designating arrows so as to indicate the voting square or position on the ballot card where the voter may insert by one mark or punch the straight party ticket of his choice.

(3) In a primary election the pages placed on the voting device may be arranged with the entire ballot label consisting of several groups of pages, so that a separate group can be used to list the names of candidates seeking nomination of each qualified political party, with additional groups used to list any nonpartisan offices or measures. Groups of pages may be identified by color or other suitable means, and voters shall be instructed to vote only for candidates of the party of their choice and thereafter to vote for any nonpartisan candidates or measures.

(b) Ballot labels shall be printed in plain clear type in black ink, of such size and arrangement as to fit the construction of the voting device; and they shall be printed on clear white material or on material of different colors to identify different ballots or parts of the ballot and in primary elections to identify each political party.

(c) On all ballot labels the titles of offices and the names of candidates shall in all elections be arranged in columns or rows in a series of separate pages and, in primary elections, the names of candidates for an office shall appear in the order that was established under the provisions of sections 915 and 916. The office titles shall be printed above or at the side of the names of candidates so as to indicate clearly the candidates for each office and the number to be elected. In partisan elections the party designation of each candidate shall be printed to the right or below the candidate's name. All candidates for one office shall be grouped on one page where practical; in case there are more candidates for an office than can be printed in one column or on one ballot page, the ballot label shall clearly indicate that the list of candidates is continued on the following column or page, and so far as possible, the same number of names shall be printed on each column or page. Arrows may be used to indicate the place to vote for each candidate and for or against every question presented.

(d) In partisan elections the ballot cards shall include a voting square or position whereby the voter may by one punch or mark record a straight party ticket vote for all the candidates of one party or may vote a split ticket for the candidates of his choice.

(e) In primary elections, the Secretary of the Commonwealth shall choose a color for each party eligible to have candidates on the ballot and a separate color for independent voters. The ballot cards or paper ballots and ballot pages shall be printed on card or paper stock

of the color of the party of the voter and the appropriate party affiliation or independent status shall be printed on the ballot card or at the top of the paper ballot and on the ballot pages.

(f) Ballot cards, or the portion thereof on which the voter registers his vote, shall be of a size, design and stock suitable for processing by the automatic tabulating equipment used in the voting system. Each ballot card shall have an attached serially numbered perforated stub, which shall be removed by an election officer before the ballot card is deposited in the district automatic tabulating equipment or in a secure ballot box. The name of the county, and a facsimile of the signature of the members of the county board shall be printed on the ballot card stub.

(g) Sample ballots, which shall be facsimile copies of the official ballot or ballot labels, shall be provided and posted in each polling place on election day as required by law. Sample ballots may be printed on a single page or on a number of pages stapled together. 1937, June 3, P.L. 1333, art. XI-A, § 1109-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.10. Supplies; preparation of the voting system and of polling places

(a) Prior to any election in which an electronic voting system is to be used, the county board of elections shall furnish to each election district, at the expense of the county, the elements of such voting system, including voting devices, automatic tabulating equipment, ballot boxes, ballot labels, ballots, ballot envelopes, forms of certificates, returns and other records and supplies, as are necessary for the proper operation of the voting system at the election district level or as are required under the provisions of this act, all of which shall be in the form and according to the specifications prescribed from time to time by the Secretary of the Commonwealth.

(b) Unless the voting device itself enables the voter to register his vote in secret, the county board of elections shall provide voting booths for each election district, which shall be of a size and design which shall enable the voter to register his vote in secret. The county board shall determine the number of voting devices and voting booths to be provided in each such district in order to satisfy the minimum capacity standards prescribed by the Secretary of the Commonwealth.

(c) The county board of elections shall appoint a custodian of the electronic voting system and such deputy custodians as may be necessary, and it shall be the duty of such custodians to prepare the voting system and all of its components for use in any election in which such system is employed. Each custodian and deputy custodi-

an shall receive from the county, for each day he is actually employed under the provisions of this act, such compensation as shall be fixed by the county board of elections. Such custodian shall, under the direction of the county board of elections, have charge of and represent the county election board during the preparation of the electronic voting system as required by this act, and he and the deputy custodians, whose duty it shall be to assist him in the discharge of his duties, shall serve at the pleasure of the county board of elections. Each custodian shall take the constitutional oath of office, which shall be filed with the county board of elections.

(d) On or before the fortieth day preceding any election, the county board of elections shall mail to the chairman of the county committee of each political party which shall be entitled under existing laws to participate in primary elections within the county, and to the chairman or presiding officer of any organization of citizens within the county which has as its purpose or among its purposes the investigation or prosecution of election frauds and which has registered its name and address and the names of its principal officers with the county board of elections at least fifty days before the election, a written notice stating the times when and the place or places where preparation of the system and its components for use in the several election districts in the county or municipality will be started. One representative of each such political party, certified by the respective chairman of the county committee of such party, and one representative of each such organization of citizens, certified by the respective chairman or presiding officer of such organization shall be entitled to be present during the preparation of the voting system and its components and to see that they are properly prepared and are in proper condition and order for use. Such representatives shall not interfere with the preparation of the system and its components, and the county board may make reasonable rules and regulations governing the conduct of such representatives.

(e) Prior to the delivery of any automatic tabulating equipment to any election district the county board of elections shall examine or cause to have examined such equipment and shall make a certificate stating:

- (1) The identifying number and election district designation of the equipment;
- (2) That the equipment is suitable for use in the particular election district designated;
- (3) That the equipment has been tested to ascertain that it will accurately compute the votes cast for all offices and all questions;

(4) That the offices and questions on the official ballot correspond in all respects with the ballot labels assigned to such particular election district;

(5) That the public counter and the counters for each candidate position and each question are all set at zero and that element that generates a printed record of the results of the election is functioning correctly; and

(6) The number on the seal with which the equipment is sealed.

(f) At least one hour before the time set for the opening of the polls at each election, the county board of elections shall deliver to each election district any district components of the electronic voting system and any supplies necessary to prepare the automatic tabulating equipment for operation in the district, and they shall position such automatic tabulating equipment for proper use in voting. Any tabulating equipment so placed shall remain locked and sealed until its examination and preparation immediately preceding its use as prescribed by this act.

(g) The members of the district election board shall arrive at the polling place at least one-half hour before the opening of the polls. Prior to the commencement of the election, the district election board shall inspect the district components of the electronic voting system to see that they are in proper working order, and they shall check all ballots, supplies, records and forms and shall post the sample ballots, the cards of instruction and the notices of penalties. If the voting system provides for the initial computation and tabulation of votes at the district level during voting hours, the district election board shall also break the seal on the automatic tabulating equipment and insure that the equipment is properly prepared for the particular election district designated, and the district board shall then determine that the counters for each candidate position and for each question and the public counter are all set to zero. If the system provides for tabulation of ballots after the polls are closed, such test shall be conducted immediately prior to its actual use. If any such counter is not set to zero, the district election board shall immediately notify the county board of elections which shall forthwith cause one of its representatives to ascertain and correct any error. Thereupon, a zero print-out sheet or an appropriate certificate by the district election board reflecting its examination shall be posted on the wall of the polling place by the district election board and such sheet or certificate shall remain posted until the polls are closed. At the close of the polls, the district election board shall deliver such sheet or certificate together with the election returns to the county board of elections.

1937, June 3, P.L. 1333, art. XI-A, § 1110-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.11. Instruction of voters

(a) During the thirty days next preceding an election at which any electronic voting system is to be used, the county board of elections shall place on public exhibition, in such public places and in such quantity and at such times as it shall deem most suitable for the instruction and information of the voters of the county, those components of the electronic voting system which are used by the voter, containing a sample ballot designed for instructional use. Such components shall be under the charge and care of a person competent as custodian and instructor. No voting system component which is assigned for use in an election shall be used for such public exhibition and instruction after having been prepared and sealed for the election.

(b) At the polling place on the day of the election, each voter who desires shall be instructed, by means of appropriate diagrams and a model, in the operation of the voting device before he enters the voting booth. If any voter shall ask for further instructions concerning the manner of voting after entering the voting booth, any election officer may give him audible instructions without entering such booth, but no such election officer shall when giving such instructions in any manner request, suggest or seek to persuade or induce any such voter to vote any particular ticket or for any particular candidate or other person or for or against any particular question. 1937, June 3, P.L. 1333, art. XI-A, § 1111-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.12. Election day procedures and the process of voting

(a) In an election district which uses an electronic voting system in which votes are registered electronically, the following procedures will be applicable for the conduct of the election at the election district:

(1) At primary elections, the election officer in charge shall adjust the voting system before the voter records any vote so that the voter will only be able to register a vote for candidates on the ballot of the party in which he is registered and enrolled or for persons whose names are not on the official ballot, for candidates for nonpartisan nominations, if any, and for any questions upon which he is entitled to vote.

(2) At primary elections, the voter shall be able to vote for each candidate individually by the means provided. At all other elections, he may vote for each candidate individually, or he may vote a straight political party ticket in one operation by operating the straight political party mechanism of the political party or political body of his choice. He may also, after having operated the straight

party mechanism and before recording his vote, cancel the vote for any candidate of such political party or political body and may thereupon vote for a candidate of another party, or political body for the same office. The voter may also vote individually for or against a question submitted to the vote of the electors.

(3) A voter may, at any primary or other election, vote for any person or persons for any office for which his name does not appear upon the ballot label as a candidate, by writing the identification of the office and the name of such person in or upon the appropriate receptacle or device provided for that purpose. No write-in vote shall be cast on a voting device for any person for any office, whose name appears on the ballot label as a candidate for that office, and any ballot so cast shall be void and not counted.

(4) At any general election at which presidential electors are to be chosen, each elector shall be permitted to vote by one operation for all the presidential electors of a political party or political body. For each party or body nominating presidential electors, a ballot label shall be provided containing only the words "Presidential Electors," preceded by the names of the party or body and followed by the names of the candidates thereof for the office of President and Vice-President, and the corresponding counter or registering device shall register votes cast for said electors when thus voted for collectively. If any elector desires to vote a ticket for presidential electors made up of the names of persons nominated by different parties or bodies, or partially of names of persons so in nomination and partially of names of persons not in nomination by any party or body, he may write or deposit a paper ballot prepared by himself in the receptacle provided in or on the voting device for that purpose, or he may list their names on the write-in ballot or envelope provided for that purpose. The voting device shall be so constructed that it will not be possible for any one voter to vote a straight party ticket for presidential electors and at the same time to deposit a ballot for presidential electors in a receptacle as hereinabove provided. When the votes for presidential electors are counted, the votes appearing upon the counter or registering device corresponding to the ballot label containing the names of the candidates for President and Vice-President of any party or body shall be counted as votes for each of the candidates for presidential elector of such party or body, and thereupon all candidates for presidential elector shall be credited, in addition, with the votes cast for them upon the ballots deposited in the machine, as hereinabove provided.

(5) As soon as the elector has adjusted the voting device so that it will record his choices for the various candidates to be voted for,

and his answers to the various questions submitted, he shall operate the recording mechanism of the voting device and forthwith leave the voting booth.

(b) In an election district which uses an electronic voting system which utilizes paper ballots or ballot cards to register the votes, the following procedures will be applicable for the conduct of the election at the election district:

(1) The voter, after receiving his ballot from the district election officials, shall retire to one of the voting booths in which the voting devices are located.

(2) At primary elections, the voter shall vote for the candidates of his choice for nomination, according to the number of persons to be voted for by him, for each office by making a cross (×) or check (✓) mark or by making a punch or mark sense mark in the square opposite the name of the candidate, or he may so mark the write-in position provided on the ballot for the particular office and, in the space provided therefor on the ballot and/or ballot envelope, write the identification of the office in question and the name of any person not already printed on the ballot for that office, and such mark and written insertion shall count as a vote for that person for such office.

(3) At all other elections, the voter shall vote for the candidates of his choice for each office to be filled, according to the number of persons to be voted for by him for each office, by making a cross (×) or check (✓) mark or by making a punch or mark sense mark in the square opposite the name of the candidate, or he may so mark the write-in position provided on the ballot for the particular office and, in the space provided therefor on the ballot and/or ballot envelope, write the identification of the office in question and the name of any person not already printed on the ballot for that office, and such mark and written insertion shall count as a vote for that person for such office.

(4) If the voter desires to vote for every candidate of a political party or political body, except its candidates for offices as to which he votes for individual candidates in the manner hereinafter provided, he may make a cross (×) or check (✓) or punch or mark sense mark in the square opposite the name of the party or political body so marked, including its candidates for presidential electors, except for those offices as to which he has indicated a choice for individual candidates of the same or another party or political body, by making a cross (×) or check (✓) or punch or mark sense mark opposite their names in the manner hereinabove provided, as to which offices his ballot shall be counted only for the candidates which he has thus individually marked, notwithstanding

the fact that he made a mark in the party column, and even though in the case of an office for which more than one candidate is to be voted for, he has not individually marked for such office the full number of candidates for which he is entitled to vote. If he desires to vote for the entire group of presidential electors nominated by any party or political body, he may make a cross (×) or check (✓) or punch or mark sense mark in the appropriate space opposite the names of the candidates for President and Vice-President of such party or body. If he desires to vote a ticket for presidential electors made up of the names of persons nominated by different parties or political bodies, or partially of names of persons so in nomination and partially of names of persons not in nomination by any party or political body, or wholly of names of persons not in nomination by any party or political body, he shall insert the names of the candidates for presidential electors for whom he desires to vote in the blank spaces provided therefor on the write-in ballot under the title of the office "Presidential Electors". In case of a question submitted to the vote of the electors, he may make a cross (×) or check (✓) or punch or mark sense mark in the appropriate square opposite the answer which he desires to give.

(5) Any voter who spoils his ballot may return it and secure another. The word "spoiled" shall be written across the face of the ballot, and it shall be placed in the envelope marked "Spoiled Ballots".

(6) Following the completion of his vote, the voter shall leave the voting booth and return the ballot to the election officer by a means designed to insure its secrecy; upon removal of the stub of the ballot by the election officer, the voter shall insert the ballot into the district automatic tabulating equipment or, in the event district tabulation is not provided for by the voting system or such district tabulation equipment is inoperative for any reason, into a secure ballot box. No ballot card from which the stub has been detached shall be accepted by the election officer in charge of such equipment or ballot box, but it shall be marked "spoiled" and shall be placed in the envelope marked "Spoiled Ballots."

1937, June 3, P.L. 1333, art. XI-A, § 1112-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.13. Post election procedures

(a) As soon as the polls have been closed and the last elector has voted in districts having an electronic voting system which employs paper ballots or ballot cards, and district tabulation is provided for, the number of such ballots issued to electors (at primary elections, the number issued to the electors of each party), as shown by the

stubs, and the number of ballots (at primaries the number of ballots of each party), if any, spoiled and returned by voters and cancelled, shall be announced to all present in the polling place and entered on the general returns of votes cast at such primary or election. The district election officers shall then compare the number of names marked as voting in the district register, "Voting Check List" and numbered lists of voters, shall announce the result, and shall enter on the general returns the number of electors who have voted, as shown by the "Voter's Check List." Any differences which exist shall be reconciled where possible, and where reconciliation is not possible such differences shall be noted on the general returns. The district register, the "Voting Check List," the numbered lists of voters and the stubs of all ballots used, together with all unused ballots, and all spoiled and cancelled ballots, and all rejected voters certificates shall then be placed in separate packages, containers or envelopes and sealed before the tabulation of any ballots.

(b) If ballots are computed and tabulated in the election district, all write-in votes which have been properly cast and recorded on the voting device shall be counted and recorded on a standard form provided for this purpose. District totals cards or other appropriate data storage device may also be prepared by the district board of election reflecting the results of the voting in that district. Such cards and reporting forms of write-in vote tabulation shall be delivered to the county board of elections. In cases where central counting is utilized, write-in ballots may be recorded either at the election district or at the counting center.

(c) In any case in which the write-in ballot is a separate entity from the ballot or ballot card, and the write-in ballot has been used, both sections shall be given a unique identifying number prior to their separation for tabulation.

(d) In returning any votes cast for any person whose name is not printed on the official ballot, the election officers shall record any such names exactly as they were written, stamped or applied to the ballot by sticker.

(e) If, as a result of an otherwise properly cast write-in vote, the voter has registered more votes for an office than he is entitled to vote for that office, the entire vote cast for that office shall be void and shall not be counted; and such write-in ballots shall be fastened to the write-in vote tabulation form and shall be delivered to the county board of elections.

(f) In the event district tabulation of votes is provided for by the voting system, the district election officers shall, immediately upon the close of the polls, cause the automatic tabulating equipment to tabulate the ballots cast during the election and shall prepare dupli-

cate records of the total number of voters whose ballots have been tabulated; the total number of votes cast for each candidate whose name appears on the ballot; the total number of write-in votes properly cast for each office on the ballot; and the total number of votes cast for or against any question appearing on the ballot. One such record shall be publicly posted at the district polling place. All votes so cast and tabulated in the district may also be recorded on a district totals card and all properly cast write-in votes may also be recorded on the district totals card, and the delivery of such district totals cards and reporting forms to the county board of elections shall be the responsibility of the judge of election. The minority inspector shall keep duplicate copies of all such reports and returns. At the close of the election and after the tabulation of all ballots, the automatic tabulating equipment or other component of the voting system which contains ballots shall be locked and sealed so that no further ballots may be deposited in or removed from any such equipment or component, and all components of the voting system, suitably packaged and secured for storage, shall be held for delivery to the county election board.

(g) In the event district tabulation of votes is not provided for by the voting system, the Judge of Election shall prepare a report of the number of voters who have voted, as indicated by the "Voting Check List" and numbered lists of voters poll list. He shall also prepare a report of the number of spoiled ballots and the number of unused ballots. He shall deliver the original copy of this report to the county board of elections under seal. The judge of election inspector shall keep a duplicate copy of this report. The judge of election and minority inspector shall forthwith deliver the sealed transport carrier containing all voted ballot cards to the county board of elections or to such places as the county board may designate. The county board of elections may provide that the ballot container and reports may upon proper certification and signature instead be picked up at the polling places by two authorized election deputies of opposite parties.

(h) All reports and returns shall be signed by all district election officers.

(i) In the event that district tabulation of votes is not provided for by the voting system, it shall be the responsibility of the county board of elections to make available to the public at the central tabulating center, the election results for each election district. It shall be the further duty of the county board of elections to post such results in each election district no later than 5:00 P.M. of the second day following the election.

1937, June 3, P.L. 1333, art. XI-A, § 1113-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.14. Returns

(a) By the fourth day prior to each election, the county board of elections shall have the central automatic tabulating equipment tested to ascertain that it will accurately count the votes cast for all offices and all questions. Public notice of the time and place of the test shall be given at least forty-eight hours prior to the test by newspaper publication in the county in accordance with section 106, such notice to be published once. The test shall be conducted by processing a preaudited group of district totals cards or ballots on which are recorded votes for each candidate and on each question. In such test a different number of valid votes shall be assigned to each candidate for an office and for and against each question. If any error is detected, the cause of it shall be ascertained and corrected and an errorless count shall be made and certified to by the county board of elections prior to election day. All test and program materials shall then be sealed by the county board of elections until their use on election day. The central automatic tabulating equipment shall pass the same test at the conclusion of the actual election count before the election returns are approved as official. On completion of the count, the programs, test materials, and district totals cards or ballots shall be sealed and retained according to the provisions contained in this act for the retention of paper ballots.

(b)(1) All proceedings at the central tabulation center shall be under the direction of the county board of elections or of such persons as it may designate and shall be conducted under the observation of the public insofar as is practical, but no persons except those authorized for the purpose shall touch any ballot or district totals card. All persons who are engaged in processing and counting the ballots and district totals cards shall be deputized and take an oath that they will faithfully perform their assigned duties.

(2) Each political party or political body represented on the official ballot may have one technically qualified person, authorized by the county chairman and deputized by the county board of elections, present during the testing of the central automatic tabulating equipment and the actual counting of the ballot or district totals cards. Such persons shall be allowed to make independent tests of the equipment prior to, during, and following the vote count: Provided, however, That such testing shall in no way interfere with the official tabulation of the ballots and district totals cards. In addition, each political party or political body shall be entitled to have observers at the central tabulation center, in a number, as determined by the county board of elections, sufficient to permit accurate observation of the receipt, handling, duplication, and processing of all ballots and district totals cards.

(3) If any ballots or district totals cards are damaged or defective so that they cannot properly be counted by the central automatic tabulating equipment, a true duplicate copy shall be made and substituted for any such damaged ballot or card. All such duplicate ballots or cards shall also be clearly labeled "Duplicate," and shall bear a serial number which shall be recorded on the damaged or defective ballot or card.

(c) The return printed by the central automatic tabulating equipment, to which have been added write-in votes as recorded on the district reporting form and absentee votes, shall, when certified by the county board of elections, constitute the official return of each election district. Upon completion of the count, the official returns shall be open to the public.

(d) If for any reason it becomes impracticable to count all or a part of the ballots or district totals cards with automatic tabulating equipment, the county board of elections may direct that such ballots or cards be counted manually, following as far as practicable the provisions of this act governing the counting of paper ballots.

(e) During the course of central tabulation of ballots or district totals cards, the county board of elections may unofficially report the progress of the count for each candidate and on any question. 1937, June 3, P.L. 1333, art. XI-A, § 1114-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.15. Absentee ballots

Absentee votes may be cast on paper ballots or on ballot cards. 1937, June 3, P.L. 1333, art. XI-A, § 1115-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.16. Ballots and ballot labels; disposition

(a) Upon completion of the count, all ballots, absentee ballots and district totals cards shall be securely packaged, suitably labeled and sealed, and delivered to the county board of elections. The board shall likewise package and seal a true copy of the ballot label used in each election district. Thereafter these packages are to be retained and disposed of in the same manner as paper ballots and related materials are disposed of under the provisions of this act.

(b) The county board of elections shall likewise package and retain all tabulating cards and other materials used in the preparation of the automatic tabulating equipment but may have access to these tabulating cards and other materials. It shall not alter or make changes to these materials but may make copies of them and make changes to the copies, and all such materials shall be preserved and

maintained by the board in accordance with the terms of section 309.¹

1937, June 3, P.L. 1333, art. XI-A, § 1116-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

¹ 25 P.S. § 2649.

§ 3031.17. Statistical sample

The county board of elections, as part of the computation and canvass of returns, shall conduct a statistical recount of a random sample of ballots after each election using manual, mechanical or electronic devices of a type different than those used for the specific election. The sample shall include at least two (2) per centum of the votes cast or two thousand (2,000) votes whichever is the lesser. 1937, June 3, P.L. 1333, art. XI-A, § 1117-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.18. Recounts

Should a recount of votes be ordered as provided by law, the ballots shall be recounted in accordance with the provisions of Article XVII¹. Manual, mechanical or electronic methods may be used as determined by the county board.

1937, June 3, P.L. 1333, art. XI-A, § 1118-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

¹ 25 P.S. § 2831 et seq.

§ 3031.19. Voting by ballot

If in any case the number of candidates nominated or seeking nomination for any office, or if a method of election for any candidate or office which is prescribed by law, renders the use of an electronic voting system impracticable, or if, for any other reason the use of an electronic voting system is not possible or practicable at a particular election, the county board of elections may arrange to have the voting at any such election and for any such offices conducted by paper ballots. In such cases, the ballots shall be printed for any such election or office and the election shall be conducted by the election officers herein provided for, and the ballots counted and the return thereof made in the manner required by law for such offices insofar as paper ballots are used.

1937, June 3, P.L. 1333, art. XI-A, § 1119-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.20. Unofficial ballot labels; repair and alternate use of paper ballots

(a) If ballot labels for an election district at which an electronic voting system is to be used, shall not be delivered to the election

officers of that district as required by section 1110-a,¹ the judge of election of such district shall cause other labels to be prepared, printed, or written, as nearly in the form of official ballot labels as practicable, and the election officers shall cause the labels so substituted, to be used at the election insofar as is possible in the same manner as the official labels. Such labels, so substituted, shall be known as unofficial ballot labels.

(b) If any electronic voting system or any component thereof being used in any election shall become inoperable during such election, it shall, if possible, be repaired or another machine substituted by the custodian or county board of elections as promptly as possible, for which purpose the county board may purchase as many extra systems or system components as it may deem necessary, but in case such repair or substitution cannot be made, paper ballots, either printed or written and of any suitable form, may be used for registering votes.

1937, June 3, P.L. 1333, art. XI-A, § 1120-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

¹ 25 P.S. § 3031.10.

§ 3031.21. Custody of electronic voting systems and keys

(a) The county board of elections shall designate a person or persons who shall have the custody of the county's electronic voting system and its components and of the keys therefor when the system is not in use at an election, and the board shall provide for his compensation and for the safe storage and care of the system and placement of its keys in a security vault.

(b) All electronic voting systems and their components, when not in use, shall be properly boxed or covered and stored in a suitable place or places.

1937, June 3, P.L. 1333, art. XI-A, § 1121-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.22. Construction

The provisions of this article shall constitute an additional method of voting and all provisions of this act shall be construed to be in full force and effect unless inconsistent with the provisions of this article.

1937, June 3, P.L. 1333, art. XI-A, § 1122-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

ARTICLE XII. PREPARATION FOR AND CONDUCT
OF PRIMARIES AND ELECTIONS

Library References

Elections §126(2), 197.
WESTLAW Topic No. 144.
C.J.S. Elections §§ 117, 192, 196.

P.L.E. Elections §§ 9, 42 et seq., 81 et
seq.

§ 3041. Notice of November elections

The county board of each county shall, not earlier than ten days nor later than three days before each November election, give notice of the same by newspaper publication in the county in accordance with the provisions of section 106 of this act,¹ said notice to be published twice in counties of the first class and once in all other counties. Such notice shall set forth—(a) the officers to be elected in the State at large, or in said county, or in any district of which said county or part thereof forms a part, or in any city, borough, township, school district, poor district, ward or other district which is contained in such county; (b) the names of the candidates for election to Federal, State, county and city offices, whose names will appear upon the ballots or ballot labels; (c) the text of all constitutional amendments and other questions to be submitted at such election; (d) the places at which the election is to be held in the various election districts of the county; and (e) the date of the election and the hours during which the polls will be open. Such notice may include a portion of the form of ballot or diagram of the face of the voting machine in reduced size.

1937, June 3, P.L. 1333, art. XII, § 1201. Amended 1947, June 10, P.L. 487, § 2; 1961, July 14, P.L. 647, § 1.

¹ 25 P.S. § 2606.

Law Review Commentaries

An excursion into the uncharted waters of the Seventeenth Amendment. Laura E. Little, 64 Temp.L.Rev. 629 (1991).

Library References

Elections §40 to 42.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 72 to 74.
P.L.E. Elections § 10.

Notes of Decisions

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1. In general

The 1947 Amendment to this section changing the requirements for notices of elections, which became effective on September 1, 1947, did not apply to a series of notices starting on August 29, 1947, for an election to be held on September 9, 1947. In *re Long License*, 64 D. & C. 238, 1949.

2. Requisites of notice or proclamation generally

The notice need not contain a facsimile of the official ballot, but must contain an enumeration of the officers to be elected and a list of all the nominations made according to law and to be voted for in each county. See *Election Proclamations*, Op. Atty. Gen., 19 C.C. 151, 6 Dist. 175, 1897.

Publication of an election proclamation in a separate sheet by itself headed "supplement" and issued with each number of the whole edition of a newspaper, issued to its subscribers, constitutes an advertisement in a newspaper, as required by act of 1893, June 10, P.L. 419, § 10, as amended 1895, June 26, P.L. 392, § 1, repealed. *The Lancaster Intelligencer v. Lancaster County*, 9 Dist. 392, 1899.

3. Time of notice

Ordering election officials to move voting facilities, in precincts suffering from emergency conditions, to higher ground, away from floodwaters, would have violated this section's notice provisions in that order would have involved conduct of those precincts' elections at places different from those specified in official notices, with very short time interval insufficient to permit necessary information to be conveyed to the public; the Court of Common Pleas properly suspended election in precincts suffering from emergency conditions and ordered resumption and completion of those particular election processes on date shortly thereafter, when emergency was over. In *re General Election—1985*, 531 A.2d 836, 109 Pa. Cmwlth. 604, 1987, appeal denied 544 A.2d 963, 518 Pa. 651, 652.

Under § 2600 et seq. of this title, and § 539 of Title 46, Legislature and Statutes, the notice of a local option referendum to be held September 9, 1947, had

to be advertised twice, the first advertisement appearing at least two weeks prior to the election, and if the first advertisement appeared less than two weeks before the election it is invalid and void. In *re Long's License*, 64 D. & C. 238, 1949.

4. Polling places

A local option referendum will not be declared invalid because the published notices of the election failed to specify the polling place, where there was only one such place in the municipality, which had been used for six years, and where the evidence clearly indicates that the electors either knew or could easily ascertain where the election was to be held, so that no one who desired to vote was prevented from doing so. *License of Wilson-Patton Post* 536, 62 D. & C. 215, 1948.

5. Newspaper publication

If the sheriff does not exceed his authority, the county is liable for the cost of advertising the notice of election in compliance with Act of 1893, June 10, P.L. 419, as amended, repealed, without a prior contract or competing bids; and the consent of the county commissioners is unnecessary, *Eyster v. Rineman*, 11 Pa. 147, 1849; *Graham v. Schuylkill County*, 16 Pa. Super. 180, 1901; *Wilkes-Barre Record v. Luzerne County*, 6 Pa. Super. 600, 1898, affirming 9 Kulp, 26, 1898; *Lancaster Intelligencer v. Lancaster County*, 6 Dist. 392, 16 Lanc. 393, 7 Del. 486, 6 Lack. L.N. 200, 14 York, 34, 1899; the kind of type and the amount of space to be used are at the sheriff's discretion. *Coffroth v. Somerset County*, 19 C.C. 354, 1897.

It is a question for the jury whether the paper in which election notices were printed is a newspaper, within the meaning of the act of 1893, June 10, P.L. 419, § 10, as amended 1895, June 26, P.L. 392, § 1, repealed. *Eyster v. Rineman*, 11 Pa. 147, 1849. *Contra see Lancaster Intelligencer v. Lancaster County*, 9 Dist. 392, 1899.

The county is not liable for the cost of advertising the proclamation of the local election. *Wilkes-Barre Record v. Luzerne County*, 6 Pa. Super. 600, 1898, affirming 9 Kulp, 26, 1898.

The sheriff will be liable to any one injured by his willful violation of duty in regard to selecting a newspaper in which

25 P.S. § 3041

Note 5

to publish an election proclamation, though a mandamus will be refused as the remedy by damages is adequate. *Com. v. Sellers*, 21 C.C. 509, 7 Dist. 665, 1 Dauph. 333, 1898.

The county is not liable for an advertisement not authorized by law, *Beardslee v. Luzerne County*, 6 Luz. 1, 1876; *Bartholomew v. Lehigh County*, 23 A. 1122, 148 Pa. 82, 1892; *Burnett v. Mercer County*, 3 Dist. 379, 1894; and is only liable to pay for so much as is within the scope of act of 1893, June 10, P.L. 419, § 10, as amended 1895, June 26, P.L. 392, § 1, repealed. *Coffroth v. Somerset County*, 19 C.C. 354, 1896.

Publication as a "supplement" on a separate sheet is an advertisement within the act of 1893, June 10, P.L. 419, § 10, as amended 1895, June 26, P.L. 392, § 1, repealed, and the publisher is entitled to payment at the usual rate. *Lancaster Intelligencer v. Lancaster County*, 9 Dist. 392, 16 Lanc. 393, 7 Del. 486, 6 Lack. L.N. 200, 14 York, 34, 1900.

6. Failure to give prescribed notice as invalidating election

Failure to comply with publication requirements for special elections did not render void resumed election held shortly after original election had been suspended in precincts suffering from emergency conditions; resumed election was not special election, but rather, was merely continuation of suspended election. In

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re General Election—1985, 531 A.2d 836, 109 Pa.Cmwlt. 604, 1987, appeal denied 544 A.2d 963, 518 Pa. 652.

The failure of county board of elections to give notice of borough local option referendum election by newspaper publication at least ten days before election, as required by this section and § 2787 of this title, was not cured by actual notice, publicity or public controversy and invalidated election. Appeal of Frederick H. Harper, Jr., Inc., 29 A.2d 236, 150 Pa.Super. 569, 1943.

7. Local option referendum

A local option referendum is "special election" within §§ 2600 et seq., 2787 of this title, requiring such elections to be held in accordance with code provisions respecting November elections, which, under this section, must be advertised by newspaper publications of notice thereof at least ten days before election. Appeal of Frederick H. Harper, Jr., Inc., 29 A.2d 236, 150 Pa.Super. 569, 1943.

A local option referendum on the question of granting liquor licenses is a special election within the contemplation of § 2787 of this title, and is therefore subject to the provisions of this section; notice of the holding of such referendum is a fundamental preliminary thereof. Appeal of Kimmell, 52 D. & C. 279, 1945, appeal dismissed 41 A.2d 436, 157 Pa.Super. 59.

§ 3041.1. Deleted. 1990, Dec. 17, P.L. 681, No. 169, § 4, effective in 60 days

Historical and Statutory Notes

Former § 3041.1, which derived from Act 1937, June 3, P.L. 1333, § 1201.1, and was added by Act 1961, July 14, P.L.

647, § 2, related to primary election notices in second class counties.

§ 3041.2. Publishing constitutional amendments

In accordance with the requirements of section 1 of Article XI of the Constitution of Pennsylvania, the Secretary of the Commonwealth shall cause to have published in the manner prescribed all proposed amendments to the Constitution of Pennsylvania. As much of the money, from time to time, in the General Fund as shall be deemed necessary by the Governor is hereby appropriated to the Department of State to pay the costs of such publications.

1937, June 3, P.L. 1333, art. XII, § 1201.2, added 1982, May 5, P.L. 374, No. 108, § 4, imd. effective.

Library References

Constitutional Law ¶5.
 WESTLAW Topic No. 92.
 C.J.S. Constitutional Law §§ 6, 7.

§ 3042. Cards of instructions and supplies

Prior to each primary and election each county board of election shall prepare full instructions for the guidance of electors in districts in which ballots are used, and also similar instructions for the guidance of electors in districts in which voting machines are used, and they shall cause the same, together with such portions of this act as deemed advisable, to be printed in large clear type on separate cards to be called cards of instruction. They shall also prepare blank forms of oaths of election officers, records of assisted voters, affidavits of challenged electors and others, general and duplicate return sheets, tally papers, statements, blank forms for numbered lists of voters, with sufficient space for noting their party enrollment at primaries, notice of penalties for the information of electors and election officers, and other forms and supplies required by this act for use in each election district of the county. Said forms, blank books, and other supplies shall have printed thereon appropriate instructions. In districts in which voting machines are used the general and duplicate return sheets and statement shall be printed to conform to the type of voting machine used in such districts and the designating number and letter, if any, on the counter for each candidate shall be printed thereon opposite the candidate's name. 1937, June 3, P.L. 1333, art. XII, § 1202.

Library References

Elections ¶126(6), 197.
 WESTLAW Topic No. 144.

C.J.S. Elections §§ 114, 118, 192, 196.
 P.L.E. Elections § 82.

Notes of Decisions

Discretion of commissioners as to what instructions to give 1
Injunction and mandamus 2

1. Discretion of commissioners as to what instructions to give

It is wholly within the discretion of the county commissioners what instructions shall be given to voters; and the courts cannot direct them in this regard. *Com. v. Mercer*, 42 A. 525, 190 Pa. 134, 1899.

2. Injunction and mandamus

The question of how county board of elections should instruct election officers

as to right of a candidate to be present in polling place during the time polls are open should be raised by invoking equity's jurisdiction to restrain, or the jurisdiction at law in mandamus to compel, conduct by board of elections, according as board may threaten to include more or less in its instructions to local election offices than the law authorizes. *In re General Election to be Held in City and County of Philadelphia*, 75 A.2d 812, 366 Pa. 6, 1950.

§ 3043. Voter's certificates

At each primary and election each county board shall prepare a suitable number of voter's certificates which shall be in form approved by the Secretary of the Commonwealth substantially as follows:

Voter's Certificate

(Primary) (Election) 19 ...

I hereby certify that I am qualified to vote at this (primary) (election)

Signature

Address

..... Pa.

Approved

Number of stub of ballot issued or number of admission to voting machines (and party, at primary)

The voter's certificate shall be so prepared as to be capable of being inserted by the election officers in a suitable file or binder to be furnished by the county board. One such file or binder shall be furnished by the county board for each election district for each primary and election, and shall have printed or written thereon the words "Voting Check List," together with the number of the district and ward, if any, and the date of the primary or election.

1937, June 3, P.L. 1333, art. XII, § 1203.

Library References

Elections ¶59.
WESTLAW Topic No. 144.

C.J.S. Elections § 16.
P.L.E. Elections § 21.

§ 3044. Delivery of ballots and supplies to judges of election

The cards of instruction, return sheets, tally papers, statements, oaths of election officers, affidavits, voter's certificates, and other forms and supplies required for use in each election district, and also the district register of such district, and in districts in which ballots are used, the official and specimen ballots prepared for use therein, shall be packed by the county board of elections in separate sealed packages for each election district, marked on the outside so as to clearly designate the districts for which they are intended, and, in the case of districts in which ballots are used, the number of ballots of each kind enclosed. They shall then be delivered by the county board, together with the ballot box which shall bear the name and number of the election district, to the judges of election in the several election districts, not later than the day prior to the day of the primary or election: Provided, however, That if, for any reason, it is

impossible to deliver such packages to the judge of election in any district, such packages may be delivered to one of the inspectors therein. The respective judges of election or inspectors shall, on delivery to them of such packages, return receipts therefor to the county board, which shall keep a record of the time when and the manner in which the several packages are delivered. The county board may, in its discretion, require the respective judges of election to call at its office to obtain the said packages.

1937, June 3, P.L. 1333, art. XII, § 1204.

Cross References

School directors, election, see 24 P.S. § 3-301 et seq.

Library References

Elections ⇨54.

WESTLAW Topic No. 144.

C.J.S. Elections § 54 et seq.

P.L.E. Elections § 6.

§ 3045. Time for opening and closing polls

At all primaries and elections the polls shall be opened at 7 A.M., Eastern Standard Time, and shall remain open continuously until 8 P.M., Eastern Standard Time, at which time they shall be closed.

1937, June 3, P.L. 1333, art. XII, § 1205.

Library References

Elections ⇨126(1), 205.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 111 et seq., 198.

P.L.E. Elections § 85.

Notes of Decisions

Setting aside election for violation 1

1. Setting aside election for violation

It is a sufficient ground to set aside an election, that the polls were opened at a much later hour than that prescribed by law, *Melvin's Case*, 68 Pa. 333, 1871; *Mark v. Park*, 7 Lanc.Bar, 53, 7 Leg.Gaz. 246, 1875; or that they were closed at an earlier hour than prescribed by law, *Penn District Election*, 2 Pars. 526, 1847.

Permitting voting after time for closing polls, no fraud being shown, and voters being within polling places before closing

time, waiting for opportunity to vote, did not require rejection of entire precinct vote. In *re Eckert's Election*, 162 A. 223, 308 Pa. 375, 1932.

Vote of an election district could not be rejected because all persons in polling place at time of closing were permitted to vote in violation of § 2600 et seq. of this title, even though successful candidate polled a large majority in that district, and in another district, in which contestant polled a large majority, election officials strictly obeyed law and refused numerous votes. In *re South Union Tp. Election*, 61 D. & C. 490, 1948.

§ 3046. Duties of common pleas court on days of primaries and elections

The court of common pleas of each county of the Commonwealth or a judge or judges thereof, shall be in continuous session at the courthouse of said county, or, in judicial districts composed of more than one county, at the courthouse of the county in which such judge or judges reside, on the day of each primary and election from 7 o'clock A.M. until 10 o'clock P.M. and so long thereafter as it may appear that the process of said court will be necessary to secure a free, fair and correct computation and canvass of the votes cast at said election. In judicial districts having but one judge of the court of common pleas, such judge shall not be required to be in session, as aforesaid, between the hours of 12 o'clock noon and 2 o'clock P.M., nor between the hours of 5:30 o'clock P.M. and 7 o'clock P.M. During such period said court shall act as a committing magistrate for any violation of the election laws; shall settle summarily controversies that may arise with respect to the conduct of the election; shall issue process, if necessary, to enforce and secure compliance with the election laws; and shall decide such other matters pertaining to the election as may be necessary to carry out the intent of this act; and in counties of the third class shall have power to appoint additional clerks at the polling places where needed and requested by the election board: Provided, That for each clerk appointed from the majority political party, a clerk from the minority political party must also be appointed.

1937, June 3, P.L. 1333, art. XII, § 1206. Amended 1939, June 19, P.L. 449, § 1; 1961, July 13, P.L. 603, No. 303, § 1.

Library References

Courts ⇨74, 75.
WESTLAW Topic No. 106.

C.J.S. Courts §§ 120, 121.
P.L.E. Elections § 83.

Notes of Decisions

Advisory opinions 3
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Evidence of right to vote 2
Investigators 5
Special election court 7
Time and place of sessions 1

delphia on November 8, 1938, 2 A.2d 301, 332 Pa. 457, 1938.

2. Evidence of right to vote

Where city registration commissioners and their agents failed properly to file registration cards in the election districts in which electors resided, substitution of affidavits to duplicate original registration forms for missing registration cards would not be authorized, but voters could establish their right to vote by secondary evidence before judges qualified to sit in the common pleas. In re General Election in City and County of Philadelphia

1. Time and place of sessions

The requirement of this section concerning time and place of sitting of the court of common pleas to determine election controversies must be construed as directory and not mandatory. In re General Election in City and County of Phila-

on November 8, 1938, 2 A.2d 301, 332 Pa. 457, 1938.

The rule that contents of a lost or missing record may be proved by secondary evidence is applicable to registration cards showing voter's qualifications. In re General Election in City and County of Philadelphia on November 8, 1938, 2 A.2d 301, 332 Pa. 457, 1938.

Where a voter's registration card is not produced at the voting place at the time of election, as required by law, voter may apply to any judge of a court of common pleas for an order requiring election officers to receive his vote, if voter satisfies such judge of the prior existence of a valid record. In re General Election in City and County of Philadelphia on November 8, 1938, 2 A.2d 301, 332 Pa. 457, 1938.

3. Advisory opinions

The Court of Common Pleas was without jurisdiction to entertain a proceeding more than one month before general election and several months after primary election for an advisory opinion as to right of candidates to be present in a polling place during the time polls are open. In re General Election to be Held in City and County of Philadelphia, 75 A.2d 812, 366 Pa. 6, 1950.

A Court of Common Pleas has no jurisdiction to render an advisory opinion except in an election matter under the jurisdiction conferred by this section, and such jurisdiction by express terms of statute does not attach until 7:00 a.m. on the day of each primary or election and continues only until 10:00 p.m. of the same day or for the relatively brief time thereafter necessary to secure a fair and correct computation and canvass of the votes cast. In re General Election to be Held in City and County of Philadelphia, 75 A.2d 812, 366 Pa. 6, 1950.

The jurisdiction of Court of Common Pleas to render an advisory opinion in September as to the right of a candidate to be present in a polling place during the time polls would be open for November general election could not be sustained on theory that court was sitting as the same election court that had functioned at primary election in May. In re General Election to be Held in City and County of Philadelphia, 75 A.2d 812, 366 Pa. 6, 1950.

The express designation by statute of the time and instances in which the jurisdiction conferred upon a Court of Common Pleas to render an advisory opinion in an election matter may be exercised negatives by implication the exercise of such jurisdiction at any other time of in any other case. In re General Election to be Held in City and County of Philadelphia, 75 A.2d 812, 366 Pa. 6, 1950.

4. Designation of board of elections

Where two county commissioners, who by § 2641 of this title were specifically designated to serve as members of county board of elections, were candidates for nomination in coming primary election, court of common pleas, though it had limited power under § 3153 of this title to appoint two members of court to serve as return board to compute and canvass returns of elections, exceeded its authority in designating three members of court to act as county board of elections. In re Primary Election, 1963, Delaware County, 191 A.2d 96, 411 Pa. 154, 1963.

5. Investigators

An election court will not direct the county board of elections to appoint a flying squadron of investigators to rove from place to place during elections in order to note any irregularities and perpetuate evidence thereof, not only because such a matter is within the discretionary power of the board of elections, but because the presence of such investigators in the limited space of polling places might well tend to create more confusion than good. Clark v. Witkin, 70 D. & C. 122, 1950.

6. Emergency conditions

The Court of Common Pleas was not required to void entire county election and order holding of entirely new election countywide when 11 precincts suffered from emergency conditions caused by heavy rain; although there might be circumstances which would warrant that action, the Court of Common Pleas' action in suspending election in the 11 precincts and ordering resumption and completion of election processes in those precincts on date shortly thereafter, when emergency was over, was reasonable. In re General Election—1985, 531 A.2d 836, 109 Pa.Cmwlth. 604, 1987, appeal denied 544 A.2d 963, 518 Pa. 651, 652.

Note 6

Power of the Court of Common Pleas to supervise conduct of elections included authority to suspend voting in precincts suffering from emergency conditions; to permit election to be conducted where members of electorate could be deprived of their opportunity to participate due to circumstances beyond their control, such as natural disaster, would be inconsistent with purpose of election laws. In re General Election—1985, 531 A.2d 836, 109 Pa.Cmwlth. 604, 1987, appeal denied 544 A.2d 963, 518 Pa. 651, 652.

Actions of the Court of Common Pleas in suspending conduct of election in precincts suffering from emergency conditions and ordering resumption and completion of election in those precincts on date shortly thereafter, when emergency was over, did not violate uniformity principles of Const. Art. 7, § 6 and did not violate principles of due process; although some voters in affected precincts unavoidably had to cast their vote on date different from that which pertained to most voters, that variation was necessary to ensure voter equality in the most important respect, that of equal opportunity to exercise the franchise. In re General Election—1985, 531 A.2d 836, 109 Pa. Cmwlth. 604, 1987, appeal denied 544 A.2d 963, 518 Pa. 651, 652.

7. Special election court

When a judge sits to hear questions arising from breaches of the peace and illegal acts committed by election officers and others on election day, he sits merely as a committing magistrate. The Supreme Court will not depute one of its own members to hold an election court in Philadelphia, when it does not appear that any application has been made to the two judges of the court of quarter sessions who are to sit during the term in which election day occurs, and that there are fifteen judges in Philadelphia, to any one of whom application can be made. And it is no ground for an application for the deputation of a judge to hold a special election court, that election officers might have a tribunal to advise them as to their legal rights and duties, in re Election Court, 53 A. 784, 204 Pa. 92, 1902; and unless there be some special exigency, to warrant it, a county judge will not be deputed to sit as a committing magistrate on the days immediately following the election, for the issuance of warrants and the preliminary hearing of cases expected to arise out of anticipated violations of the election laws. *Lea's Petition*, 30 C.C. 538, 13 Dist. 727, 1904.

§ 3046.1. Duties of counsel for county board of elections

The counsel for the county board of elections shall be in constant attendance at the office of the board on the day of each primary and election from 7 o'clock A.M. until 12 o'clock noon, and from 2 o'clock P.M. until 5:30 o'clock P.M., and from 7 o'clock P.M. until 10 o'clock P.M., and shall, upon request, instruct election officers, overseers, watchers, and electors as to their rights and duties in election matters.

1937, June 3, P.L. 1333, art. XII, § 1206.1, added 1939, June 19, P.L. 449, § 2.

Historical and Statutory Notes

The act of 1939 purported to add § 1206.1 to Article 3 of the Act of 1937 instead of to Article 12.

Library References

Elections ⇄ 197.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 192, 196.
P.L.E. Elections § 82.

§ 3047. Peace officers; no police officer to be within one hundred feet of polling place, exceptions; presence of soldiers prohibited

The constable of each borough, township or ward, or his deputy shall be present at the polling place in each election district of such borough, township or ward at each primary and election during the continuance thereof, and while the votes are being counted, for the purpose of preserving the peace, and shall serve at all elections for which services the said constable and each of such deputies performing such services shall receive the same compensation payable to inspectors and clerks under section 412(a) of this act ¹ which shall be paid by the county. Such sum shall include pay for serving notices in writing to persons elected at such election. The election officers, or any three qualified electors of any election district, may call upon any mayor, chief burgess, sheriff, deputy sheriff, constable, deputy constable, or police officer, to clear an avenue to the door of any polling place which is obstructed in such a way as to prevent electors from approaching, or to maintain order and quell any disturbance, if such arises. No police officer in commission, whether in uniform or in citizen's clothes, shall be within one hundred feet of a polling place during the conduct of any primary or election, unless in the exercise of his privilege of voting, or for the purpose of serving warrants, or unless called upon to preserve the peace, as provided by this act: Provided, however, That such prohibition shall not apply to such police officers assigned to a police station or headquarters located in a building or on the premises where the polling place is located and such police officers must be within one hundred (100) feet of the polling place to enter and exit such police station or headquarters: And provided further, That in no event may any police officer unlawfully use or practice any intimidation, threats, force or violence nor, in any manner, unduly influence or overawe any elector or prevent him from voting or restrain his freedom of choice, nor may any such police officer electioneer or directly or indirectly attempt to influence the election or electors while within one hundred (100) feet of a polling place as herein set forth: And provided further, That where polling places are located in buildings or on premises where a police station or headquarters are located, the polling place shall be located in a separate room. No body of troops in the Army of the United States or of this Commonwealth shall be present, either armed or unarmed, at any place of election within this Commonwealth during the time of any primary or election: Provided, however, That no officer or soldier shall be prevented from

exercising the right of suffrage in the election district in which he resides, if otherwise qualified.

1937, June 3, P.L. 1333, art. XII, § 1207. Amended 1939, May 17, P.L. 166, § 1; 1945, March 2, P.L. 17, § 1; 1949, April 20, P.L. 617, § 1; 1969, June 19, P.L. 83, No. 29, § 1, effective Jan. 1, 1970; 1974, June 19, P.L. 366, No. 122, § 2, imd. effective; 1976, July 1, P.L. 523, No. 124, § 2, imd. effective.

¹ 25 P.S. § 2682.

Historical and Statutory Notes

The 1974 amendment, in the first sentence deleted "not less than ten (\$10) dollars, nor more than twenty (\$20) dollars", and rewrote the second sentence, relating to compensation of constables and their deputies.

The 1976 amendment added the provisos at the end of the fourth sentence.

Library References

Elections ⇨211.
WESTLAW Topic No. 144.

C.J.S. Elections § 200.
P.L.E. Elections § 86.

Notes of Decisions

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1. Validity

This section is violative of Const. Art. 3, § 13, which prohibits a change in the salaries or emoluments of public officers during their terms of office, insofar as it requires constables in office at the time of its passage to attend general elections, as they were required to do by preëxisting law, but without the extra compensation for such service provided by § 61 of Title 13, Constables, as amended. *Murphy v. Lackawanna County*, 33 D. & C. 234, 1939; *McBride v. Berryman*, 31 D. & C. 451, 1938; *Conner v. Lawrence County*, 31 D. & C. 415, 1938; *Kauffman v. Union County*, 31 D. & C. 212, 1938; *Strunk v. Hershey*, 30 D. & C. 396, 1938.

This section is unconstitutional insofar as it purports to require constables in office at the time of its enactment to attend primary elections without provision for compensation and subject to

heavy penalties for nonperformance, since they were not required to attend such elections by preëxisting law. *Strunk v. Hershey*, 30 D. & C. 396, 1938.

2. In general

City residents and voters seeking declaratory and injunctive relief against members of police department requiring them to disengage from partisan political activity on behalf of certain political party could not rely on this section providing that no police officer shall be within 100 feet of a polling place except in certain circumstances, where complaint did not allege a violation of said section nor was there introduced at the hearing any testimony indicating a violation. *Brooks v. Nacrelli*, 473 F.2d 955, C.A.1973.

3. First amendment

The Court of Appeals would refuse to announce a per se rule that the First Amendment right to free political expression is violated when an off-duty police officer tends his elected post at the polls as a committeeman. *Brooks v. Nacrelli*, 473 F.2d 955, C.A.1973.

4. Constables—Duty to attend elections

Constables are bound to attend elections to preserve order at the polls. *Eighth Ward Election Easton*, 18 C.C. 518, 5 North. 289, 6 Del. 458, 1896; *Leit-*

zel v. Centre Co., 18 C.C. 649, 6 Dist. 208, 14 Lanc. 191, 3 Lack.L.N. 110, 1897.

This section requires constables personally or by deputy to attend all elections, and if it is necessary for a constable in office at the time of its passage to hire deputies for this purpose he is entitled to extra compensation for their services, for any other construction would, by requiring him to meet their fees from his own funds, in effect diminish the emoluments of his office. *McBride v. Berryman*, 31 D. & C. 451, 1938.

5. — Removing obstructions of polls

In discharging this duty, the officer ought to give notice to the people to remove themselves, before proceeding to violent measures; but having given this notice, he has the right to use enough force to accomplish the object; and every citizen who is called upon to assist him is bound to do so. *Commonwealth v. Hamilton*, Lanc.Q.S., Jan. 22, 1849, MS.; *Eighth Ward Election*, Easton, 18 C.C. 518, 5 North. 289, 6 Del. 458, 1896.

6. — Compensation of constables for attending elections

The constable is entitled to fees for attending elections. *Leitzel v. Centre County*, 18 C.C. 649, 6 Dist. 208, 14 Lanc. 191, 3 Lack.L.N. 110, 1897.

7. Police officers at polls

Police officers are not required to be present at the polls, nor have they any business there, except for the purpose of casting their votes, and of preserving the peace. *Petition of Director of Public Safety*, 15 C.C. 166, 34 W.N.C. 476, 3 Dist. 243, 1894.

8. Jurisdiction

Alleged violation of this section providing that no police officer shall be within 100 feet of a polling place during conduct of any primary or election unless in exercise of his privilege of voting or for purpose of serving warrants, or unless called upon to preserve the peace would not produce a federal question but rather would pose an issue peculiarly capable of resolution by the state. *Brooks v. Nacrelli*, 473 F.2d 955, C.A.1973.

§ 3048. Meeting of election officers on day of election; duties of election officers

(a) The judges, inspectors, clerks of election and machine inspectors, together with the overseers, if any, shall meet in the respective places appointed for holding the election in each election district at least thirty minutes before the hour for opening the polls on the day of each primary and election. They shall thereupon, in the presence of each other, take and subscribe in duplicate to the oaths required by this act.

(b) If any judge of election shall not appear at the polling place by seven (7) o'clock A.M., on the day of any primary or election, the majority inspector shall appoint a judge of election, who is qualified under the provisions of this act. If any majority inspector of election shall not appear at said hour, the judge of election shall appoint a majority inspector, who is qualified under the provisions of this act. If any minority inspector of election shall not appear at said hour, the person who received the second highest vote for judge at the preceding election shall serve as minority inspector, if available, and if qualified under the provisions of this act. If such person is not available or not qualified, the qualified electors of the district, present at said time, shall, under the supervision of the judge of election, elect one of their number who is duly qualified, to fill said vacancy. If, for any reason, any vacancy in an election board shall not have

been filled, as aforesaid, by 7:30 A.M., the qualified electors of the district, present at said time, shall elect a qualified person or persons to fill such vacancies. If any clerk shall not appear by 7 o'clock A.M., the inspector who appointed said clerk shall fill said vacancy, appointing a qualified elector therefor. If any machine inspector shall not appear at said time, it shall be the duty of the judge of election to promptly notify the county board, who shall immediately appoint a qualified machine inspector to fill said vacancy. Any persons thus appointed or elected to fill vacancies shall take and subscribe in duplicate to the oaths required by this act, and shall hold office only for said election.

(c) After the election board has been organized, the judge of election shall designate one of the inspectors of election to have custody of the district register and to make the entries therein, required by this act. In districts in which ballots are used, the other inspector shall have charge of the receipt and deposit of ballots in the ballot box, the judge or one of the clerks shall issue the ballots to electors after they are found entitled to vote, and the other clerk shall have custody of the "Voting Check List," and shall place the voter's certificates therein as they are received and approved. In districts in which voting machines are used, the other inspector or clerk shall have custody of the "Voting Check List," and shall place the voter's certificates therein as they are received and approved, and the judge shall have special charge of the operation of the voting machine: Provided, however, That the judge of election may make other arrangements for the division of the duties imposed by this act, so long as each election officer and clerk is assigned some specific duty to perform. If more than one voting machine is used, the judge shall be assisted by the machine inspectors, each machine inspector being assigned by him to have charge of the operation of a particular machine. In all election districts, the judge shall assign two (2) members of the election board or clerks to keep two (2) numbered lists of voters during the progress of the voting.

(d) Any election officer, clerk or machine inspector may be assigned by the judge of election to assist another officer, clerk or machine inspector in the performance of his duties, or to perform them for him during his temporary absence or disability.

1937, June 3, P.L. 1333, art. XII, § 1208.

Library References

Elections ◊197.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 192, 196.
P.L.E. Elections § 82.

Notes of Decisions

- Absence of election officer, effect in general 1
- Duties 4
- Filling vacancies 3
- Intoxication of election officer, effect 2

1. Absence of election officer, effect in general

The absence of the judge from the polls during a large part of the day will not invalidate the election, if no question arose for his decision during his absence. *Thompson v. Ewing*, 1 Brewst. 92, 1861.

2. Intoxication of election officer, effect

The intoxication of one of the inspectors will not affect the poll if the other officers were able to perform their duties properly. *Thompson v. Ewing*, 1 Brewst. 92, 1861.

3. Filling vacancies

But while it is a general rule that mere irregularities which do not affect results are not to defeat the will of the majority, yet where the law has prescribed a time and place of election, and designated the officers who are to conduct it, a majority may not set up other officers and hold a separate election. *Juker v. Com.*, 20 Pa. 493, 1852; *Thompson v. Ewing*, 1 Brewst. 67, 1861; *Seibel's Case*, 2 Luz. 19, 1873; *Pittston Borough Election*, 3 Luz. 13, 1874.

Where one of the clerks, because of intoxication, was unable to continue his labors, and another person was called to act in his place but was not sworn, and continued to officiate until the regular clerk was able to resume his duties, the court refused to set an election aside on that ground, there being no allegation of fraud or mistake in conducting the election. *Boileau's Case*, 2 Pars. 503, 1845; *Weaver v. Given*, 1 Brewst. 140, 1868.

Where persons elected to an election board in 1951 did not serve in the 1952 election, but did not officially resign, and a curbstome election was held at a November, 1952, election, and an election board thus constituted proceeded to serve, and the same thing was done in election in controversy, election board officials so selected were de facto, and their acts were not such as to taint the vote of their entire ward with fraud or impro-

priety. In re Contest of Election for Office of Tax Collector in Newport Tp., Luzerne County, 121 A.2d 141, 384 Pa. 474, 1956.

If an election officer absent himself from the polls after they are opened, those who remain need not wait an hour before proceeding to fill the vacancy so caused. *Gibbons v. Sheppard*, 2 Brewst. 1, 1868.

A mere irregularity in choosing officers to fill vacancies in an election board on the morning of an election will not invalidate the vote cast. *Thompson v. Ewing*, 5 Phila. 102, 1 Brewst. 104, 1862.

As for instance the action of the clerk in assuming to act as inspector who was absent. *Thompson v. Ewing*, 5 Phila. 102, 1 Brewst. 104, 1862.

A judge who has removed from the district cannot appoint an inspector; those present at the poll must elect one. *Thompson v. Ewing*, 1 Brewst. 69, 1861.

Where a judge of election appointed a person inspector in place of the one who received the highest number of votes, he being absent, and the judge subsequently removed from the ward; it was held, that the inspector so appointed had power to make an appointment to fill the vacancy in the office of judge. *Penn District Election Case*, Com.Pleas, Phila., Dec. 7, 1847, MS.

A person appointed to fill a vacancy in the office of inspector, in place of one elected by the people, and who failed to appear and act at a general election, holds the office only pro hac vice, and is not entitled to act at a succeeding election at which the regularly elected inspector appears and claims his seat, *Case of Penn District Election*, Bright.Elec.Cas 523n, 1850; but it has been held that a person so appointed is entitled to act for the whole year. *Anon.*, Com.Pleas, Phila., March, 1852, MS.

4. Duties

While it is the duty of a board of elections to have ready sufficient forces to investigate immediately any complaints of illegal conduct in elections, they are not bound to anticipate trouble. *Clark v. Witkin*, 70 D. & C. 122, 1950.

§ 3049. Opening of polls; posting cards of instruction and notices of penalties; examination of voting machines

(a) In districts in which ballots are used, the election officers shall, after taking the oath, open the ballot boxes which have been furnished to them, and burn and totally destroy all the ballots and other papers which they may find therein, before the opening of the polls.

Whenever during any emergency, it¹ becomes necessary to save waste paper on account of a shortage thereof, the Governor of the Commonwealth may, by proclamation, suspend the foregoing provisions relating to the destruction of ballots and papers, and in that case, the election board shall set the ballots and other papers aside and they shall be collected and disposed of by such means and in such manner as may be determined by the county election board. When the polling place is opened, the ballot box shall be securely locked, and shall not be opened until the close of the polls, as provided in section 1221.² At the opening of the polls the seals of the packages furnished by the county board shall be publicly broken, and the said packages shall be opened by the judge of election. The cards of instruction and notices of penalties shall be immediately posted in each voting compartment, and not less than three such cards and notices of penalties, and not less than five specimen ballots (at primaries five of each party), shall be immediately posted in or about the voting room outside the enclosed space, and such cards of instruction, notices of penalties and specimen ballots shall be given to any elector at his request, so long as there are any on hand.

Use of voting machines

(b)(1) In districts in which voting machines are used, at the opening of the polls, the seals of the package furnished by the county board shall be publicly broken, and the said package shall be opened by the judge of election. Not less than three cards of instruction and notices of penalties, and not less than two diagrams of the face of the machine shall be immediately posted in or about the voting room outside the enclosed space, and such cards and notices of penalties shall be given to any elector at his request, so long as there are any on hand. Thereupon the election officers, before opening the envelope containing the keys which unlock the operating mechanism and registering counters or counter compartment of the voting machine, shall examine the number of the seal on the machine and the number registered on the protective counter or device, and shall see whether they are the same as the numbers written on the envelope containing the keys. If either number shall be found not to agree, the envelope shall remain unopened until the election officers shall have notified the proper custodian of voting machines, or the county board, and

until the custodian or some other person authorized by the county board shall have presented himself at the polling place for the purpose of reexamining the machine, and shall have certified that it is properly arranged. But if the numbers on the seal and the protective counter or device shall both be found to agree with the numbers on the envelope, the envelope shall be opened, and where the voting machine provided is not equipped with mechanism for printing paper proof sheets, the election officers shall examine the registering counters, and, for that purpose, shall open the doors concealing such counters, if the construction of the voting machine shall so require, and, before the polls are opened, the judge and each inspector shall carefully examine every counter, and shall see that it registers zero (000), and shall allow the overseers and watchers to examine the counters. When the voting machine provided is equipped with mechanism for printing paper proof sheets, and requires the simultaneous use of three keys to unlock the registering counters or counter compartment, the judge of election shall deliver one of the two keys, aforesaid, to the minority inspector to be retained by him as hereinafter provided, and shall then print at least two proof sheets, one of which the judge and each inspector shall carefully examine to ascertain whether every counter registers zero (000), and shall then preserve said proof sheets to be signed by them and returned to the county election board, with the duplicate return sheet, and shall sign and post the other proof sheet upon the wall of the polling place, where it shall remain until the polls are closed. The key delivered by the judge of election to the minority inspector as aforesaid, shall be retained by the minority inspector until the polls have been closed, and the voting and counting mechanism of the machine shall have been locked and sealed against voting, and shall then be returned to the judge of election, for return by him to the county election board, as hereinafter provided.

(2) If the ballot labels containing the names of offices, parties, political bodies, candidates, and questions, shall not be in their proper places on the voting machine, the election officers, forthwith, shall notify the proper custodian of voting machines, or the county board, and the machine shall not be used until the custodian, or some other person authorized by the county board, shall have supplied ballot labels, as herein prescribed. If the ballot labels for a voting machine shall not be delivered at the time required, or if after delivery, they shall be lost, destroyed, or stolen, the county board or custodian shall cause other ballot labels to be prepared, printed or written, as nearly in the form of the official ballot labels as practicable, and shall cause such ballot labels to be used in the same manner, as nearly as may be, as the official ballot labels would have been used.

(3) The judge, each inspector of election, each clerk of election and the overseers, if any, shall sign a certificate showing—(1) the identifying number or other designation of the voting machine; (2) the delivery of the keys in a sealed envelope; (3) the number on the seal upon the machine; (4) the number registered on the protective counter or device; (5) that all of the counters were set at zero (000); and (6) that the ballot labels are properly placed in the machine, which certificate shall be returned by the judge of election to the county board with the other certificates, as hereinafter provided.

(4) The machine shall remain locked against voting until the polls are opened, and shall not be operated except by electors in voting. If any counter is found not to register zero (000), the election officer shall immediately notify the custodian, or the county board, who shall, if practicable, adjust or cause the counters to be adjusted at zero (000), but, if it shall be found impracticable for the custodian or other person authorized by the county board to arrive in time so to adjust such counters before the time set for opening the polls, the election officer shall immediately make a written record of the designation or designating letter or number of such counter, together with the number registered thereon, herein below called the initial number, and shall sign and post the same upon the wall of the polling place, where it shall remain until the polls are closed: Provided, however, That if the voting machine used is equipped with mechanism for printing paper proof sheets, in any case where any counter is shown by such proof sheet not to register zero (000), if it shall be found impracticable to have such counter adjusted before the time set for opening the polls, the election officer shall sign such printed proof sheet and post the same upon the wall of the polling place where it shall remain until the polls are closed; and, in filling out the returns of the election, if the final number of such counter is greater than the initial number, the election officer shall subtract the initial number from the final number, and enter the difference on the returns as the vote for the candidate or on the question represented by such counter; if the final number of such counter is less than the initial number, the election officers shall add one thousand to the final number and shall subtract the initial number from the sum so ascertained, and shall enter upon the returns as the vote for the candidate or on the question represented by such counter the final number plus one thousand less the initial number.

(5) The exterior of the voting machine, and every part of the polling place, shall be in plain view of the election officers, overseers and watchers. The voting machine shall be located in the polling place, at least six feet back of the guard-rail or barrier, in such a position that, unless its construction shall require otherwise, the ballot labels on the face of the machine can be seen plainly by the

election officers, overseers and watchers when the machine is not occupied by a voter.

(6) The election officers shall not themselves be, nor allow any other person to be, in any position that will permit any one to see or ascertain how an elector votes, or how he has voted. The election officers, or one of them, shall inspect the face of the machine at frequent intervals, to see that the ballot labels are in their proper places, and that the machine has not been injured or tampered with.

(7) During a primary or election, the door, or other covering of the compartment containing the counters of the machine shall not be unlocked or opened, or the counters exposed, except by action of the proper custodian of voting machines, for good and sufficient reason, a statement of which shall be made in writing and signed by him and attested by the signatures of the election officers and overseers, or except upon the written order of the county board, for good and sufficient reason, which shall be stated in the order.

1937, June 3, P.L. 1333, art. XII, § 1209. Amended 1945, May 16, P.L. 596, § 1.

¹ Enrolled bill reads "if".

² 25 P.S. § 3061.

Library References

Elections ⇨206, 222.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 198, 203.
P.L.E. Elections §§ 65, 85.

§ 3050. Manner of applying to vote; persons entitled to vote; voter's certificates; entries to be made in district register; numbered lists of voters; challenges

(a) At every primary and election each elector who desires to vote shall first sign a voter's certificate, and, unless he is a State or Federal employe who has registered under any registration act without declaring his residence by street and number, he shall insert his address therein, and hand the same to the election officer in charge of the district register. Such election officer shall thereupon announce the elector's name so that it may be heard by all members of the election board and by all watchers present in the polling place and shall compare the elector's signature on his voter's certificate with his signature in the district register. If, upon such comparison, the signature upon the voter's certificate appears to be genuine, the elector who has signed the certificate shall, if otherwise qualified, be permitted to vote: Provided, That if the signature on the voter's certificate, as compared with the signature as recorded in the district register, shall not be deemed authentic by any of the election officers, such elector shall not be denied the right to vote for that reason, but

shall be considered challenged as to identity and required to make the affidavit and produce the evidence as provided in subsection (d) of this section. When an elector has been found entitled to vote, the election officer who examined his voter's certificate and compared his signature shall sign his name or initials on the voter's certificate, shall, if the elector's signature is not readily legible, print such elector's name over his signature, and the number of the stub of the ballot issued to him or his number in the order of admission to the voting machines, and at primaries a letter or abbreviation designating the party in whose primary he votes shall also be entered by one of the election officers or clerks. As each voter is found to be qualified and votes, the election officer in charge of the district register shall write or stamp the date of the election or primary, the number of the stub of the ballot issued to him or his number in the order of admission to the voting machines, and at primaries a letter or abbreviation designating the party in whose primary he votes, and shall sign his name or initials in the proper space on the registration card of such voter contained in the district register.

As each voter votes, his name in the order of voting shall be recorded in two (2) numbered lists of voters provided for that purpose, with the addition of a note of each voter's party enrollment after his name at primaries.

(b) If any elector was unable to sign his name at the time of registration, or, if having been able to sign his name when registered, he subsequently shall have lost his sight or lost the hand with which he was accustomed to sign his name, or shall have been otherwise rendered by disease or accident unable to sign his name when he applies to vote, he shall establish his identity to the satisfaction of the election officers, and in such case he shall not be required to sign a voter's certificate, but a certificate shall be prepared for him by one of the election officers, upon which the facts as to such disability shall be noted and attested by the signature of such election officer.

(c) No person who applies to vote shall be permitted by any election officer or clerk or other person to see the signature recorded as his in the district register until after he shall have signed his name to the voter's certificate.

(d) No person, except a qualified elector who is in actual military or naval service under a requisition of the President of the United States or by the authority of this Commonwealth, and who votes under the provisions of Article XIII of this act,¹ shall be entitled or permitted to vote at any primary or election at any polling place outside the election district in which he resides, nor shall he be permitted to vote in the election district in which he resides, unless he has been personally registered as an elector and his registration

card appears in the district register of such election district, except by order of the court of common pleas as provided in this act, and any person, although personally registered as an elector, may be challenged by any qualified elector, election officer, overseer, or watcher at any primary or election as to his identity, as to his continued residence in the election district or as to any alleged violation of the provisions of section 1210 of this act,² and if challenged as to identity or residence, he shall produce at least one qualified elector of the election district as a witness, who shall make affidavit of his identity or continued residence in the election district: Provided, however, That no person shall be entitled to vote as a member of a party at any primary, unless he is registered and enrolled as a member of such party upon the district register, which enrollment shall be conclusive as to his party membership and shall not be subject to challenge on the day of the primary.

1937, June 3, P.L. 1333, art. XII, § 1210. Amended 1982, June 10, P.L. 458, No. 135, § 2, effective in 60 days.

¹ 25 P.S. §§ 3146.1 to 3146.9.

² This section.

Historical and Statutory Notes

The 1982 amendment, in subsec. (a), in the second sentence following "officer shall thereupon", inserted "announce the elector's name so that it may be heard by

all members of the election board and by all watchers present in the polling place and shall".

Library References

Elections ⇄59, 212, 223.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 16, 197, 209.
P.L.E. Elections §§ 21 et seq., 26, 27.

Notes of Decisions

- Certificates 2**
- Criminal prosecutions 4**
- Irregularity or fraud 1**
- Registration 3**

1. Irregularity or fraud

Minority inspector at primary election violated oath by admitting certain persons to vote who, she had every reason to believe, were not entitled to vote at such primary, and by joining in making false return of votes cast. *Com. v. Grear*, 76 A.2d 491, 168 Pa.Super. 32, 1950.

Each member of election board must be on guard to prevent any form of fraud or irregularity that would interfere with a fair election, and if irregularity or fraud being perpetrated in course of election is detected, appropriate action should be

taken immediately to stop such misconduct. *Commonwealth v. Albert*, 30 A.2d 184, 151 Pa.Super. 184, 1943.

Whether circumstantial evidence was sufficient to establish conspiracy between election officials to hinder and prevent a free and fair election and that such conspiracy was carried into effect was for jury. *Commonwealth v. Albert*, 30 A.2d 184, 151 Pa.Super. 184, 1943.

2. Certificates

Election inspector having numbered list of voters and record of those who assisted voters and inspector whose duties included comparing signatures of those desiring to vote were under a duty to prevent persons not registered as qualified electors from signing the names of electors to voters' certificates. *Common-*

25 P.S. § 3050

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Note 2

wealth v. Albert, 30 A.2d 184, 151 Pa.Super. 184, 1943.

A voter who is unable to sign a certificate shall have it prepared by one of the election officers and attested by his signature, and certificates written by an assistor, with an "X" added, are a violation of the Election Code. In re Second Legislative Dist. Election, 4 D. & C.2d 93, 45 Luz.L.Reg. 33, 1955.

In the absence of fraudulent intent on the part of the voter or of the election officers or of any conspiracy between them, failure of an election board to require each elector desiring to vote first to sign a voter's certificate, and to compare the signature on such certificate with the elector's signature in the district register, is a mere irregularity not warranting rejection of entire vote cast in district. In re Morganroth Election Contest, 50 D. & C. 143, 1944.

3. Registration

Where city registration commissioners and their agents failed properly to file registration cards in the election districts in which electors resided, substitution of affidavits to duplicate original registration forms for missing registration cards would not be authorized, but voters could establish their right to vote by secondary evidence before judges qualified to sit in the common pleas. In re General Election in City and County of Philadelphia on November 8, 1938, 2 A.2d 301, 332 Pa. 457, 1938.

The requirement of this section that voter's registration card be in the district register of voter's election district is a mere aid in the proof of the existence of the record showing voter's qualifications, as a part of a public record. In re General Election in City and County of Philadelphia on November 8, 1938, 2 A.2d 301, 332 Pa. 457, 1938.

Where a voter's registration card is not produced at the voting place at the time

of election, as required by law, voter may apply to any judge of a court of common pleas for an order requiring election officers to receive his vote, if voter satisfies such judge of the prior existence of a valid record. In re General Election in City and County of Philadelphia on November 8, 1938, 2 A.2d 301, 332 Pa. 457, 1938.

The rule that contents of a lost or missing record may be proved by secondary evidence is applicable to registration cards showing voter's qualifications. In re General Election in City and County of Philadelphia on November 8, 1938, 2 A.2d 301, 332 Pa. 457, 1938.

A vote cast by a voter in her maiden name, after her marriage and the death of her husband, without any change in her registration, although irregular and contrary to instructions, will be counted where there is no question of identity. In re Second Legislative Dist. Election, 4 D. & C.2d 93, 45 Luz.L.Reg. 33, 1955.

4. Criminal prosecutions

In prosecution of election officers for violating Election Laws, where charge adequately stated responsibility resting upon defendants and referred in detail to duties imposed upon election officers by this section and § 3058 of this title, defendants having requested no additional charge in such respect could not complain that court failed to charge generally as to duties of various election officers. Commonwealth v. Albert, 30 A.2d 184, 151 Pa.Super. 184, 1943.

Apparent inconsistency of verdicts in that two election officials were convicted of violating Election Laws and of conspiring to prevent a free and fair election while three other election officers and codefendants were acquitted did not warrant reversal of convictions. Commonwealth v. Albert, 30 A.2d 184, 151 Pa.Super. 184, 1943.

§ 3051. Bribery at elections; challenges; rejection of votes

(a) The election officers shall reject the vote of any person at any primary or election who shall give or promise or offer to give to an elector, any money, reward or other valuable consideration for his vote at such primary or election or for withholding the same, or who shall give or promise to give such consideration to any other person

or party for such elector's vote or for the withholding thereof, or who shall receive or agree to receive for himself or for another any money, reward or other valuable consideration for his vote at such primary or election, or for withholding the same.

(b) The vote of any elector shall be rejected by the election officers if they or any one of them shall of their own knowledge know him to be guilty of a violation of any of the provisions of this section, or if upon challenge of such elector by any qualified elector, election officer, overseer or watcher, it shall be proved to their satisfaction that such elector has violated the provisions of this section, and in no case shall any elector so challenged be permitted to vote, unless he shall make written affidavit that the matter of the challenge is untrue.

1937, June 3, P.L. 1333, art. XII, § 1211.

Library References

Elections ¶223, 316.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 209, 332.
P.L.E. Elections §§ 87, 141.

§ 3052. Voting check list

After each elector has been admitted to vote, his voter's certificate shall be inserted in the file or binder provided therefor by the county board, and known as the "Voting Check List," and the said voter's certificate so bound shall constitute the official list of electors voting at such primary or election. All voter's certificates prepared by persons applying to vote whose applications to vote are refused by the election officer shall be carefully preserved and returned to the county board with the other papers.

1937, June 3, P.L. 1333, art. XII, § 1212.

Library References

Elections ¶212.
WESTLAW Topic No. 144.

C.J.S. Elections § 197.
P.L.E. Elections § 87.

§ 3053. Qualifications of electors to be decided by inspectors; duty of judge

The inspectors of election shall investigate and pass upon the qualifications of all persons claiming the right to vote at any primary or election, and if the inspectors shall disagree upon the right of any person to vote, the judge of election shall decide the question. If the judge is unable to decide, then the overseers of election, if they be agreed, shall decide the question.

1937, June 3, P.L. 1333, art. XII, § 1213.

Library References

Elections ⇨223.
WESTLAW Topic No. 144.

C.J.S. Elections § 209.
P.L.E. Elections § 87.

§ 3054. Admission of electors within enclosed space

(a) No elector shall be allowed to enter the enclosed space until he shall be found entitled to vote.

(b) As soon as an elector has been admitted within the enclosed space, the election officer having charge of the ballots in districts in which ballots are used, shall detach a ballot from the stub and give it to the elector, first folding it so that the words and figures printed on¹ the back shall be the only words and figures visible, and no ballots shall be deposited in the ballot box unless folded in the same manner. Not more than one ballot shall be detached from its stub in any book of ballots at any one time. Not more than one ballot shall be given to an elector, but if an elector inadvertently spoils a ballot, he may obtain another upon returning the spoiled one. The ballots thus returned shall be immediately cancelled and at the close of the polls shall be enclosed in an envelope, sealed and returned to the county board.

(c) In districts in which voting machines are used, an elector, after being found to be qualified and admitted within the enclosed space, shall be admitted to the voting machine booth as soon as it is vacant, and shall be permitted to vote.

(d) Not more than twice as many electors waiting to vote as there are voting compartments or voting machines in use in the district shall be admitted within the enclosed space at any one time.

1937, June 3, P.L. 1333, art. XII, § 1214.

¹ Enrolled bill reads "in".

Library References

Elections ⇨200.
WESTLAW Topic No. 144.

C.J.S. Elections § 193.
P.L.E. Elections §§ 84, 87.

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cast in the district affected. In re Morganroth Election Contest, 50 D. & C. 143, 1944.

1. Irregularities generally

Omission of a duty or a procedural neglect in the conduct of an election which does not affect the honesty of the ballots cast is to be deemed a mere irregularity, not justifying rejection of all votes

2. Rejection of spoiled ballot

Ballot marked in two party columns, with mark in one scratched over, is invalid as either defaced or marked in two party squares; such ruling not depriving elector of his vote, in view of act of 1893, June 10, P.L. 419, § 25, repealed, as to

obtaining another ballot. In re Gregg's Election, 126 A. 260, 281 Pa. 155, 1924.

3. Detachment of ballot

Detachment of a ballot from its stub by the election officer in charge so as to leave attached to the stub the perforated

corner of the ballot containing the serial number, in violation of this section and § 2964 of this title, is a mere irregularity which does not warrant rejection of the vote so cast unless the election officer acted fraudulently or corruptly. In re Morganroth Election Contest, 50 D. & C. 143, 1944.

§ 3055. Method of marking ballots and depositing same in districts in which ballots are used

(a) In districts in which ballots are used, the elector, after receiving his ballot, shall retire to one of the voting compartments, and draw the curtain or shut the screen or door, and shall then prepare his ballot.

(b) At primaries, the elector shall prepare his ballot in the following manner: He shall vote for the candidates of his choice for nomination or election, according to the number of persons to be voted for by him, for each office, by making a cross (X) or check (✓) mark in the square opposite the name of the candidate, or he may insert by writing, stamping or sticker, in the blank space provided therefor, any name not already printed on the ballot, and such insertion shall count as a vote without the making of a cross (X) or check (✓) mark.

(c) At elections, the elector shall prepare his ballot in the following manner: He may vote for the candidates of his choice for each office to be filled according to the number of persons to be voted for by him for each office, by making a cross (X) or check (✓) mark in the square opposite the name of the candidate, or he may insert by writing, stamping or sticker, in the blank spaces provided therefor, any name not already printed on the ballot, and such insertion shall count as a vote without the making of a cross (X) or check (✓) mark. If he desires to vote for every candidate of a political party or political body, except its candidates for offices as to which he votes for individual candidates in the manner hereinafter provided, he may make a cross (X) or check (✓) mark in the square opposite the name of the party or political body of his choice in the party column on the left of the ballot, and every such cross (X) or check (✓) mark shall be equivalent to and be counted as a vote for every candidate of a party or political body so marked, including its candidates for presidential electors, except for those offices as to which he has indicated a choice for individual candidates of the same or another party or political body, by making a cross (X) or check (✓) mark opposite their names in the manner hereinabove provided, as to which offices his ballot shall be counted only for the candidates which he has thus individually marked, notwithstanding the fact that he made a mark in

the party column, and even though in the case of an office for which more than one candidate is to be voted for, he has not individually marked for such office the full number of candidates for which he is entitled to vote. If he desires to vote for the entire group of presidential electors nominated by any party or political body, he may make a cross (X) or check (✓) mark in the appropriate square at the right of the names of the candidates for President and Vice-President of such party or body. If he desires to vote a ticket for presidential electors made up of the names of persons nominated by different parties or political bodies, or partially of names of persons so in nomination and partially of names of persons not in nomination by any party or political body, or wholly of names of persons not in nomination by any party or political body, he shall insert the names of the candidates for presidential electors for whom he desires to vote in the blank spaces provided therefor under the title of the office "Presidential Electors". In case of a question submitted to the vote of the electors, he may make a cross (X) or check (✓) mark in the appropriate square opposite the answer which he desires to give.

(d) Before leaving the voting compartment, the elector shall fold his ballot, without displaying the markings thereon, in the same way it was folded when received by him, and he shall then leave the compartment and exhibit the ballot to one of the election officers who shall ascertain by an inspection of the number appearing upon the right hand corner of the back of the ballot whether the ballot so exhibited to him is the same ballot which the elector received before entering the voting compartment. If it is the same, the election officer shall direct the elector, without unfolding the ballot, to remove the perforated corner containing the number, and the elector shall immediately deposit the ballot in the ballot box. Any ballot deposited in a ballot box at any primary or election without having the said number torn off shall be void and shall not be counted.

1937, June 3, P.L. 1333, art. XII, § 1215. Amended 1960, Jan. 8, P.L. (1959) 2142, § 3.

Library References

Elections ⇨216, 221.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 204 et seq., 207.
P.L.E. Elections § 87.

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1. Validity of prior law

Act 1893, June 10, P.L. 419, § 22, as amended by act 1903, April 29, P.L. 338, § 3; 1919, July 9, P.L. 829, § 1, repealed, providing that there shall be printed on the left of the ballots a list of the names of all the political parties represented on such ballots, with a square of sufficient size for the insertion of a cross-mark at the right of each party named, with certain instructions as to the method of voting for the entire party ticket, is not unconstitutional, as interfering with the freedom and equality of elections required by Constitution art. 1, § 5. *Oughton v. Black*, 61 A. 346, 212 Pa. 1, 1905.

2. Intent of voter

A vote is counted for the person, not for the name; and where the intent of the voter to vote for a candidate is manifest, it should be given effect. In re *Whitpain Tp. Election Case*, 45 D. & C. 279, 58 Montg. 291, 1942.

3. Irregularities generally

Where a duly qualified inspector of election admits that during a local option election he found two ballots in an election booth partly folded, which he deposited in the ballot box without the knowledge of the voter, and he is unable to testify how the ballots were marked, and the election is so close that two votes could change the result, it is impossible for the election officials to make a true computation of the votes cast and the election must be set aside. In re *Election in East Hanover Tp.*, 36 D. & C. 246, 1940.

4. Marking ballot

A ballot is invalid in which the voter seeks to indicate his choice by a stroke, or parallel lines, whether within or without the square. *East Coventry Election*, 3 Dist. 377, 1894; *Flynn's Contested Election*, 37 A. 523, 181 Pa. 457, 1897; *Long v. Kochenderfer*, 3 Dist. 678, 1894; *Pike Township Election*, 18 C.C. 278, 5 Dist. 519, 1896.

The provisions of act of 1893, June 10, P.L. 419, § 1, as amended, repealed, are mandatory, and should be strictly enforced. The ballot should be marked with a cross in the proper square at the right of the group, party name or appella-

tion, or name of the candidate, and a ballot not so marked will be rejected, wholly or in part, as the case may be. The following methods of marking have been held to invalidate a ballot: A cross without the square, *East Coventry Election*, 3 Dist. 377, 1894; but see *Weidknecht v. Hawk*, 13 C.C. 41, 3 Dist. 123, 3 North. 381, 10 Lanc. 261, 5 Del. 242, 1893; *Hughes' Election*, 3 Lack. 313, 1894; a cross in the square next below and to the right of the candidate's name, *Flynn's Contested Election*, 37 A. 523, 181 Pa. 457, 1897; and overruling *Weidknecht v. Hawk*, 13 C.C. 41, 3 Dist. 123, 3 North. 381, 10 Lanc. 261, 5 Del. 242, 1893; *Louck's Appeal*, 3 Dist. 127, 1893; *Hempfield's Election Case*, 14 C.C. 577, 1894; *Middendorf's Case*, 4 Dist. 78, 1894; and a cross at the left of the name, *Contested Election for Mayor of York*, 13 C.C. 205, 3 Dist. 127, 10 Lanc. 228, 6 York, 179, 1893; *Hughes' Election*, 3 Lack. 313, 1894; but see *Sharon Hill Election*, 3 Lack. 286, 1894.

Two straight lines which cross each other and are contained within the box opposite the candidate's name constitute a "cross mark". *Election of East Stroudsburg*, 80 D. & C. 317, 13 Monroe L.R. 113, 1953.

When two parties nominate only partial tickets, which together make a complete list of candidates for the various offices to be voted for, without duplication, a ballot with marks in each party square is valid. *Reed v. McArthur*, 15 C.C. 136, 3 Dist. 682, 1894.

5. Write-in votes

When a name inserted is misspelled, the ballot will be counted for the candidate intended, if his identity is clear on the face of the ballot, or if it can be established by the evidence of the voter. *Marburger's Case*, 5 W.N.C. 379, 1878; *East Taylor Election*, 17 C.C. 657, 5 Dist. 393, 1896; *Twenty-sixth Ward Election*, 12 Phila. 631, 35 L.I. 420, 1878; *Phoenixville Case*, 2 Chest. 123, 1883; *Jenkin's Contested Election*, 14 Lanc.Bar. 200, 1883; *Twenty-first Ward Constable*, 17 W.N.C. 373, 1886.

Act of 1893, June 10, P.L. 419, § 22, as amended, repealed, confers no authority to insert the name of an office not on the official ballot. *Little Beaver Township Election*, 30 A. 955, 165 Pa. 233, 1895.

25 P.S. § 3055

Note 5

Where votes were written in on a ballot under a number of variations of what may have been intended to be the same names, which names did not appear on the printed ballot, and in addition some of the votes were written in on the wrong lines of the ballot, § 3155, of this title requires that a petition to cumulate all such votes under the correct names of the candidates be dismissed. In re Election in Twenty-first Ward, 1 D. & C.2d 615, 1954.

Where the voters who write in the name of a candidate do not spell his name correctly, the votes cast will be counted for the candidate where his identity under the misspellings is established by clear and convincing evidence. In re Whitpain Tp. Election Case, 45 D. & C. 279, 58 Montg. 291, 1942.

Where a voter seeks to "write in" the name of a candidate on a ballot, under §§ 2963, 3063(a), of this title, the name must be written in or pasted on by the voter within the square provided for it on the ballot. If a name is placed at any other point than that designated, it may not be counted. In re Whitpain Tp. Election Case, 44 D. & C. 374, 58 Montg. 188, 1942.

Where the name of the candidate is properly written within the square, but a check-mark also is placed after it, the vote is nevertheless valid, for the mark may be disregarded as surplusage. In re Whitpain Tp. Election Case, 44 D. & C. 374, 58 Montg. 188, 1942.

An elector may vote for the nominees on the official ballot in either of the ways specified in the act of 1893, June 10, P.L. 419, § 22, as amended, repealed, or he may insert in the blank space provided therefor, any name not on the ballot for which he desires to vote; but he cannot do both. He cannot increase the number of officers to be voted for beyond those designated in the official ballot, even if the ballot is erroneous in failing to specify all the officers to be voted for. Hanchett's & Dunn's Election, 29 C.C. 409, 1904.

Writing a candidate's name in a blank space left where the candidate's name should have appeared if printed is not a proper marking. Kerrin v. Bullock, 25 C.C. 62, 1901.

Writing a candidate's name in the space where it is printed is not a proper

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marking. Blythe Township Election, 19 C.C. 499, 1897.

The voter need not put a cross mark opposite a name so written in, East Taylor Township Election, 17 C.C. 657, 5 Dist. 393, 1896; Elizabethville Borough Election, 17 C.C. 567, 5 Dist. 227, 1896; Pike Township Election, 18 C.C. 278, 5 Dist. 519, 1896; but if a cross be added, it will not invalidate the ballot. Foreman's Contested Election, 47 Pitts. 318, 1900.

6. Stickers

When the name of the office to be filled is left off the ballot, voters cannot use a sticker containing the names of both office and candidate. Lawlor's Contested Election, 37 A. 92, 180 Pa. 566, 1897; Forney's Election, 19 C.C. 250, 1897; Com. v. Lynn, 5 North. 394, 1897.

Any write-in or sticker, which covers more of ballot than blank space provided therefor, invalidates vote for office under which write-in or sticker appears. In re Election of Supervisor in Springfield Tp., Mercer County, 159 A.2d 901, 399 Pa. 37, 1960.

A misplaced write-in or sticker, whether on ballot or on paper roll in voting machine, is of no legal efficacy whatsoever. In re Election of Supervisor in Springfield Tp., Mercer County, 159 A.2d 901, 399 Pa. 37, 1960.

Where a ballot is marked with two X's, one printed on a sticker attached to the ballot and the other made with pencil opposite the name printed on the ballot covered by the sticker, the intention of the voter is not shown with sufficient definiteness. In re Rodgers' Contested Election, 83 A. 476, 234 Pa. 512, 1912.

Individual stickers may be used for the insertion of names of candidates in the blank spaces provided for that purpose. De Walt v. Bartley, 24 A. 185, 146 Pa. 529, 28 Am.St.Rep. 814, 1892, affirming 1 Dist. 199, 1892; Foreman's Contested Election, 47 Pitts. 318, 1900; but the use of a sticker prepared for pasting over a whole column of the official ballot, containing a different list of candidates from any of those printed on the official ballot, is illegal. Little Beaver Township School Directors' Election, 30 A. 955, 165 Pa. 233, 1895.

Stickers bearing a printed number in addition to the name of the candidate, the

number being that of the column on the machine of the office for which the candidate is proposed, if otherwise valid, should be counted. In re Columbia Borough School Dist. Election, 1 D. & C.3d 222, 65 Lanc.Rev. 151, 1975.

Torn stickers, if otherwise valid, should be counted if the remaining portion shows the complete surname of the candidate, but not if anything less than the complete surname appears. In re Columbia Borough School Dist. Election, 1 D. & C.3d 222, 65 Lanc.Rev. 151, 1975.

Stickers which, although properly placed on the face of the vote roll at one time, which at the time of computing the vote were stuck to the back of the vote roll or to the back of the machine behind the slide corresponding to the proper column on the vote roll, could not be counted. In re Columbia Borough School Dist. Election, 1 D. & C.3d 222, 65 Lanc.Rev. 151, 1975.

The placing of a sticker over the name of one candidate renders invalid the entire vote within that office block. In re Whitpain Tp. Election Case, 44 D. & C. 374, 58 Montg. 188, 1942.

7. Two or more candidates to be elected

When there are two or more candidates to be elected, one may be marked in each party. Election of Assessors in Gearhart Township, 43 A. 972, 192 Pa. 446, 1899; or one of the printed names may be marked, and another name be written in the proper blank space. Providence Township's Election, 13 Lanc. 273, 1896; East Taylor Election, 17 C.C. 657, 5 Dist. 393, 1896.

8. Excess of candidates voted for above positions to be filled

If more names are marked or inserted for any office than the voter is entitled to vote for, the ballot is void as to that office. Blockley Election, 2 Pars. 534, 1847; Wilkes-Barre Election, 8 Luz. 27, 2 Leg.Rec.R. 5, 1881; Nineteenth Ward School Directors' Election, 11 Phila. 300, 33 L.I. 158, 1876; Wilkes-Barre Township School Directors' Election, 6 Phila. 437, 1867.

Where the name of the candidate is properly written in, but the voter places a cross-mark after the name of an opposing candidate, such votes, for both candidates, are invalid. In re Whitpain Tp.

Election Case, 44 D. & C. 374, 58 Montg. 188, 1942.

9. Erasures, effect

An erasure opposite the name of a candidate will not invalidate the ballot, Fairchance Borough Contested Election, 22 C.C. 451, 8 Dist. 595, 1899; but see Gosnell's Appeal, 40 A. 822, 187 Pa. 297, 1898.

A ballot which, though correctly marked in the party block, had an erasure of the "X" in the party block such as to cut through the ballot was properly excluded. In re Duquesne Appeals from County Bd. of Elections, 39 D. & C.2d 545, 114 P.L.J. 244, 1966.

Where the name of the candidate is properly written in, but the voter draws a pencil mark through the name of the opposing candidate or through the words "Democrat" or "Republican", the voting for that office is invalid on grounds of erasure, under § 3063 of this title, although such work is not a mutilation, under the same section. In re Whitpain Tp. Election Case, 44 D. & C. 374, 58 Montg. 188, 1942.

When the name of one or two opposing candidates was entirely erased, it was held a good vote for the other. Coleman v. Gernet, 14 C.C. 578, 4 North. 202, 8 York, 11, 1894.

10. Numbered corners

Recount boards, with respect to general elections for position of judge of court of common pleas, should have counted ballots that had been cast with perforated corner containing voter identification number attached, where there was no direction on face of ballot instructing voter of need to remove perforated portion before casting ballot and record contained no evidence to support finding that voters who cast ballots were in fact advised of requirement by appropriate election official. In re Recount of Ballots Cast in General Election on November 6, 1973, 325 A.2d 303, 457 Pa. 279, 1974.

Failure to count ballots, perforated corners of which were not torn off before being placed in box, was proper under this section. In re Opening of Ballot Box East and West Election Dist. of Fishingcreek Tp., Columbia County, 19 A.2d 491, 144 Pa.Super. 277, 1941.

Note 10

The duty under this section to advise voters to remove the numbered corner of their paper ballots is upon the election official and cannot be met solely by printing extensive instructions on the ballot. In re Election of Warren County Dist. Magistrate, 13 D. & C.3d 287, 1980.

It was a violation of this section for election board to fail to determine whether ballots deposited were ballots received and voted, and to permit deposit of ballots from which perforated corners containing their numbers had not been removed and thereafter on opening box to remove corners and count ballots; but while such improprieties might subject election officers to prosecution, they were not such as to require court to set aside election, especially where it was certain that ballots improperly received could not have changed results. Rockdale Tp. Primary Election, In re, 61 D. & C. 167, 1948.

Under § 3063 of this title providing that no ballot which is so marked as to be capable of identification shall be counted, an election recount board properly excluded certain ballots to which the stubs with the identifying numbers were still attached, since comparison of the stub number with the corresponding number in the voters' check list would identify the elector voting the ballot and would destroy the secrecy of the ballot. In re Petition to Open Ballot Box, 43 D. & C. 535, 1942.

11. Depositing ballot

Failure of the election officer in charge, before permitting deposit of a ballot in the ballot box, to ascertain by an inspection of the number appearing thereon whether the ballot is the same as that received by the elector before entering the voting compartment, is a mere irregularity and does not invalidate the vote so cast. In re Morganroth Election Contest, 50 D. & C. 143, 1944.

The action of voting is not completed until the ballot is properly deposited in the ballot box. In re Election in East Hanover Tp., 36 D. & C. 246, 1940.

12. Federal review

As a matter of comity, abstention and equity, district court refused to review, on basis of a civil rights complaint, decision of Pennsylvania Supreme Court validating certain disputed paper ballots, notwithstanding alleged denial of due process, where plaintiff made no allegation of fraud, bad faith or wrongdoing by Pennsylvania courts or state administrative officials, and question as put by plaintiff was not for a remedy to grant a voting franchise to certain individuals, but rather to deprive certain individuals, of their voting franchise depending upon judgment placed upon question presented to Pennsylvania Supreme Court. Reed v. Thomas, 385 F.Supp. 266, D.C.1974.

§ 3056. Instructions of voters and manner of voting in districts in which voting machines are used

(a) In districts in which voting machines are used, the election officers shall, with the aid of the diagrams authorized by this act and the mechanically operated model, instruct each elector before he enters the voting machine booth regarding the operation of the machine, and shall give the elector opportunity personally to operate the model. In election districts using full-scale models listing the actual ballot labels for the primary or election as the case may be, any elector who desires a demonstration on such full-size scale model shall have the right to select any registered elector who is legally entitled to be inside the polling place under the provisions of this act to give such elector a demonstration.

(b) If any voter, after entering the voting machine booth and before the closing of such booth, shall ask for further instructions concerning the manner of voting, any one of the election officers may

give him such instructions, but no person giving a voter such instructions shall in any manner request, suggest or seek to persuade or induce any such elector to vote any particular ticket or for any particular candidate or for or against any particular question. After giving such instructions, and before the elector closes the booth or votes, the election officer shall retire, and the elector shall forthwith vote.

(c) At primaries, before a voter is admitted to the voting machine, it shall be adjusted by the election officer in charge thereof, so that such voter will only be able to vote for the candidates of the party in which he is registered and enrolled and for candidates for nonpartisan nomination, if any.

(d) At primaries, he shall vote for each candidate individually by operating the key, handle, pointer or knob, upon or adjacent to which the name of such candidate is placed. At elections, he may vote for each candidate individually by operating the key, handle, pointer or knob, upon or adjacent to which the names of candidates of his choice are placed, or he may vote a straight political party ticket in one operation by operating the straight political party lever of the political party or political body of his choice, if such machine has thereon a separate lever for all the candidates of the political body. He may also, after having operated the straight party lever, and before recording his vote, cancel the vote for any candidate of such political party or political body by replacing the individual key, handle, pointer or knob of such candidate, and may thereupon vote for a candidate of another party, or political body for the same office by operating the key, handle, pointer or knob, upon or adjacent to which the name of such candidate appears. In the case of a question submitted to the vote of the electors, the elector shall operate the key, handle, pointer or knob corresponding to the answer which he desires to give.

(e) A voter may, at any primary or election, vote for any person for any office, for which office his name does not appear upon the voting machine as a candidate, by an irregular ballot containing the name of such person deposited, written or affixed in or upon the appropriate receptacle or device provided in or on the machine for that purpose, and in no other manner. Where two or more persons are to be elected to the same office, and the name of each candidate is placed upon or adjacent to a separate key, handle, pointer or knob, and the voting machine requires that all irregular ballots voted for that office be deposited, written or affixed in or upon a single receptacle or device, an elector may vote in or by such receptacle or device for one or more persons whose names do not appear upon the machine, with or without the names of one or more persons whose

names do so appear. With these exceptions, no irregular ballot shall be cast on a voting machine for any person for any office, whose name appears on the machine as a candidate for that office, and any ballot so cast shall be void and not counted.

(f) At any general election at which presidential electors are to be chosen, each elector shall be permitted to vote by one operation for all the presidential electors of a political party or political body. For each party or body nominating presidential electors, a ballot label shall be provided containing only the words "Presidential Electors," preceded by the names of the party or body and followed by the names of the candidates thereof for the office of President and Vice-President, and the corresponding counter or registering device shall register votes cast for said electors when thus voted for collectively. If any elector desires to vote a ticket for presidential electors made up of the names of persons nominated by different parties or bodies, or partially of names of persons so in nomination and partially of names of persons not in nomination by any party or body, or wholly of names of persons not in nomination by any party or body, he may write or deposit a paper ballot prepared by himself in the receptacle provided in or on the machine for the purpose. The machine shall be so constructed that it will not be possible for any one voter to vote a straight party ticket for presidential electors and at the same time to deposit a ballot for presidential electors in a receptacle as hereinabove provided. When the votes for presidential electors are counted, the votes appearing upon the counter or registering device corresponding to the ballot label containing the names of the candidates for President and Vice-President of any party or body shall be counted as votes for each of the candidates for presidential elector of such party or body, and thereupon all candidates for presidential elector shall be credited, in addition, with the votes cast for them upon the ballots deposited in the machine, as hereinabove provided.

(g) As soon as the elector has adjusted the voting machine so that it will record his choice for the various candidates to be voted for, and his answers to the various questions submitted, he shall operate the recording mechanism, and forthwith leave the voting machine booth.

1937, June 3, P.L. 1333, art. XII, § 1216. Amended 1969, Nov. 21, P.L. 309, § 1.

Library References

Elections ⇨222.
WESTLAW Topic No. 144.

C.J.S. Elections § 203.
P.L.E. Elections §§ 65, 87.

Notes of Decisions

Construction 1

Keys, handles, pointers, knobs 2

Write-in votes 3

1964, certiorari denied 85 S.Ct. 86, 379 U.S. 846, 13 L.Ed.2d 51.

1. Construction

In absence of a manifestly contrary intention on part of legislature, construction of two statutes which allows both to operate is mandatory. Appeal of Yerger, 333 A.2d 902, 460 Pa. 537, 1975.

When dealing with a comprehensive and carefully drawn legislative scheme for the conduct of elections, court must take care not to consider the particular elements of the scheme without regard to their place in the entire structure. Appeal of Yerger, 333 A.2d 902, 460 Pa. 537, 1975.

2. Keys, handles, pointers, knobs

Votes made by pulling down levers which were below candidates' names and which were levers for row of spaces below candidates' names were void, in view of subsection (d) of this section, requiring voters to vote by operating pointer (lever) "upon or adjacent" to candidate's name, clearness of election machine setup, instruction and illustration on sample ballot revealing that lever should be pulled down, and notation that row below candidates' names was for a special election. In re Primary Election April 28, 1964, 203 A.2d 212, 415 Pa. 327, 1964, certiorari denied 85 S.Ct. 86, 379 U.S. 846, 13 L.Ed.2d 51.

Subsection (d) of this section providing that vote shall be by operating "key, handle, pointer or knob, upon or adjacent to which" candidate's name is placed authorizes voting by means of voting machine having lever which can be pulled down upon candidate's name or pulled to left over candidate's name from position adjacent to candidate's name but does not authorize voting by pulling lever below candidate's name. In re Primary Election April 28, 1964, 203 A.2d 212, 415 Pa. 327, 1964, certiorari denied 85 S.Ct. 86, 379 U.S. 846, 13 L.Ed.2d 51.

Votes which were registered by pulling down levers into a miscalled "blank" row on voting machines were illegally cast and void, where no one could determine, except by guessing, whether such votes represented protest votes, nonpartisan votes, Republican or Democratic votes, votes for particular candidate, or "mistake" votes. In re Primary Election April 28, 1964, 203 A.2d 212, 415 Pa. 327,

3. Write-In votes

The specific language of this section providing that an irregular ballot cast on a voting machine for any person whose name appears on the machine as a candidate shall be void, as applied in circumstance that a voter who lifts the write-in slide on machine may not thereafter cast a regular vote for one of the candidates listed on the machine, prevails over the general provisions of § 3007 of this title requiring that voting machine permit each voter to change his vote for any candidate up to the time that he begins the final operation to register his vote. Appeal of Yerger, 333 A.2d 902, 460 Pa. 537, 1975.

Provision of Const. Art. 7, § 6, that laws regulating elections shall be uniform throughout the state, was not violated by permitting write-in vote cast on a paper ballot for a candidate whose name appears on that ballot to be counted, while not permitting write-in vote cast on a voting machine for a candidate whose name appears on the face of the machine to be counted. Appeal of Yerger, 333 A.2d 902, 460 Pa. 537, 1975.

Any write-in or sticker, which covers more of ballot than blank space provided therefor, invalidates vote for office under which write-in or sticker appears. In re Election of Supervisor in Springfield Tp., Mercer County, 159 A.2d 901, 399 Pa. 37, 1960.

A misplaced write-in or sticker, whether on ballot or on paper roll in voting machine, is of no legal efficacy, whatsoever. In re Election of Supervisor in Springfield Tp., Mercer County, 159 A.2d 901, 399 Pa. 37, 1960.

Stickers, which are in no way affixed to paper roll back of slot for reception of write-ins or stickers on voting machine cannot lawfully be accredited as votes for person whose name is printed on stickers. In re Election of Supervisor in Springfield Tp., Mercer County, 159 A.2d 901, 399 Pa. 37, 1960.

Where some unknown person placed a small card in write-in slot in voting machine, so that for some time name of write-in candidate could not be written in on roll of paper in machine, and stickers with name of write-in candidate could

Note 3

not be stuck on roll of paper, and machine jammed, because of card, and when card was removed from machine, 16 stickers with name of write-in candidate were found on card, the 16 stickers could not properly be counted as votes for write-in candidate. In re Election of Supervisor in Springfield Tp., Mercer County, 159 A.2d 901, 399 Pa. 37, 1960.

The anti-party raiding statutes forbid filing of petitions for nomination of same person by, and printing of his name on primary election ballots as candidate of, more than one political party for same office, but do not prohibit voter from writing or pasting in name of person whose name is not printed on ballot of political party of which such voter is a

member. Appeal of Magazzu, 49 A.2d 411, 355 Pa. 196, 1946.

This section relating to voting for person whose name does not appear on voting machine as candidate, contemplates possible nomination of candidate for office by more than one party by use of write-in ballots. Appeal of Magazzu, 49 A.2d 411, 355 Pa. 196, 1946.

The fact that person's name appeared on voting machine as candidate for Republican nomination for office of representative in General Assembly did not render him ineligible to receive write-in votes for nomination as Democratic candidate for such office. Appeal of Magazzu, 49 A.2d 411, 355 Pa. 196, 1946.

§ 3057. Time allowed elector in voting booth or voting machine compartment

No elector shall remain in a voting compartment or voting machine booth an unreasonable length of time, and, in no event, for more than three minutes, and if he shall refuse to leave after said period, he shall be removed by the election officers: Provided, however, That they may grant him a longer time if other electors are not waiting to vote.

1937, June 3, P.L. 1333, art. XII, § 1217.

Library References

Elections ⇨219, 222.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 203, 206.
P.L.E. Elections § 87.

§ 3058. Assistance in voting

(a) No voter shall be permitted to receive any assistance in voting at any primary or election, unless there is recorded upon his registration card his declaration that, by reason of blindness, disability, or inability to read or write, he is unable to read the names on the ballot or on the voting machine labels, or that he has a physical disability which renders him unable to see or mark the ballot or operate the voting machine, or to enter the voting compartment or voting machine booth without assistance, the exact nature of such condition being recorded on such registration card, and unless the election officers are satisfied that he still suffers from the same condition.

(b) Any elector who is entitled to receive assistance in voting under the provisions of this section shall be permitted by the judge of election to select a person of the elector's choice to enter the voting compartment or voting machine booth with him to assist him in

voting, such assistance to be rendered inside the voting compartment or voting machine booth except that the elector's employer or an agent of the employer or an officer or agent of the elector's union shall not be eligible to assist the elector.

(c) In every case of assistance under the provisions of this section, the judge of election shall forthwith enter in writing in a book to be furnished by the county board of elections, to be known as the record of assisted voters—(1) the voter's name; (2) a statement of the facts which entitle him to receive assistance; and (3) the name of the person furnishing the assistance. The record of assisted voters shall be returned by the judge of election to the county board of elections with the other papers, as hereinafter provided, and said county board shall permit the same to be examined only upon the written order of a judge of the court of common pleas: Provided, however, That such record shall be subject to subpoena to the same extent to which other election records may be subpoenaed: And provided further, That the county election board shall permit any registration commission to examine any records of assisted voters without a court order, in order that the registration commission may ascertain whether electors, who have declared, at the time of registration, their need for assistance, actually did receive assistance when voting at any election.

1937, June 3, P.L. 1333, art. XII, § 1218. Amended 1989, Feb. 13, P.L. 1, No. 1, § 2, imd. effective.

Historical and Statutory Notes

The 1989 amendment rewrote subsecs. (a) and (b), which formerly read:

“(a) No voter shall be permitted to receive any assistance in voting at any primary or election, unless there is recorded upon his registration card his declaration that, because of illiteracy, he is unable to read the names on the ballot or on the voting machine labels, or that he has a physical disability which renders him unable to see or mark the ballot or operate the voting machine, or to enter the voting compartment or voting machine booth without assistance, the exact nature of such disability being recorded on such registration card, and unless the election officers are satisfied that he still suffers

from the same disability. Before he shall be permitted to receive assistance, such voter shall state distinctly and audibly under oath or affirmation, which shall be administered to him by the judge of election, the reason why he requires assistance.

“(b) Any elector who is entitled to receive assistance in voting under the provisions of this section shall be permitted by the judge of election to select a registered elector of the election district to enter the voting compartment or voting machine booth with him to assist him in voting, such assistance to be rendered inside the voting compartment or voting machine booth.”

Library References

Elections ⇨126(6), 220.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 114, 118, 208.
P.L.E. Elections § 87.

Notes of Decisions

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1. In general

The provision of the statute which provides for assistance to voters are mandatory, not merely directory. In re Second Legislative Dist. Election, 4 D. & C.2d 93, 45 Luz.L.Reg. 33, 1955.

2. Duties of inspectors

Election inspector having numbered list of voters and record of those who assisted voters and inspector whose duties included comparing signatures of those desiring to vote were under a duty to prevent persons not registered as qualified electors from signing the names of electors to voters' certificates. Commonwealth v. Albert, 30 A.2d 184, 151 Pa.Super. 184, 1943.

3. Duties of election board

Each member of election board must be on guard to prevent any form of fraud or irregularity that would interfere with a fair election, and if irregularity or fraud being perpetrated in course of election is detected, appropriate action should be taken immediately to stop such misconduct. Commonwealth v. Albert, 30 A.2d 184, 151 Pa.Super. 184, 1943.

4. Good faith of voter

The judge of election may refuse a request for assistance if not made in good faith. Election Instructions, 2 Dist. 1, 1892.

5. Oath

Ballots cast with assistance, but without the required oath, are invalid. In re Second Legislative Dist. Election, 4 D. & C.2d 93, 45 Luz.L.Reg. 33, 1955.

6. Record of assisted voters

Failure of a judge of election to enter in a book the names of voters requiring assistance and a statement of the facts entitling them to such assistance does not

warrant disfranchising the electors of the district by declaring void the entire election there held, but is at most ground for striking from the total number of votes in the district those so illegally cast. In re Morganroth Election Contest, 50 D. & C. 143, 1944.

7. Illegal assistance

Guilty knowledge that assisted voters were not qualified for assistance was not a necessary ingredient of offense of illegally assisting voters. Com. v. Fine, 70 A.2d 677, 166 Pa.Super. 109, 1950.

8. Criminal prosecution

In prosecution of election officers for violating Election Laws where charge adequately stated responsibility resting upon defendants and referred in detail to duties imposed upon election officers by this section and § 3050 of this title, defendants having requested no additional charge in such respect could not complain that court failed to charge generally as to duties of various election officers. Commonwealth v. Albert, 30 A.2d 184, 151 Pa.Super. 184, 1943.

Whether circumstantial evidence was sufficient to establish conspiracy between election officials to hinder and prevent a free and fair election and that such conspiracy was carried into effect was for jury. Commonwealth v. Albert, 30 A.2d 184, 151 Pa.Super. 184, 1943.

Apparent inconsistency of verdicts in that two election officials were convicted of violating Election Laws and of conspiring to prevent a free and fair election while three other election officers and codefendants were acquitted did not warrant reversal of convictions. Commonwealth v. Albert, 30 A.2d 184, 151 Pa.Super. 184, 1943.

9. Election contest

Election contest petition by unsuccessful candidate alleging irregularities in election by reason of illegal assistance to voters without specifying how or in what manner Election Code was violated was insufficient to meet legal requirements. In re Contest of Election for Office of City Treasurer from Seventh Legislative Dist. (Wilkes-Barre City) of Luzerne County, 162 A.2d 363, 400 Pa. 507, 1960.

§ 3059. Ballots to be issued by election officers only; ballots not to be removed; official ballots only to be deposited or counted

No official ballot shall be taken or detached from its stub in any book of ballots, except by an election officer or clerk when a person desiring to vote has been found to be a qualified elector entitled to vote. Not more than one ballot shall be removed at any one time or given to an elector, except in the case of a spoiled ballot as provided by this act. No person other than the election officers shall take or remove any ballot from the polling place. No ballot without the official endorsement shall, except as herein otherwise provided, be deposited in the ballot box, and no other ballots shall be counted. If any ballot appears to have been obtained otherwise than from the county board as provided by this act, the same shall not be counted, and the judge of election shall transmit such ballot to the district attorney without delay, together with whatever information he may have regarding the same.

1937, June 3, P.L. 1333, art. XII, § 1219.

Library References

Elections ¶218.
WESTLAW Topic No. 144.

C.J.S. Elections § 204.
P.L.E. Elections § 87.

§ 3060. Regulations in force at polling places

(a) Until the polls are closed, no person shall be allowed in the polling place outside of the enclosed space at any primary or election, except the watchers, voters not exceeding ten at any one time who are awaiting their turn to vote, and peace officers, when necessary for the preservation of the peace. No elector shall be allowed to occupy a voting compartment or voting machine booth already occupied by another, except when giving assistance as permitted by this act.

(b) No elector, except an election officer, clerk, machine inspector or overseer, shall be allowed to re-enter the enclosed space after he has once left it, except to give assistance as provided by this act.

(c) No person, when within the polling place, shall electioneer or solicit votes for any political party, political body or candidate, nor shall any written or printed matter be posted up within the said room, except as required by this act.

(d) All persons, except election officers, clerks, machine inspectors, overseers, watchers, persons in the course of voting, persons lawfully giving assistance to voters, and peace and police officers, when

permitted by the provisions of this act, must remain at least ten (10) feet distant from the polling place during the progress of the voting.

(e) When the hour for closing the polls shall arrive, all qualified electors who have already qualified, and are inside the enclosed space, shall be permitted to vote; and, in addition thereto, all those qualified electors who are in the polling place outside the enclosed space waiting to vote and all those voters who are in line either inside or outside of the polling place waiting to vote, shall be permitted to do so, if found qualified.

(f) It shall be the duty of the judge of election to secure the observance of the provision of this section, to keep order in the voting room, and to see that no more persons are admitted within the enclosed space than are permitted by this act. The judge of election may call upon any constable, deputy constable, police officer or other peace officer to aid him in the performance of his duties under this section.

1937, June 3, P.L. 1333, art. XII, § 1220. Amended 1971, Aug. 31, P.L. 397, No. 95, § 1.

Law Review Commentaries

An excursion into the uncharted waters of the Seventeenth Amendment. Laura E. Little, 64 Temp.L.Rev. 629 (1991).

Library References

Elections \Leftrightarrow 126(6), 197, 211.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 114, 118, 192, 196,
200.
P.L.E. Elections §§ 8, 84, 86.

United States Supreme Court

First Amendment, election day prohibition on solicitation of votes, displays, or distribution of campaign materials near

polling place, see *Burson v. Freeman*, 1992, 112 S.Ct. 1846, 119 L.Ed.2d 5.

Notes of Decisions

Closing of polls 3
Interference with elector 2
Presence of candidates 1

authorized by Election Code. In re General Election to Be Held in City and County of Philadelphia, 75 A.2d 812, 366 Pa. 6, 1950.

1. Presence of candidates

A candidate is not entitled to be present in a polling place during the time polls are open except for the purpose of casting his own ballot, and county boards of elections are within their legal authority when they instruct election officers to such effect, notwithstanding §§ 3506, 3507 of this title, since presence of candidates in polling places is not affirmatively

2. Interference with elector

Where elector testified that as she entered voting machine defendant reached his arm into same as curtain was being pulled and pulled a party lever, whether a vote was cast or not was immaterial to defendant's conviction for interference with an elector while within the enclosed space, since by defendant's act elector was led to believe that she could not or

should not vote. *Com. v. Williams*, 165 A.2d 132, 193 Pa.Super. 600, 1960.

3. Closing of polls

Petitioners seeking to have election declared illegal for permitting voting after closing of polls must aver such votes were illegal, or that sufficient number were cast for elected candidate to change election. *In re Eckert's Election*, 162 A. 223, 308 Pa. 375, 1932.

That votes cast after closing of polls were illegal or changed election results cannot be presumed. *In re Eckert's Election*, 162 A. 223, 308 Pa. 375, 1932.

Permitting voting after time for closing polls, no fraud being shown, and voters being within polling places before closing time, waiting for opportunity to vote, did not require rejection of entire precinct vote. *In re Eckert's Election*, 162 A. 223, 308 Pa. 375, 1932.

§ 3061. Duties of election officers after the close of the polls in districts in which ballots are used

After the polls are closed and the last elector has voted in districts in which ballots are used, the election officers, clerks and overseers, if any, shall remain within the enclosed space. Before the ballot box is opened, the number of ballots issued to electors (at primaries the number issued to the electors of each party), as shown by the stubs, and the number of ballots (at primaries the number of ballots of each party), if any, spoiled and returned by voters and cancelled, shall be announced to all present in the voting room, and entered on the general returns of votes cast at such primary or election. The election officers shall then compare the number of electors voting as shown by the stubs with the number of names marked as voting in the district register, "Voting Check List," and numbered lists of voters, shall announce the result, and shall enter on the general returns the number of electors who have voted, as shown by the "Voter's Check List." If any differences exist, they shall be reconciled, if possible, otherwise they shall be noted on the general returns. The district register, the "Voting Check List," the numbered lists of voters and the stubs of all ballots used, together with all unused ballots, and all spoiled and cancelled ballots, and all rejected voter's certificates shall then be placed in separate packages, containers or envelopes, and sealed, before the ballot box is opened.

1937, June 3, P.L. 1333, art. XII, § 1221.

Library References

Elections ⇨ 197.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 192, 196.
P.L.E. Elections § 82.

Notes of Decisions

Irregularities 1

1. Irregularities

A judge of the court of common pleas of the county, upon being informed of

disorders and irregularities involving the handling of a ballot box after the death of the judge of election, may properly direct the sheriff to take possession of the ballot box and other voting material, without appointing a new judge of election. *In re*

Note 1

Morganroth Election Contest, 50 D. & C.
143, 1944.

§ 3062. Count and return of votes in districts in which ballots are used

(a) As soon as all the ballots have been properly accounted for, and those outside the ballot box, as well as the "Voting Check List," numbered lists of voters and district register sealed, the election officers shall forthwith open the ballot box, and take therefrom all ballots therein, and at primaries, separate the same according to the party to which they belong. The ballots shall then be counted one by one, and a record made of the total number, and at primaries of the total number cast for each party. Then the judge, under the scrutiny of the minority inspector, or the minority inspector, under the scrutiny of the judge, in the presence of the other officers, clerks, and of the overseers, if any, and within the hearing and sight of the watchers outside the enclosed space, shall read aloud the names of the candidates marked or inserted upon each ballot (at primaries the ballots of each party being read in sequence), together with the office for which the person named is a candidate, and the answers contained on the ballots to the questions submitted, if any, and the majority inspector and clerks shall carefully enter each vote as read, and keep account of the same in ink in triplicate tally papers (triplicate tally papers for each party at primaries) to be provided by the county board of elections for that purpose, all three of which shall be made at the same time: Provided, That at all general, municipal and special elections, in entering each vote received by candidates at such election, it shall not be necessary to enter separate tally marks for each vote received by such candidates upon the ballots containing the same votes for the same names, commonly known, and in this act designated as "Straight Party Tickets" for such purpose straight party ticket votes shall be entered carefully as each straight party ticket vote is read on the triplicate tally sheets under the heading "Number of votes received upon the straight party tickets." Upon completing the number of votes received by each straight party ticket, the number so tallied for each party shall be entered numerically on the extreme right hand margin of each such tally paper. All ballots, after being removed from the box, shall be kept within the unobstructed view of all persons in the voting room until replaced in the box. No person while handling the ballots shall have in his hand any pencil, pen, stamp or other means of marking or spoiling any ballot. The election officers shall forthwith proceed to canvass and compute the votes cast, and shall not adjourn or postpone the canvass or computation until it shall have been fully completed.

(b) When the vote cast for the different persons named upon the ballots and upon the questions, if any, appearing thereon, shall have been fully recorded in the tally papers and counted, the election officers shall duly certify to the number of votes cast for each person (upon the respective party tickets at primaries), and shall prepare in ink two (2) general returns, showing, in addition to the entries made thereon as aforesaid, the total number of ballots received from the county board (the total of each party at primaries), the number of ballots cast (the number of each party at primaries), the number of ballots (of each party at primaries) declared void, and the number of ballots spoiled and cancelled, and any blank ballots cast, as well as the votes cast for each candidate. At elections, the number of votes cast for each candidate by each political party or political body of which such candidate is a nominee shall be separately stated: Provided, That the number of votes received by each set of candidates upon "straight party tickets" shall be entered opposite the names of the respective candidates in a column immediately adjoining upon the left which column shall be of convenient width and shall be headed "number of votes received upon straight party tickets." In an immediate column to the left thereto, the number of votes received by each candidate upon all ballots other than "straight party tickets" including all ballots known as "split tickets" shall be entered, such column to be of convenient width and shall be headed "number of votes received other than upon straight party tickets." The number of votes received by each candidate as shown in the column headed "number of votes received upon straight party tickets" shall then be added, together with the number of votes received by each candidate as shown in the¹ column headed "number of votes received other than upon straight party tickets" and thereupon, the total number of votes received by each candidate shall be entered in a column on the extreme right-hand side of the return sheets, which column shall be of convenient width and shall be headed "total number of votes."

Nothing in this section contained shall be construed to authorize or permit the canvassing, counting or tallying ballots with any less degree of strictness than otherwise required by law, the intention of this section being to dispense with the individual tally marks only so far as the so-called "straight party tickets" are concerned, and all other operations of tallying, counting, canvassing and announcing the votes shall proceed as near as may be in accordance with the other provisions of this act.

(c) In returning any votes cast for any person whose name is not printed on the ballot, the election officers shall record any such

names exactly as they were written, stamped or applied to the ballot by sticker.

1937, June 3, P.L. 1333, art. XII, § 1222. Amended 1961, July 14, P.L. 644, § 1, effective June 1, 1961.

¹ Enrolled bill reads "th".

Cross References

School directors, election, see 24 P.S. § 3-301 et seq.

Library References

Elections ⇄ 235, 241.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 221 et seq., 224.
P.L.E. Elections §§ 101, 102.

Notes of Decisions

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Alteration of or marking ballots after removal 4

Construction 1

Doubtful ballots 6

Place of counting ballots 3

Rejection of ballots 5

1. Construction

Section 3155 of this title, dealing with irregular ballots cast on a voting machine must be construed in pari materia with this section, prescribing powers and duties of election boards, and as so construed, meant that Court of Common Pleas, upon appeal of a decision of the county election board, could cumulate votes for a candidate by write-ins on voting machines, if the evidence warranted it, in order to effectuate the will of the voters. *Petition of Stieska*, 135 A.2d 62, 390 Pa. 249, 1957.

2. In general

This section does not apply to the county board of elections but only to returns by local election officers, prohibiting them from attempting to cumulate votes without knowledge or evidence of the voters' intention. *Petition of Harer*, 49 D. & C. 344, 1944.

It is irregular and improper for the election officers, when about to proceed with the count, to empty the contents of the ballot boxes and separate the ballots into distinct lots; the intent of the act of 1893, June 10, P.L. 419, § 28, amended 1903, April 29, P.L. 338, § 5, repealed, is that each ballot shall be taken out and read separately and deliberately. *Zach-*

rias's Contested Election, 3 C.C. 656, 1887.

3. Place of counting ballots

In the absence of controlling statute, the entire poll of a ward will not be thrown out, fraud not being alleged or proved because of mere irregularity of the election officers in taking the ballots from the room provided for voting, because of it having become too cold, and counting the votes in another room of the building. *In re Fish's Election*, 117 A. 85, 243 Pa. 410, 1922.

4. Alteration of or marking ballots after removal

Where some of election officers testified that ballots bore no marks when taken from box and the remainder testified that they did not see any such marks although they had opportunity to do so if any marks had been made, and where inspectors and clerks testified that they placed pencil numbers on ballots as an aid to counting thereof, evidence did not authorize rejection of marked ballots, notwithstanding that inspectors and clerks were not able to identify every number. *Appeal of McLaughlin*, 29 A.2d 45, 345 Pa. 498, 1943.

Illegal alteration of ballots after their removal from the ballot box for the purpose of counting affords no ground for rejecting all votes cast in the district, but the court may purge the list of the number of ballots so changed, upon proper proof thereof. *In re Morganroth Election Contest*, 50 D. & C. 143, 1944.

5. Rejection of ballots

The legality of the ballots must be determined, and the ballots received or rejected, upon evidence, when the same are about to be counted. Election of Common Councilmen of the Twentieth Ward, 13 C.C. 609, 2 Dist. 635, 1893.

The election officers should also make provision to certify the evidence on which a ballot has been rejected; if not, the court, on a contest, will presume the vote

to have been valid. Election of Common Councilmen of the Twentieth Ward, 13 C.C. 609, 2 Dist. 635, 1893.

6. Doubtful ballots

The election officers must count or refuse all ballots; it is highly improper to seal up doubtful ballots and leave them in the custody of the judges; and on a contest such ballots cannot be considered. Twentieth Ward Election, No. 1, 3 Dist. 118, 1893.

§ 3063. What ballots shall be counted; manner of counting; defective ballots

(a) No ballot which is so marked as to be capable of identification shall be counted. Any ballot that is marked in blue, black or blue-black ink, in fountain pen or ball point pen, or black lead pencil or indelible pencil, shall be valid and counted: Provided, That all markings on the ballot are made by the same pen or pencil. Any ballot marked by any other mark than an (X) or check (✓) in the spaces provided for that purpose shall be void and not counted: Provided, however, That no vote recorded thereon shall be declared void because a cross (X) or check (✓) mark thereon is irregular in form. Any erasure, mutilation or defective marking of the straight party column at November elections shall render the entire ballot void, unless the voter has properly indicated his choice for candidates in any office block, in which case the vote or votes for such candidates only shall be counted. Any erasure or mutilation in the vote in any office block shall render void the vote for any candidates in said block, but shall not invalidate the votes cast on the remainder of the ballot, if otherwise properly marked. Any ballot indicating a vote for any person whose name is not printed on the ballot, by writing, stamping or sticker, shall be counted as a vote for such person, if placed in the proper space or spaces provided for that purpose, whether or not an (X) or check (✓) is placed after the name of such person: Provided, however, That if such writing, stamping or sticker is placed over the name of a candidate printed on the ballot, it shall render the entire vote in said office block void. If an elector shall mark his ballot for more persons for any office than there are candidates to be voted for for such office, or if, for any reason, it may be impossible to determine his choice for any office, his ballot shall not be counted for such office, but the ballot shall be counted for all offices for which it is properly marked. Ballots not marked, or improperly or defectively marked, so that the whole ballot is void, shall be set aside and shall be preserved with the other ballots.

(b) At November elections, a cross (X) or check (✓) mark in the square opposite the name of political party or political body in the party column shall be counted as a vote for every candidate of that party or body so marked, including its candidates for presidential electors, except for those offices as to which the voter has indicated a choice for individual candidates of the same or another party or body in any office block, in which case the ballot for such office block shall be counted only for the candidates thus individually marked, notwithstanding the fact that the voter has made a mark in the party column, and even though in the case of an office for which more than one candidate is to be voted for, he has not individually marked for such office the full number of candidates for which he is entitled to vote. 1937, June 3, P.L. 1333, art. XII, § 1223. Amended 1939, June 19, P.L. 450, § 2; 1960, Jan. 8, P.L. (1959) 2142, § 4; 1963, Aug. 13, P.L. 707, § 19, effective Jan. 1, 1964.

Library References

Elections ⇨241, 244.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 224, 226.
P.L.E. Elections § 101.

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or ball point pen, or black lead pencil or indelible pencil" merely assures validity of ballots marked in blue, black, or blue-black ink and does not specify that any other type of markings will be void. In re Luzerne County Return Bd., 290 A.2d 108, 447 Pa. 418, 1972.

The 1960 Amendment of this section to provide that any ballot marked with pen in blue, black, or blue-black ink or with black lead pencil or indelible pencil shall be valid and be counted provided that all markings on ballot are made by same pen or pencil and that all markings on ballots are same type marking, either cross or check, does not require voter to mark ballot with cross or check mark and nothing more. In re Petitions to Open Ballot Boxes, 188 A.2d 254, 410 Pa. 62, 1963.

1. In general

Court must strictly enforce all provisions of election laws to prevent fraud, but overriding concern at all times must be to be flexible in order to favor right to vote; goal must be to enfranchise and not to disenfranchise. In re Luzerne County Return Bd., 290 A.2d 108, 447 Pa. 418, 1972.

Provision of this section that "no ballot which is so marked as to be capable of identification shall be counted" and validating "any ballot that is marked in blue, black or blue-black ink, in fountain pen

2. Rejection of ballots generally

The power to reject a ballot for minor irregularities must be exercised sparingly and with idea in mind that neither individual voter nor group of voters is to be disfranchised except for compelling reasons. Appeal of Gallagher, 41 A.2d 630, 351 Pa. 451, 1945; Appeal of Norwood, 116 A.2d 552, 382 Pa. 547, 1955.

Both Election Code and pertinent case law reflect policy of protection of the franchise where voter's intent can be de-

terminated and where any minor noncompliance with statutory requirements is not the fault of the voter. In re Contest of 1979 General Election for Office of Dist. Atty. of Washington County, 414 A.2d 310, 489 Pa. 404, 1980.

Power to throw out ballot for minor irregularities should be sparingly used and should be done only for very compelling reasons. In re Petitions to Open Ballot Boxes, 188 A.2d 254, 410 Pa. 62, 1963.

Every rationalization within realm of common sense should aim at saving, rather than voiding, a ballot cast at election. Appeal of Norwood, 116 A.2d 552, 382 Pa. 547, 1955.

The power to throw out a ballot or an entire group of ballots must be exercised very sparingly with the idea in mind, that neither an individual voter nor a group of voters is to be disfranchised at an election except for compelling reasons. In re Canvass of Absentee Ballots of 1967 General Election, 69 Lack.Jur. 1, 1967, affirmed 245 A.2d 258, 431 Pa. 165.

3. Identification of ballot

Provision of this section prohibiting counting of any ballot so marked as to be capable of identification must be construed with great liberality. Appeal of Gallagher, 41 A.2d 630, 351 Pa. 451, 1945; Appeal of Norwood, 116 A.2d 552, 382 Pa. 547, 1955.

Unless identifying feature is of such significant proportion that it justifies an inference that it was willfully done for purpose of rendering ballot identifiable or unless irregularity has created an ambiguity casting doubt upon intention of voter, irregularity is to be treated as surplusage and will of the voter must prevail. In re Recount of Ballots Cast in General Election on November 6, 1973, 325 A.2d 303, 457 Pa. 279, 1974.

Ballot is valid unless there is clear showing that ink used was for purpose of making ballot identifiable. In re Luzerne County Return Bd., 290 A.2d 108, 447 Pa. 418, 1972.

Ballot should not be invalidated under provision of this section that no ballot which is so marked as to be capable of identification shall be counted unless voter purposely makes mark thereon or commits some other act in connection with his ballot to distinguish and identify

it. In re Primary Election of 1971, 281 A.2d 642, 444 Pa. 392, 1971.

When only one of several varying possible explanations of unnecessary mark on ballot can indict mark as symbol of identification of voter, ballot should not be invalidated on such elusive possibility. Appeal of Norwood, 116 A.2d 552, 382 Pa. 547, 1955.

Only such marks as cannot be reasonably supposed to have been made by voter except for the very purpose of distinguishing his ballot require rejection of ballot as invalid. Appeal of Gallagher, 41 A.2d 630, 351 Pa. 451, 1945.

The Legislature, in providing that no ballots so marked as to be capable of identification should be counted, did not intend that every mark which might distinguish a ballot would necessarily result in its invalidity. Application of McLaughlin, 29 A.2d 45, 345 Pa. 498, 1943.

The provision of this section that no ballot, so marked as to be capable of identification, shall be counted refers to marks connecting identity of voter and his ballot, is intended to promote secrecy in voting, and cannot be extended to include marks made by election officers after ballot boxes are opened. Appeal of McLaughlin, 29 A.2d 45, 345 Pa. 498, 1943.

Not every mark which may separate and distinguish a ballot will necessarily result in a declaration of invalidity, but only such marks as cannot be reasonably supposed to have been made by the voter except for the very purpose of distinguishing the ballot, and which are appropriate to such end. Appeal of McCaffrey, 11 A.2d 893, 337 Pa. 552, 1940.

A ballot will not be rejected on the ground that it is capable of identification where all four corners have been torn off but in such a manner as to convince the court that when the numbered and perforated corner was removed, the other three corners were inadvertently removed in the same operation and at the same time. Election of East Stroudsburg, 80 D. & C. 317, 13 Monroe L.R. 113, 1953.

Not every mark which may separate and distinguish a ballot will necessarily result in a declaration of invalidity, but only such marks as cannot reasonably be supposed to have been made by the voter

Note 3

except for the very purpose of distinguishing his ballot and which are appropriate to that end. In re Whitpain Tp. Election Case, 44 D. & C. 374, 58 Montg. 188, 1942.

Under this section providing that no ballot which is so marked as to be capable of identification shall be counted, an election recount board properly excluded certain ballots to which the stubs with the identifying numbers were still attached, since comparison of the stub number with the corresponding number in the voters' check list would identify the elector voting the ballot and would destroy the secrecy of the ballot. In re Petition to Open Ballot Box, 43 D. & C. 535, 1942.

4. Ink and pencil

Fact that both ink and pencil were used on ballots could not support inference that there was a willful attempt to render ballots identifiable and thus void. In re Recount of Ballots Cast in General Election on November 6, 1973, 325 A.2d 303, 457 Pa. 279, 1974.

Where it did not appear that use of red or green ink to mark absentee ballots was for purpose of making ballots capable of identification, ballots were entitled to be counted. In re Luzerne County Return Bd., 290 A.2d 108, 447 Pa. 418, 1972.

5. Voter's intent

Ballots classed as "no party votes" because crosses were placed opposite candidate's name in squares of more than one party on same ballot held properly counted for such candidate, since intent to vote for him was manifest. In re Contest of Election for Office of Burgess of Borough of Braddock, Allegheny County, 174 A. 465, 316 Pa. 225, 1934.

6. Write-in votes

Ballot which was clearly and correctly marked as vote for one of three candidates seeking Democratic nomination for office of mayor but which contained certain individual's name written in long-hand on bottom of ballot was erroneously ruled invalid, notwithstanding provision of this section that no ballot which is marked as to be capable of identification shall be counted, in light of evidence that name on ballot was not that of elector who cast ballot but was apparently write-in vote for candidate for nomination of county commissioner on Republican tick-

et at same primary election. In re Primary Election of 1971, 281 A.2d 642, 444 Pa. 392, 1971.

Where 313 votes were received by "Joseph Kratochvil, Jr.," who was sticker candidate for township treasurer at general election, and one voter wrote in with pencil the name "Joseph Kratochvil", County Board of Elections in canvassing returns properly cumulated the votes. Appeal of McCracken, 88 A.2d 787, 370 Pa. 562, 1952.

Where it is established by clear and positive testimony that votes written in on a party primary ballot carrying no name of a candidate for the office in question were intended to be cast for a single individual, although the name appeared in four different forms on various ballots, all such votes should be computed as cast for that individual and cumulated by the county election board marking its return. Petition of Harer, 49 D. & C. 344, 1944.

Where a voter seeks to "write in" the name of a candidate on a ballot, under this section and § 2963 the name must be written in or pasted on by the voter within the square provided for it on the ballot. If a name is placed at any other point than that designated, it may not be counted. In re Whitpain Tp. Election Case, 44 D. & C. 374, 58 Montg. 188, 1942.

Where the name of the candidate is properly written in, but the voter draws a pencil mark through the name of the opposing candidate or through the words "Democrat" or "Republican", the voting for that office is invalid on grounds of erasure, under this section although such work is not a mutilation, under the same section. In re Whitpain Tp. Election Case, 44 D. & C. 374, 58 Montg. 188, 1942.

A vote for Joseph Kratochvil was held to be a vote for Joseph Kratochvil, Jr., where there was testimony that this candidate was the only living man in the township by that name, that he had resided there for 35 years, he was well known in community affairs, and it was common knowledge that this man was a candidate for office. Appeal of McCracken, 100 P.L.J. 128, 1952, affirmed 88 A.2d 787, 370 Pa. 562.

7. Stickers

The attaching to a ballot of a sticker containing candidates' names, which was

of such a color as to be seen through the ballot, tended to a violation of act of 1893, June 10, P.L. 419, § 30, as amended, repealed. *Pfaff v. Bacon*, 95 A. 71, 249 Pa. 297, 1915.

8. Particular marks or defects

Where ballot did not contain proper instructions for recording of votes, counting double-straight ballots which reflected two marks in party column would not lead to nonuniformity in holding of elections as between districts where paper ballots were used and those districts using voting machines. In re Contest of 1979 General Election for Office of Dist. Atty. of Washington County, 414 A.2d 310, 489 Pa. 404, 1980.

Irregularity in formation of check mark on ballot, which occurred when voter in several instances retraced check marks and in some instances the retraced lines did not coincide with original check mark, under circumstances, did not provide basis for invalidating vote. In re Recount of Ballots Cast in General Election on November 6, 1973, 325 A.2d 303, 457 Pa. 279, 1974.

Claimed erasures and smudges did not render ballots invalid, where none of questioned marks was sufficiently significant to have set ballot apart from all others cast in district and make it capable of later identification and there was no question as to intention of voter in each instance. In re Recount of Ballots Cast in General Election on November 6, 1973, 325 A.2d 303, 457 Pa. 279, 1974.

Ballot which was properly marked in pencil with an X in small box opposite one candidate's name but which contained barely visible smudge within outer lines of large square or box on ballot containing names of all candidates was not invalid on theory that smudge was result of an erasure. In re Second Ward, Second Precinct of Borough of Canonsburg, Washington County, 290 A.2d 69, 447 Pa. 304, 1972.

Ballot which was properly marked in pencil next to name of one candidate in councilmanic election but which also contained very light semicircular line made with ink in box opposite opposing candidate's name and small scratch marks made with ink on ballot above names of all candidates was not invalid on theory that voter had attempted to vote for three candidates for two council

seats or that voter marked his ballot with two separate writing instruments where voter who cast ballot voted for total of eleven candidates for various offices and, in each instance, an X marked in pencil was properly placed in box opposite candidate's name. In re Second Ward, Second Precinct of Borough of Canonsburg, Washington County, 290 A.2d 69, 447 Pa. 304, 1972.

Unidentifiable ballots which were marked in some places with a cross and in other places with a check were valid under this section providing that any ballot which is marked in specified way shall be valid provided that all markings are the "same type of marking either a cross (x) or check (/)". Appeals of Morgan, 196 A.2d 849, 413 Pa. 354, 1964.

Ballots in which voters inserted cross or check mark in proper voting square but in addition thereto added word "yes" or "no" in writing in same square in special referendum election pursuant to Optional Third Class City Charter Law were not invalid. In re Petitions to Open Ballot Boxes, 188 A.2d 254, 410 Pa. 62, 1963.

Ballots in which voters inserted cross or check mark in proper voting square and in addition thereto inserted another cross or check mark in square containing printed word "yes" or "no" in special referendum election pursuant to Optional Third Class City Charter Law were not invalid. In re Petitions to Open Ballot Boxes, 188 A.2d 254, 410 Pa. 62, 1963.

Under paragraph (a) of this section, providing that no ballot marked so as to be capable of identification shall be counted, and that any ballot marked by any other mark than an (x) shall be void and not counted, provided however, that no vote shall be declared void because a cross (x) mark therein is irregular in form, a ballot marked with a figure "6" could not be counted as a valid vote since it did not qualify as a ballot marked with an irregular (x) mark, and the peculiar descriptive nature of the mark "6" made the ballot readily identifiable. In re Recount of Ballots of Albany Tp. in Bradford County, 146 A.2d 831, 394 Pa. 256, 1959.

A partially absorbed check mark, almost entirely overshadowed by firmly and heavily lined cross, in square of disputed ballot opposite name of one of two

Note 8

candidates for party nomination as borough councilman, did not invalidate ballot as identifying voter. Appeal of Norwood, 116 A.2d 552, 382 Pa. 547, 1955.

If voter uses any other mark than an X to indicate his choice, such vote should not be counted, but mere irregularity in form of X mark used does not invalidate ballot. Appeal of Gallagher, 41 A.2d 630, 351 Pa. 451, 1945.

That voter in addition to placing the usual X in square opposite candidate's name inserted a third and parallel line passing about one-sixteenth of an inch below center of properly crossed diagonal lines did not invalidate vote for such candidate. Appeal of Gallagher, 41 A.2d 630, 351 Pa. 451, 1945.

A vertical mark, less than one-eighth of an inch in length, apparently made inadvertently in front of the cross in square to the right of candidate's name, did not invalidate vote for such candidate. Appeal of Gallagher, 41 A.2d 630, 351 Pa. 451, 1945.

A ballot, which contained a smudge or smear in the straight party column, would not be rejected on ground that smudge or smear made ballot capable of identification. Appeal of McCaffrey, 11 A.2d 893, 337 Pa. 552, 1940.

A ballot marked for a candidate with an irregularly formed X would not be declared void on ground that the marking made the ballot capable of identification. Appeal of McCaffrey, 11 A.2d 893, 337 Pa. 552, 1940.

The blocking out of squares after certain candidates' names and writing the word "omit" round about such squares did not invalidate entire ballot on ground that such markings rendered ballot capable of identification. Appeal of McCaffrey, 11 A.2d 893, 337 Pa. 552, 1940.

A paper ballot containing for one office both a block blacked out by the voter and a block check-marked by the voter was valid; the blackened block was not a constructive mutilation of the ballot within the meaning of this section. Where no reasonable person could disagree as to the voter's intent, such vote should be counted. In re Election of Warren County Dist. Magistrate, 13 D. & C.3d 287, 1980.

Under this section providing that no vote shall be declared void because a

cross (X) or check (✓) mark thereon is irregular in form, a ballot casting a vote for a candidate and marked #1 is valid and must be counted. In re Trostle Election Contest, 43 D. & C.2d 664, 18 Cumb. 2, 1967.

A ballot which, though correctly marked in the party block, had an erasure of the "X" in the party block such as to cut through the ballot was properly excluded. In re Duquesne Appeals from County Bd. of Elections, 39 D. & C.2d 545, 114 P.L.J. 244, 1966.

A ballot on which the party block was inked in but the marking of an "X" was visible through it, so that it could not be determined whether the "X" was first placed in the block and then obliterated, or whether the party block was first inked in and the "X" placed therein subsequently, was properly excluded from count. In re Duquesne Appeals from County Bd. of Elections, 39 D. & C.2d 545, 114 P.L.J. 244, 1966.

A ballot will not be rejected because the cross mark opposite the name of one candidate differs from the cross marks opposite the names of other candidates, especially where there is enough similarity to convince the court that all the marks were made by the same person. Election of East Stroudsburg, 80 D. & C. 317, 13 Monroe L.R. 113, 1953.

Two straight lines which cross each other and are contained within the box opposite the candidate's name constitute a "cross mark". Election of East Stroudsburg, 80 D. & C. 317, 13 Monroe L.R. 113, 1953.

Where a voter places on a ballot a grossly exaggerated cross-mark, with very thick and long pencil marks, extending much beyond the edges of the square, such ballot is invalid, under this section, for the reason that it is capable of identification. In re Whitpain Tp. Election Case, 44 D. & C. 374, 58 Montg. 188, 1942.

9. Party vote—In general

Instructions on ballots were defective in that they did not set forth that only one mark would be permitted in party column and that placing of more than one mark in that column would invalidate the ballot, and errors made in marking the ballots were not fault of the voters; therefore, since disputed ballots clearly indi-

cated that when voter marked two squares in the party column, one for Republican or Democratic Party and one for political body having only one candidate for one office, for all offices except that single office all Republican or Democratic candidates would receive a vote, such ballots should have been counted. In re Contest 1979 General Election for office of Dist. Atty. of Washington County, 414 A.2d 310, 489 Pa. 404, 1980.

Fact that only mark on ballot was word "yes" in party column in space provided for those who wished to cast straight party vote for Democratic candidates was not irregularity sufficient to invalidate vote where intention of voter was clear. In re Recount of Ballots Cast in General Election on November 6, 1973, 325 A.2d 303, 457 Pa. 279, 1974.

Where cross in Republican Party square indicated voter's intent to vote for Republican candidates for all offices, any mark placed in square to right of individual candidate's name was nugatory, and fact that voter made both a cross and check mark after names of Democratic candidates for certain offices and wrote words "No good" after name of candidate for one office, did not invalidate entire ballot. Appeal of Gallagher, 41 A.2d 630, 351 Pa. 451, 1945.

A ballot otherwise properly marked would not be rejected because it contained a mark in the square after each of the party names in the straight party column. Appeal of McCaffrey, 11 A.2d 893, 337 Pa. 552, 1940.

Pursuant to this section, when one votes a straight party vote and does not particularize one's vote with respect to a particular office, the straight party vote counts for that party's candidate in the particular contest. In re The Contest of a Certain Absentee Ballot, 44 D. & C.3d 573, 1987.

10. — Exceptions, party vote

Ballots which contain marks in boxes for both Democratic Party and Independent Supervisor Party which had one candidate who was running for office of Supervisor but which did not contain name of the candidate in the party column would not be counted in county general election. In re Contest of 1979 General Election for Office of Dist. Atty. of Washington County, 414 A.2d 310, 489 Pa. 404, 1980.

Phrase "in which case" in paragraph (b) of this section, referred to the antecedent words "in any office block," and the words should be read "in any office block the ballot shall be counted only for the candidates thus individually marked." In re Opening of Ballot Box in Third Election Dist. of Forty-First Ward, 195 A. 890, 328 Pa. 535, 1938.

Provision of this section that mark in party column is a vote for every candidate in column, except for those officers as to which voter has indicated a choice for individual candidates of the same or another party in any office block, in which case ballot would be counted only for candidate individually marked, meant that ballot marked in party column and marked in office block for less than full number of candidates would not be counted for all candidates in block but only for candidates in block individually marked, and that vote would be counted for all other candidates of party. In re Opening of Ballot Box in Third Election Dist. of Forty-First Ward, 195 A. 890, 328 Pa. 535, 1938.

11. Subsequent alteration

Where some of election officers testified that ballots bore no marks when taken from box and the remainder testified that they did not see any such marks although they had opportunity to do so if any marks had been made, and where inspectors and clerks testified that they placed pencil numbers on ballots as an aid to counting thereof, evidence did not authorize rejection of marked ballots, notwithstanding that inspectors and clerks were not able to identify every number. Appeal of McLaughlin, 29 A.2d 45, 345 Pa. 498, 1943.

Ballots which it was found in recount proceeding had been fraudulently altered after official canvass of the votes were properly counted for the candidate for whom the evidence showed they must necessarily have been counted by the election officials, notwithstanding provision of this section that any erasure or mutilation in the vote in any office block shall render void the vote for any candidate in such block. In re Opening of Ballot Box of Greenwood Township, East, Election District, Columbia County, 25 A.2d 330, 344 Pa. 350, 1942.

Note 12**12. Duty of election officers**

If a ballot has been rejected, the election officers should certify the evidence and reasons; otherwise, if the election be contested, the ballot will be counted valid. In re Election of Common Councilmen of the Twentieth Ward, 13 C.C. 609, 2 Dist. 635, 1893.

13. Burden of proof

As to right of candidate James H. Rose to have included in his total the votes cast for James Rose, burden was on him to establish by clear and convincing evidence that James H. Rose and James

Rose were the same person. In re Contest of Election for Office of Burgess of Borough of Braddock, Allegheny County, 174 A. 465, 316 Pa. 225, 1934.

14. Review

Supreme Court would not examine ballots challenged by candidate who did not allege with specificity nature of his challenge to any particular ballot nor how common pleas court erred in its rulings on such ballots. In re Contest of 1979 General Election for Office of Dist. Atty. of Washington County, 414 A.2d 310, 489 Pa. 404, 1980.

§ 3064. Ballot decisions to be made by inspectors; duty of judge

Decisions concerning questionable marks on ballots or defacing or mutilation of ballots, and the count to be recorded thereon, shall be made in the same manner as decisions concerning the qualifications of voters, as provided in section 1212¹ herein.

1937, June 3, P.L. 1333, art. XII, § 1224.

¹ So in enrolled bill. Should be 1213 (section 3053 of this title.)

Library References

Elections ⇨ 194(1).
WESTLAW Topic No. 144.

C.J.S. Elections § 183 et seq.
P.L.E. Elections § 69.

§ 3065. Signing and disposition of returns, district register and voting check list; posting; return of ballot boxes

(a) Immediately after the vote has been counted in districts in which paper ballots are used, all of the general returns shall be signed by the election officers and clerks, and certified by the overseers, if any. If any election officer, clerk or overseer shall refuse to sign or certify the general returns, he shall write his reasons therefor upon the general return sheets. One of said returns shall be immediately posted for the information of the public outside the polling place, and one shall be entrusted to the judge for delivery to the county board with the package of unused ballots, etc., in an envelope provided for that purpose. The election officers shall then replace all the ballots cast, so counted and canvassed, in the ballot boxes, including those declared void, spoiled, and cancelled, together with one set of tally papers, one numbered list of voters, sealed as aforesaid, and one oath of each election officer, and lock and seal each ballot box so that nothing can be inserted therein until it be opened again; and the judge and minority inspector shall immediately deliver the ballot boxes to the custody of the county board, and the

county board shall not compute any returns from any election district until the ballot boxes therefor, as well as the package of unused ballots, etc., aforesaid therefrom, are delivered, as aforesaid. The election officers shall record the number of votes cast for each person on an official specimen ballot, shall sign the same and immediately post it outside the polling place for the information of the public.

(b) The minority inspector shall retain one complete set of tally papers, and carefully preserve the same for a period of at least one year. The remaining tally papers, affidavits of voters and others, including oaths of election officers, and one general return sheet shall be placed in separate envelopes, to be provided for that purpose, and sealed as soon as the count is finally completed. All of such envelopes and one numbered list of voters, previously sealed as aforesaid, shall be entrusted to the judge of election to be immediately delivered to the county board.

(c) Immediately upon completion of the count and tabulation of the votes cast, the district register and the voting check list shall be locked and sealed, and returned forthwith by the judge of election to the custody of the proper registration commission.

1937, June 3, P.L. 1333, art. XII, § 1225. Amended 1961, July 14, P.L. 644, § 1.

Cross References

School directors, election, see 24 P.S. § 3-301 et seq.

Library References

Elections ⇨247, 248, 255.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 229, 230, 234.
P.L.E. Elections §§ 101, 102.

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379, 286 Pa. 257, 1926; but the presumption that the election officers have acted properly and in good faith, and that their return is accurate, is overcome by a showing of mistake appearing from the ballots themselves. In re Haverford Twp. Election, 128 A. 499, 282 Pa. 504, 1925.

2. Amendment of returns

When the return sheet is filed without being authenticated, it cannot be amended afterward by adding the proper affidavits; it is not a record of the court, Archbald Election, 5 C.C. 381, 1887; but when the election officers failed to set out on the return sheet the respective terms for which school directors were elected, it was held that this could be supplied, on quo warranto, by the tally sheet, on

1. Presumption of regularity of returns
Returns of election board are presumed to be regular, and election officers are presumed to have properly and in good faith performed duties imposed on them. In re Election Contest for Office of Burgess of Borough of Ellwood City, 133 A.

Note 2

which the terms were shown. *Com. v. Fletcher*, 36 A. 917, 180 Pa. 456, 1897.

Returns of election from boroughs and townships are not made to the court nor do they become part of the records thereof. And it has no power to permit the amendment of the return of a borough election. *Archbald Borough Election*, 5 C.C. 381, 1887.

3. Posting return

Posting return showing candidate's election relieved him from charge of laches in not discovering subsequent error. *In re Twenty-Sixth Election Dist., Second Ward, Borough of Lehigh*, 41 A.2d 657, 351 Pa. 544, 1945.

4. Unsigned returns

The fact that no election returns were signed by election officers conferred no power on court of common pleas to hold that no election for office was held in the district in question. *Appeal of McIntyre*, 22 A.2d 200, 343 Pa. 87, 1941.

5. Tally sheets

The neglect of the election officers to file tally papers, lists of voters, etc., will not vitiate the election, *Mann v. Cassidy*, 1 Brewst. 11, 1856; *Ewing v. Filly*, 43 Pa. 384, 1862; but if they are not filed, the burden of proving the legality of the election, if attacked, rests on the candidate returned, *In re Duffy*, 4 Brewst. 531, 1873.

Tally sheets are as much part of general return required by law to be deposited with prothonotary and by him presented to court for computation as any of certified returns by election officers. *In re Thirty-Second Congressional Dist. of Pennsylvania Election Returns*, 100 A. 825, 256 Pa. 342, 1917.

6. Delivery of returns

A conviction of an election officer for neglect of duty in not delivering election returns to the prothonotary as provided by this section, will be sustained, where the evidence shows that the returns in question were not on file in the office of the prothonotary, that the defendant delivered the returns to a person who met him in the hall of the courthouse with the statement that he was a clerk of the prothonotary, that the defendant made no attempt to ascertain the name of the al-

leged clerk either at the time or afterwards, and that there had been an attempt on the part of some persons to commit a fraud by substitution of forged returns from the district represented by the defendant. *Com. v. Kloss*, 38 Pa.Super. 307, 1909.

It is preferable to transmit these returns by the constable. *Timlin's Case*, 4 C.C. 535, 1887.

7. Number of votes cast, return as evidence of

The return filed in the prothonotary's office is not the best evidence of the number of votes cast. *Mann v. Cassidy*, 1 Brewst. 11, 1856; *Timlin's Case*, 4 C.C. 535, 1887; *Com. v. Jenkins*, 6 Kulp 17, 1890.

8. Registers and voting check list

District election registers, required by paragraph (c) of this section to be sealed and locked, do not constitute records which are open to public inspection, although there may be instances when they should be unlocked and exhibited to parties having an appropriate interest. *Austin v. Dauphin County Bd. of Elections*, 79 D. & C. 562, 1953.

9. Ballot boxes

In determining whether a ballot box was tampered with after election, the trial court must consider the physical condition of the ballot box when produced, or proof disclosing improper access to it after election. *In re Haverford Twp. Election*, 128 A. 499, 282 Pa. 504, 1925.

Board computing election returns could not legally count the ballots in the ballot box of a certain election district, in view of broken seal and tape on box, and space between cover and rest of box. Affirmed by divided court. *In re Twentieth Congressional Dist. Election*, 127 A. 479, 281 Pa. 561, 1924, certiorari denied, 45 S.Ct. 226, 266 U.S. 635, 69 L.Ed. 480, 1925.

The election officers should write their names on slips of paper and paste them over the openings in the lid of the ballot-box, so that, with the other fastenings, the ballots may not be tampered with without detection. *Zacharias's Contested Election*, 3 C.C. 656, 1887.

§ 3066. Duties of election officers after the close of the polls in districts in which voting machines are used

(a) When the hour for closing the polls shall arrive, all qualified electors who have already qualified and are inside the enclosed space shall be permitted to vote; and in addition thereto, all those qualified electors who are in the polling place outside the enclosed space waiting to vote and all those who are in line either inside or outside of the polling place waiting to vote, shall be permitted by the election officers to do so. As soon as the polls are closed, and the last voter has voted, the election officers shall immediately lock and seal the operating lever or mechanism of the machine, so that the voting and counting mechanism will be prevented from operation, and, they the clerk and the overseers, if any, shall then sign a certificate stating—(1) that the machine has been locked against voting and sealed; (2) the number, as shown on the public counter; (3) the number on the seal which they have placed upon the machine; (4) the number registered on the protective counter or device; and (5) the number or other designation of the voting machine, which certificate shall be returned by the judge of election to the county board with the other certificates, as herein provided. The election officers shall then compare the number, as shown by the public counter of the machine, with the number of names written in the numbered lists of voters, the district register and voting check list, which shall then be placed in separate packages, containers or envelopes and sealed.

1937, June 3, P.L. 1333, art. XII, § 1226. Amended 1986, May 5, P.L. 150, No. 47, § 2, imd. effective.

Historical and Statutory Notes

The 1986 amendment, in subsec. (a), rewrote the first sentence, which formerly read:

“When the hour for closing the polls shall arrive, all qualified electors who have already qualified and are inside the

enclosed space shall be permitted to vote; and in addition thereto, not more than ten (10) qualified electors who are in the polling place outside the enclosed space waiting to vote, shall be permitted by the election officers to do so, but no other persons shall be permitted to vote.”

Library References

Elections ¶235.
WESTLAW Topic No. 144.

C.J.S. Elections § 221 et seq.
P.L.E. Elections § 101.

§ 3067. Canvass and return of votes in districts in which voting machines are used

(a) If the type of voting machine provided shall require the counters to be seen in order to enable the election officers to canvass the vote, the election officers, in the presence of the watchers and all other persons who may be lawfully within the polling place, shall

then make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the same, giving full view of all the counter numbers. If the voting machine is equipped with mechanism for printing paper proof sheets, the election officers shall forthwith print not less than four proof sheets, and as many more as may be necessary to supply one to each member of the election board, overseer, candidate, watcher, representative of a newspaper, and other persons who may be lawfully present within the polling place, requesting the same. The judge of election and the minority inspector shall then, under the scrutiny of the majority inspector of election, the clerk appointed by the minority inspector, the overseers, if any, and the watchers, and in the order of the offices as their titles are arranged on the machine, read from the counters or from one of the proof sheets, as the case may be, and announce, in distinct tones, the designation or designating number and letter on each counter for each candidate's name, the result as shown by the counter numbers, the votes recorded for each office for persons other than nominated candidates, and the designation or designating numbers and letters on each counter, and the results as shown by the counter numbers for and against each question voted on. The counter shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next.

(b) The vote as registered shall be entered by the election officers, in ink, on duplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the election officers, the clerk, and certified by the overseers, if any. If any election officer, clerk or overseer shall refuse to sign or certify the general or duplicate return sheets or statement, he shall write his reasons therefor upon said sheets. The vote for presidential electors shall be computed and returned as provided hereinbefore in section 1215 of this act.¹ If more than one voting machine is used in any election district, the vote registered on each machine shall be ascertained in like manner, and separately entered in appropriate spaces on the general and duplicate return sheets and statement. The total vote cast for each candidate, and for and against each question, shall then be computed and entered on the general and duplicate return sheets and statement. There shall also be entered on the general return sheet and statement the number of voters who have voted and in primaries, the number of voters who voted in each party, as shown by the numbered lists of voters, district register, and voting check list, and the number on each machine, as shown by the public counters, and also the number registered on the protective counter or device on each machine immediately prior to

the opening of the polls and immediately after the closing thereof and sealing of the machine. The number or other designation of each machine used shall also be entered thereon. In the case of primary elections, duplicate return sheets shall be prepared as for other elections. The registering counters of the voting machine or the paper proof sheets, as the case may be, shall remain exposed to view until the said returns, and all other reports have been fully completed and checked by the inspectors, clerk and overseers, if any. During such time, any candidate, or duly accredited watcher, who may desire to be present shall be admitted to the polling place.

(c) The proclamation of the result of the votes cast shall be announced distinctly and audibly by the judge of election, who shall read the name of each candidate, the designation or designating numbers and letters of his counters, and the vote registered on each counter, also the vote cast for and against each question submitted. During such proclamation, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine or with the paper proof sheets, as the case may be, and any necessary corrections shall then and there be made by the election officers, after which the doors or other cover of the voting machine shall be closed and locked. Any ballots written, deposited, or affixed, in or upon the voting machine, shall be inclosed in properly sealed packages, and properly indorsed, and shall be delivered by the judge of election as hereinafter provided. The judge of election shall promptly deliver to the county board, or their duly authorized representative, the keys of the voting machine, inclosed in a sealed envelope, if the construction of the voting machine shall permit their separate return. Said envelope shall have indorsed thereon a certificate of the election officers, stating the number of the machine, the election district where it has been used, the number on the seal, and the number on the protective counter or device at the close of the polls.

(d) The election officers, on the foregoing returns, shall record any votes which have been cast for a person whose name is not printed on the ballot labels, by means of an irregular ballot, as defined herein. In returning any such votes which have been written, deposited or affixed upon receptacles or devices provided for the purpose, the election officers shall record any such names exactly as they were written, deposited or affixed.

1937, June 3, P.L. 1333, art. XII, § 1227. Amended 1949, April 21, P.L. 693, § 4; 1966, Feb. 2, P.L. (1965) 1859, § 1.

¹ 25 P.S. § 3055.

Library References

Elections ☞ 247, 257.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 229, 235.
P.L.E. Elections §§ 101, 102.

§ 3068. Disposition of returns; posting; return of district register and voting check list

(a) The general return sheet, duplicate return sheets, and statement, shall be printed to conform with the type of voting machine used, and in form approved by the Secretary of the Commonwealth. The designating number and letter, if any, on the counter for each candidate, shall be printed thereon opposite the candidate's name: Provided, however, That it shall not be necessary to print the name or designating counter number or letter of any candidate for any borough, township, ward, or election district office. Immediately after the vote has been ascertained, the statement thereof shall be posted on the door of the polling place. The minority inspector shall retain one of said duplicate return sheets, one numbered list of voters, sealed as aforesaid, and one set of oaths of election officers. The other duplicate return sheet, numbered list of voters, oaths of election officers, and affidavits of voters and others, shall be sealed up and given to the judge of election, who shall deliver them, together with the general return sheet and the package of ballots deposited, written or affixed in or upon the voting machine, to the county board. If the type of voting machine is equipped with mechanism for printing paper proof sheets, one of said proof sheets shall be posted on the door of the polling place with the statement aforesaid; one shall be retained by the minority inspector; one shall be placed in the envelope and delivered with the general return sheet; and one shall be sealed in the envelope with the duplicate return sheets and delivered by the judge of election to the county board. The printed proof sheet returned with the general return sheet, and the printed proof sheet returned with the duplicate return sheet, shall each be part of the return of the election.

(b) Immediately upon completion of the count and tabulation of the vote cast, the district register and the voting check list shall be locked and sealed, and returned forthwith by the judge of election to the custody of the proper registration commission. In cities of the first class, the registration commission shall designate police stations at which it will accept such custody.

1937, June 3, P.L. 1333, art. XII, § 1228. Amended 1966, Feb. 2, P.L. (1965) 1858, § 1.

Library References

Elections ☞ 255.
WESTLAW Topic No. 144.

C.J.S. Elections § 234.
P.L.E. Elections § 102.

Notes of Decisions

Posting of results 1

1. Posting of results

Where the notice posted at the polling place showed the plaintiff to be the winner of the election and he had no con-

crete knowledge that the canvas of the county election board declared his opponent the winner as a result of an error made by the board, the court allowed his appeal nunc pro tunc and a certificate of election in plaintiff's favor was ordered. *Thomas v. York Co. Bd. of Elections*, 59 D. & C.2d 377, 86 York 77, 1972.

§ 3069. Conduct of special elections; returns

Every special election on a proposed constitutional amendment or other question, to be voted on by the electors of the State at large, or by the electors of any political district, shall be held and conducted in all respects in accordance with the provisions of this act relating to November elections, and the provisions of this act relating to November elections shall apply thereto, in so far as applicable, and not inconsistent with any other provisions of this act. All such special elections shall be conducted by the election officers and clerks, by the use of the same equipment and facilities, so far as practicable, as are used for such November elections. The returns of special elections, unless otherwise provided by law, shall be prepared and returned in like manner as returns from November elections, and shall be canvassed and computed as herein provided.

1937, June 3, P.L. 1333, art. XII, § 1229.

Cross References

Special elections, conduct of, see 25 P.S. § 2787.

Library References

Elections ⇨38, 197, 247.
 WESTLAW Topic No. 144.
 C.J.S. Elections §§ 76, 77, 192, 196, 229.

P.L.E. Elections §§ 9, 10, 81 et seq., 101, 102.

Notes of Decisions

In general 1
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 Scope 2

1. In general

Where charter act provided for filling of vacancies in office of councilman at next general municipal or special election but later Election Code made no provision for special elections to fill vacancies in office of councilman of Philadelphia, the general constitutional provision for

elections must prevail. *Commonwealth ex rel. Maurer v. Witkin*, 25 A.2d 317, 344 Pa. 191, 1942.

2. Scope

Where only a single machine in a single voting district was alleged to have malfunctioned, to confine the special election to that voting district would violate the principle of uniformity of elections set forth in Const. Art. 7, § 6, and the special election would be ordered to be county-wide. *In re General Election of Nov. 4, 1975*, 71 D. & C.2d 83, 1975.

Note 3

3. Propositions

Where a proposition, such as whether to discontinue use of voting machines, to which proposition statutory provision requiring a majority vote relates, is to be submitted at a general election, the submission of the proposition is regarded as

a "special election" for that purpose, and votes cast thereon are considered separately and apart from any votes cast for candidates for office or upon other questions. *Munce v. O'Hara*, 16 A.2d 532, 340 Pa. 209, 1941.

§ 3070. Removal and storage of voting machines

As soon as possible after the completion of the count in districts in which voting machines are used, the county board shall have the voting machines properly boxed, and removed to the place of storage provided for in this act. The voting machines shall remain locked against voting for the period of twenty days next following each primary and election, and as much longer as may be necessary or advisable because of any existing or threatened contest over the result of the primary or election, with due regard for the date of the next following election or primary, except that they may be opened and all the data and figures therein examined under the provisions of this act, by order of any court of competent jurisdiction, or judge thereof, or by direction of any legislative committee to investigate and report upon contested primaries or elections affected by the use of such machines, and such data and such figures shall be examined by such committee in the presence of the officer having the custody of such machines.

1937, June 3, P.L. 1333, art. XII, § 1230.

Library References

Elections ☞ 255.

WESTLAW Topic No. 144.

C.J.S. Elections § 234.

P.L.E. Elections § 65.

ARTICLE XIII. VOTING BY QUALIFIED ABSENTEE ELECTORS

Historical and Statutory Notes

The original Article XIII (1937, June 3, P.L. 1333), and later Articles XIII which were added by acts 1941, Aug. 1, P.L. 672, § 4, and 1945, March 9, P.L. 29, § 10, were repealed by acts 1941, Aug. 1, P.L. 672, § 3; 1945, March 9, P.L. 29, § 9; 1947, March 5, P.L. 35, § 4; and 1951, March 6, P.L. 3, § 12.

The present Article XIII was added to act 1937, June 3, P.L. 1333 by act 1951, March 6, P.L. 3, No. 1, § 11, and became effective May 1, 1951.

Section 4 of the act of 1960, Jan. 8, P.L. (1959) 2135 (See Historical Note to section 3149.1 of this title), provides: "The provisions of this act shall not be construed to repeal any acts, or parts of acts, authorizing voting by qualified electors in actual military service or qualified bedridden or hospitalized veterans absent from or unable to attend their regular polling places."

The article heading for Article XIII was amended by Act 1963, Aug. 13, P.L. 707, § 20, effective Jan. 1, 1964.

§§ 3091 to 3120. Repealed. 1941, Aug. 1, P.L. 672, § 3**Historical and Statutory Notes**

These sections, derived from act of 1937, June 3, P.L. 1333, art. 13, §§ 1301 to 1330, related to the voting by persons in military service. The subject matter is now covered by §§ 3146.1 to 3146.9 of this title.

§§ 3131 to 3137. Repealed. 1945, March 9, P.L. 29, § 9; 1951, March 6, P.L. 3, § 12**Historical and Statutory Notes**

These sections, derived from act 1937, June 3, P.L. 1333, art. XIII, §§ 1301 to 1307, added 1941, Aug. 1, P.L. 672, § 4, related to the voting by persons in military service. The subject matter is now covered by §§ 3146.1 to 3146.9 of this title.

§§ 3138 to 3145. Repealed. 1947, March 5, P.L. 35, § 4**Historical and Statutory Notes**

These sections were derived from the act of 1937, June 3, P.L. 1333, Art. 13, §§ 1301 to 1308, as added by the act of 1945, March 9, P.L. 29, § 10, and related to the voting by persons in military service during the then "present" war and for six months thereafter. The matter of voting by persons in military service is now covered by §§ 3146.1 to 3146.9 of this title.

Act 1945, March 9, P.L. 29, §§ 11, 12 and 14, authorized an appropriation and related to the purpose of the act and the time the act should remain in effect. These sections also were repealed by act 1947, March 5, P.L. 35, § 4.

§ 3146.1. Qualified absentee electors

The following persons shall be entitled to vote by an official absentee ballot in any primary or election held in this Commonwealth in the manner hereinafter provided:

(a) Any qualified elector who is or who may be in the military service of the United States regardless of whether at the time of voting he is present in the election district of his residence or is within or without this Commonwealth and regardless of whether he is registered or enrolled; or

(b) Any qualified elector who is a spouse or dependent residing with or accompanying a person in the military service of the United States if at the time of voting such spouse or dependent is absent from the State or county of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(c) Any qualified elector who is or who may be in the service of the Merchant Marine of the United States if at the time of voting he is absent from the State or county of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(d) Any qualified elector who is a spouse or dependent residing with or accompanying a person who is in the service of the Merchant Marine of the United States if at the time of voting such spouse or dependent is absent from the State or county of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(e) Any qualified elector who is or who may be in a religious or welfare group officially attached to and serving with the armed forces if at the time of voting he is absent from the State or county of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(f) Any qualified elector who is a spouse or dependent residing with or accompanying a person in a religious or welfare group officially attached to and serving with the armed forces if at the time of voting such spouse or dependent is absent from the State or county of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(g) Any qualified elector who expects to be or is outside the territorial limits of the several States of the United States and the District of Columbia because his duties, occupation or business require him to be elsewhere during the entire period the polls are open for voting on the day of any primary or election or who is or who may be a civilian employee of the United States outside the territorial limits of the several States of the United States and the District of Columbia, whether or not such elector is subject to civil-service laws and the Classification Act of 1949¹ and whether or not paid from funds appropriated by the Congress, if at the time of voting he is absent from the State or county of his residence: Provided,

however, That said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(h) Any qualified elector who is a spouse or dependent residing with or accompanying a person who expects to be or is outside the territorial limits of the several States of the United States and the District of Columbia because his duties, occupation or business require him to be elsewhere during the entire period the polls are open for voting on the day of any primary or election or who is a spouse or dependent residing with or accompanying a person who is a civilian employee of the United States outside the territorial limits of the several States of the United States and the District of Columbia, whether or not such person is subject to civil-service laws and the Classification Act of 1949 and whether or not paid from funds appropriated by the Congress, if at the time of voting such spouse or dependent is absent from the State or county of his residence: Provided, however, That the said elector has been registered or enrolled according to law or is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting; or

(i) Any qualified war veteran elector who is bedridden or hospitalized due to illness or physical disability if he is absent from the Commonwealth or county of his residence and unable to attend his polling place because of such illness or physical disability regardless of whether he is registered and enrolled; or

(j) Any qualified registered and enrolled elector who expects to be or is absent from the Commonwealth or county of his residence because his duties, occupation or business require him to be elsewhere during the entire period the polls are open for voting on the day of any primary or election; or

(k) Any qualified registered and enrolled elector who because of illness or physical disability is unable to attend his polling place or operate a voting machine and secure assistance by distinct and audible statement as required in section 1218 of this act;²

(l) Any qualified registered and enrolled elector who is a spouse or dependent accompanying a person employed in the service of this Commonwealth or in the service of the Federal Government within the territorial limits of the several States of the United States and the District of Columbia in the event the duties, profession or occupation of such person require him to be absent from the Commonwealth or county of his residence; or

(m) Any qualified elector who is a county employe who cannot vote due to duties on election day relating to the conduct of the election; or

(n) Any qualified elector who will not attend a polling place because of the observance of a religious holiday:

Provided, however, That the words "qualified absentee elector" shall in nowise be construed to include persons confined in a penal institution or a mental institution nor shall it in anywise be construed to include a person not otherwise qualified as a qualified elector in accordance with the definition set forth in section 102(t) of this act.³

1937, June 3, P.L. 1333, art. XIII, § 1301, added 1951, March 6, P.L. 3, § 11. Amended 1963, Aug. 13, P.L. 707, § 20 effective Jan. 1, 1964; 1968, Dec. 11, P.L. 1183, No. 375, § 4; 1972, Dec. 6, P.L. 1405, No. 301, § 1; 1986, May 5, P.L. 150, No. 47, § 3, imd. effective; 1990, Dec. 17, P.L. 681, No. 169, § 5, effective in 60 days.

¹ 5 U.S.C.A. § 1071 et seq.

² 25 P.S. § 3058.

³ 25 P.S. § 2602.

Historical and Statutory Notes

Section 13 of the act of 1951 provided: "Cities of the first class and counties are hereby authorized and empowered to appropriate the moneys necessary to carry out the provisions of this amendment."

Section 14 provided: "The purpose of this amendment is to enable every qualified elector of this Commonwealth serving in the armed forces of the United States to vote, whether or not such elector is absent on the designated election days from the election district in which he resides, whether such person is within or without this Commonwealth or within or without the United States, and to enable bedridden or hospitalized veterans to vote, regardless of whether such person is registered or enrolled as a qual-

ified elector, and this amendment shall be liberally construed to effectuate such purpose."

The 1986 amendment added subsecs. (m) and (n).

The 1990 amendment, in subsec. (g) following "Any qualified elector", inserted "who expects to be or is outside the territorial limits of the several States of the United States and the District of Columbia because his duties, occupation or business require him to be elsewhere during the entire the polls are open for voting on the day of any primary or election or", and, in subsec. (h), inserted similar language relating to a spouse or dependent of such person.

Cross References

Definition of "qualified absentee elector", see 25 P.S. § 2602.

Law Review Commentaries

Absentee ballot reform in Pennsylvania.
79 Dick.L.Rev. 93 (1974).

Library References

Elections ¶74, 118, 216.1.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 24, 38, 210.
P.L.E. Elections §§ 22, 86, 87, 102.

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1. Validity

Evidence on issue whether more absentee ballots which might be successfully challenged but for state's limitations and conditions on right to challenge absentees were cast for candidates not of plaintiffs' political party was insufficient to establish that plaintiffs were denied equal protection by the challenged procedure. *Kauffman v. Osser*, 321 F.Supp. 327, D.C. 1971.

Although certain absentee voters were immunized from private challenge because not all applications could be reviewed in light of time and space limitations, there was no danger of a government not resting on the will of competent electors, and there was no dilution of votes of registered voters of the state, and counting of absentee ballots cast by persons not entitled to vote by absentee did not constitute a taking without due process. *Kauffman v. Osser*, 321 F.Supp. 327, D.C.1971.

Since it appeared that even if registered voters were to prevail in state courts as to whether procedures for challenging absentee votes violated State Constitution they would still find procedure objectionable and harmful, federal district court would consider plaintiffs' claims that the limitations and conditions on right to challenge absentees violated equal protection and due process clauses of the Fourteenth Amendment. *Kauffman v. Osser*, 321 F.Supp. 327, D.C.1971.

Complaint seeking injunction restraining state election officials from issuing absentee ballots and seeking declaratory judgment that this section and following sections violated Pennsylvania Constitu-

tion and Fourteenth Amendment failed to state a claim of denial of equal protection, where all qualified voters were equally affected if unqualified person voted and where plaintiff failed to allege that statutory scheme was so porous that number of unqualified electors whose votes would slip into ballot box would amount to ballot stuffing that would harm particular class of voters. *Haakenson v. Parkhouse*, 312 F.Supp. 929, D.C. 1970.

Sections 2602 and 3146.1 of this title which excepted those confined in penal institution from definition of "qualified absentee elector," do not violate Const. Art. 7, § 1 providing that every citizen who meets certain age and residency requirements shall be entitled to vote at all elections subject to laws requiring and regulating registration of electors as General Assembly may enact. *Martin v. Haggerty*, 548 A.2d 371, 120 Pa.Cmwlt. 134, 1988, appeal denied 554 A.2d 512, 520 Pa. 621.

Candidate's election as county commissioner mooted his suit against county board of elections seeking injunctive and declaratory relief to end that certain provisions of absentee ballot law be held invalid under United States and Pennsylvania Constitutions. *Curry v. Parkhouse*, 364 A.2d 326, 468 Pa. 542, 1976.

Electors, asserting that casting of certain absentee ballots would dilute their votes, possessed interest which was neither peculiar to them nor direct and which was too remote and too speculative to afford them, either in their individual capacities or in their claimed class representative capacity, standing to attack on constitutional grounds the validity of statutes permitting persons on vacations to cast absentee ballots and requiring a \$10 deposit for each challenged absentee ballot in order to challenge ballots. *Kauffman v. Osser*, 271 A.2d 236, 441 Pa. 150, 1970.

Sections 3146.1 to 3146.9 of this title, empowering the county board of elections to canvass all absentee ballots of county residents is constitutional. In 223 *Absentee Ballot Appeals*, 245 A.2d 265, 431 Pa. 178, 1968.

25 P.S. § 3146.1

Note 2

2. In general

The provisions of this act must be strictly construed, and all procedural requirements must be followed by the voter to the letter. In re Canvass of Absentee Ballots of General Election, 39 D. & C.2d 429, 1966.

Elector should not be deprived of right to vote absentee because of loss of some part of registration records, if elector's name and address appear on surviving election records as having been properly registered. 1972 Op.Atty.Gen. No. 156.

3. Federal law

This section, concerning absentee voters, shall be extended to include as qualified absentee elector for presidential and vice-presidential elections any qualified elector who will be absent for any reason from his or her voting district on election day, as required by Voting Rights Act Amendments of 1970, 42 U.S.C.A. § 1973aa et seq. 1972 Op.Atty.Gen. No. 148.

4. Reason given

Challenges sustained by the board will be affirmed on evidence that the voters were unable to attend the polling place because of illness but gave unavoidable absence from the country as the reason for wanting an absentee ballot. Appeal of McLaughlin, 45 D. & C.2d 333, 1968.

5. Occupation or business

Since absence of funeral director and his wife at a convention were justified by his occupation, although he was not a delegate, their absentee ballots were properly validated. In re Duquesne Appeals from County Bd. of Elections, 39 D. & C.2d 545, 114 P.L.J. 244, 1966.

Members of a school board out of the State on election day at a school directors' convention were "unavoidably absent from the Commonwealth." In re Absentee Ballots Cast at Election of April 28, 1964, 34 D. & C.2d 504, 1965.

6. Vacation

Absentee ballots were properly issued to persons who planned on election day to be in another state on vacation. In re Silver Spring Tp. Supervisor Election, 72 D. & C.2d 396, 26 Cumb. 16, 1975.

The board properly rejected absentee ballots on uncontradicted testimony that the voters were on a vacation cruise on

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election day. In re City of Wilkes-Barre Election Appeals, 44 D. & C.2d 535, 1967.

Ballots of a voter and his wife absent on vacation will be excluded although he transacted some incidental family business on the trip. In re Duquesne Appeals from County Bd. of Elections, 39 D. & C.2d 545, 114 P.L.J. 244, 1966.

Ballot of a voter absent on a honeymoon was properly excluded. In re Duquesne Appeals from County Bd. of Elections, 39 D. & C.2d 545, 114 P.L.J. 244, 1966.

Where two absentee voters whose votes were challenged testified they were absent on election day because they had accompanied their husbands on vacation, challenge could not be sustained, in absence of a clear definition of word "duty" in provision of Election Code relating to absentee electors. In re Decision of County Bd. of Election, 29 D. & C.2d 499, 1964.

Testimony by challenged voter that he was on vacation but thought he had a right to vote by absentee ballot is sufficient to disqualify his vote. In re Decision of County Bd. of Election, 29 D. & C.2d 499, 1964.

7. Students

Absentee ballots were properly issued to a voter who would be attending school 165 miles away. In re Silver Spring Tp. Supervisor Election, 72 D. & C.2d 396, 26 Cumb. 16, 1975.

Where students from Montgomery county were attending the University of Pennsylvania and Princeton University in New Jersey, challenges to their absentee votes on the ground that they were within sufficient proximity to their respective voting districts to return home for voting were sustained. In re Canvass of Absentee Ballots of General Election, 39 D. & C.2d 429, 1966.

A challenge to an absentee ballot cast at a primary election will be dismissed and the action of the board of elections sustaining the challenge refused where it appears that the voter was a student at the time of the election and had been a student for four years prior to the date of the elections. Case of Schrum Election, 36 D. & C.2d 784, 57 Mun. 51, 79 York 57, 1966.

8. Illness or physical disability

The board improperly dismissed a challenge on uncontradicted testimony that the voter of an absentee ballot claiming physical disability was seen in church the Sundays before and after election day, since the burden of proof shifted to the voter which she failed to sustain. In re City of Wilkes-Barre Election Appeals, 44 D. & C.2d 535, 1967.

The board properly rejected an absentee ballot applied for on the ground of disability where the nature thereof was described as merely "old age—physically incapacitated". In re City of Wilkes-Barre Election Appeals, 44 D. & C.2d 535, 1967.

The county election return board properly validated absentee ballots applied for on the basis of illness and physical disability and challenged because the space in the application for listing a physician was left blank, where the certification was executed by a registered elector unrelated to the applicant, since, in such case, it may be assumed no physician was in attendance. In re City of Wilkes-Barre Election Appeals, 44 D. & C.2d 535, 1967.

Where reasons for seeking absentee ballots were certified by registered electors of district such ballots obtained on the grounds of physical disability were properly validated although no physicians were in attendance. In re Duquesne Appeals from County Bd. of Elections, 39 D. & C.2d 545, 114 P.L.J. 244, 1966.

An absentee voter's ballot in which applicant who set forth in his application that he was confined at home with a heart condition was challenged on basis of testimony that applicant was seen at times in a neighborhood store was properly validated where testimony was not connected with election day. In re Duquesne Appeals from County Bd. of Elections, 39 D. & C.2d 545, 114 P.L.J. 244, 1966.

9. Family emergencies

Ballots of a husband and wife absent on a trip taken by reason of the illness of a close relative were properly validated. In re Duquesne Appeals from County Bd. of Elections, 39 D. & C.2d 545, 114 P.L.J. 244, 1966.

10. Residency requirement

The board properly dismissed a challenge to a husband's absentee ballot on the ground of lack of residence where the only testimony as to his residence was that of his wife. In re City of Wilkes-Barre Election Appeals, 44 D. & C.2d 535, 1967.

The board properly dismissed a challenge to a ballot on the ground the voter was a nonresident where the challenger offered no evidence, since the burden of proof of nonresidence was on him. In re City of Wilkes-Barre Election Appeals, 44 D. & C.2d 535, 1967.

In the absence of proof of residence, challenges alleging that certain absentee voters were no longer residents of the township were sustained. In re Canvass of Absentee Ballots of General Election, 39 D. & C.2d 429, 1966.

Challenges to military ballots on the grounds of nonresidency would be dismissed, where voters had registered at the residence of a sister in the voting district and had used that address for mailing and family business. In re Canvass of Absentee Ballots of General Election, 39 D. & C.2d 429, 1966.

Absentee ballots cast by virtue of medical disability by residents of the county home will be disallowed where the electors were residents of different voting districts prior to coming to the home. In re Absentee Ballots Cast at Election of April 28, 1964, 34 D. & C.2d 504, 1965.

11. Mental illness

Denial of an absentee ballot to a mentally disabled, institutionalized person does not prohibit that person from voting at his place of institutional residence. 1973 Op.Atty.Gen. No. 48.

12. Prisoners

Pennsylvania election code does not violate equal protection clause by denying incarcerated convicted felons the right to vote while permitting unincarcerated felons to vote, since state could rationally decide that one of the losses to which prisoner who is incarcerated should be subject is that of participation in democratic process which governs those who are at liberty. *Owens v. Barnes*, 711 F.2d 25, C.A.1983.

Prohibition against "persons confined in a penal institution" from qualifying as

Note 12

absentee electors shall apply only to inmates convicted for felonies, but convicted misdemeanants and pretrial detainees shall be entitled to register and vote during confinement in penal institution. 1974 Op.Atty.Gen. No. 47.

sent only a question of state law and federal district court would not exercise pendent jurisdiction over the state law issue. *Kauffman v. Osser*, 321 F.Supp. 327, D.C.1971.

13. Jurisdiction

Issue whether Pennsylvania statute pertaining to absentee ballots violated State Constitution in permitting absentee votes to be cast by persons not required to be absent from their polling places by reason of duties, business and occupation pre-

14. Overruled absentee ballots

Judgment dismissing candidate's appeal from county return board, on claim that overruled absentee ballots had been commingled and counted with others, was affirmed. *Perles v. County Return Bd. of Northumberland County*, 202 A.2d 538, 415 Pa. 154, 1964.

§ 3146.2. Applications for official absentee ballots

(a) Any qualified elector defined in preceding section 1301, subsections (a) to (h), inclusive¹, may apply at any time before any primary or election for any official absentee ballot in person, on any form supplied by the Federal Government, or on any official county board of election form addressed to the Secretary of the Commonwealth of Pennsylvania or the county board of election of the county in which his voting residence is located.

(b) The application shall contain the following information: Home residence at the time of entrance into actual military service or Federal employment, length of time a citizen, length of residence in Pennsylvania, date of birth, length of time a resident of voting district, voting district if known, party choice in case of primary, name and, for a military elector, his stateside military address, FPO or APO number and serial number. Any elector other than a military elector shall in addition specify the nature of his employment, the address to which ballot is to be sent, relationship where necessary, and such other information as may be determined and prescribed by the Secretary of the Commonwealth. When such application is received by the Secretary of the Commonwealth it shall be forwarded to the proper county board of election.

(c) The application of any qualified military elector, as defined in preceding section 1301 subsection (a), for an official absentee ballot in any primary or election may not be made over the signature of any person, other than the qualified elector or an adult member of his immediate family, as required in the preceding subsection.

(d) The application of any qualified elector, as defined in preceding section 1301, subsections (b) to (h), inclusive, for an official absentee ballot in any primary or election shall be signed by the applicant.

(e) Any qualified bedridden or hospitalized veteran absent from the State or county of his residence and unable to attend his polling place because of such illness or physical disability, regardless of

whether he is registered or enrolled, may apply at any time before any primary or election for an official absentee ballot on any official county board of election form addressed to the Secretary of the Commonwealth of Pennsylvania or the county board of elections of the county in which his voting residence is located.

The application shall contain the following information: Residence at the time of becoming bedridden or hospitalized, length of time a citizen, length of residence in Pennsylvania, date of birth, length of time a resident in voting district, voting district if known, party choice in case of primary, name and address of present residence or hospital at which hospitalized. When such application is received by the Secretary of the Commonwealth, it shall be forwarded to the proper county board of elections.

The application for an official absentee ballot for any primary or election shall be made on information supplied over the signature of the bedridden or hospitalized veteran as required in the preceding subsection. Any qualified registered elector, including a spouse or dependent referred to in subsection (1) of section 1301,² who expects to be or is absent from the Commonwealth or county of his residence because his duties, occupation or business require him to be elsewhere on the day of any primary or election and any qualified registered elector who is unable to attend his polling place on the day of any primary or election because of illness or physical disability and any qualified registered bedridden or hospitalized veteran in the county of residence, or in the case of a county employe who cannot vote due to duties on election day relating to the conduct of the election, or in the case of a person who will not attend a polling place because of the observance of a religious holiday, may apply to the county board of elections of the county in which his voting residence is located for an Official Absentee Ballot. Such application shall be made upon an official application form supplied by the county board of elections. Such official application form shall be determined and prescribed by the Secretary of the Commonwealth of Pennsylvania.

(1) The application of any qualified registered elector, including spouse or dependent referred to in subsection (1) of section 1301, who expects to be or is absent from the Commonwealth or county of his residence because his duties, occupation or business require him to be elsewhere on the day of any primary or election, or in the case of a county employe who cannot vote due to duties on election day relating to the conduct of the election, or in the case of a person who will not attend a polling place because of the observance of a religious holiday, shall be signed by the applicant and shall include the surname and given name or names of the applicant, his occupa-

tion, date of birth, length of time a resident in voting district, voting district if known, place of residence, post office address to which ballot is to be mailed, the reason for his absence, and such other information as shall make clear to the county board of elections the applicant's right to an official absentee ballot.

(2) The application of any qualified registered elector who is unable to attend his polling place on the day of any primary or election because of illness or physical disability and the application of any qualified registered bedridden or hospitalized veteran in the county of residence shall be signed by the applicant and shall include surname and given name or names of the applicant, his occupation, date of birth, residence at the time of becoming bedridden or hospitalized, length of time a resident in voting district, voting district if known, place of residence, post office address to which ballot is to be mailed, and such other information as shall make clear to the county board of elections the applicant's right to an official ballot. In addition, the application of such electors shall include a declaration stating the nature of their disability or illness, and the name, office address and office telephone number of their attending physician: Provided, however, that in the event any elector entitled to an absentee ballot under this subsection be unable to sign his application because of illness or physical disability, he shall be excused from signing upon making a statement which shall be witnessed by one adult person in substantially the following form: I hereby state that I am unable to sign my application for an absentee ballot without assistance because I am unable to write by reason of my illness or physical disability. I have made or have received assistance in making my mark in lieu of my signature.

.....
(Date)	(Mark)
.....
(Complete Address of Witness)	(Signature of Witness)

(e.1) Any qualified registered elector, including any qualified bedridden or hospitalized veteran, who is unable because of illness or physical disability to attend his polling place on the day of any primary or election or operate a voting machine and state distinctly and audibly that he is unable to do so as required by section 1218 of this act³ may, with the certification by his attending physician that he is permanently disabled, and physically unable to attend the polls or operate a voting machine and make the distinct and audible statement required by section 1218 appended to the application hereinbefore required, be placed on a permanently disabled absentee ballot list file. An absentee ballot application shall be mailed to

every such person for each primary or election so long as he does not lose his voting rights by failure to vote as otherwise required by this act. Such person shall not be required to file a physician's certificate of disability with each application as required in subsection (e) of this section but such person must submit a written statement asserting continuing disability every four years in order to maintain his eligibility to vote under the provisions of this subsection. Should any such person lose his disability he shall inform the county board of elections of the county of his residence.

(e.2) Notwithstanding the other provisions of this act any qualified elector who expects to be or is absent from the Commonwealth or county of his residence because his duties, occupation or business require him to be elsewhere on the day of any election or a county employe who cannot vote due to duties on election day relating to the conduct of the election or a person who will not attend a polling place because of the observance of a religious holiday may make an application for an absentee ballot by mail by sending a letter to the county board of elections in the county in which his voting residence is located. The letter shall be signed by the applicant and contain his name and place of residence.

(f) The county chairman of each political party or the head of each political body shall designate one representative from his respective political party or body for each public institution. The representatives so appointed shall, at the same time on a date fixed by the county board of election visit every public institution situate in the county for the purpose of obtaining the names and addresses of public institution residents who desire to receive applications for absentee ballots and to act as an election board as provided in subsection (g) of this section. The list of names and addresses thus obtained shall then be submitted by said representatives to the board which shall furnish applications individually to those appearing in the written request. If the chairman or head of a political party or body fails to appoint a representative within fifteen days from written notice from the county board of election, the county board of election shall appoint a representative from the political party or body.

(g) The county board of election shall appoint teams of three members for each public institution that shall go to the public institutions and hold the election on the first Friday prior to election day. Each member of the board shall appoint one member on every team. After the votes are cast, the teams shall collect the ballots and return them to the county board of election where they shall be placed unopened in a secure, safe and sealed container in the custody of the board until they shall be distributed to the respective absentee

voters' election district as provided in section 1308 of this act⁴ where they shall be counted with the other absentee ballots, if any.

(h) The county board of election shall number, in chronological order, the applications for an official absentee ballot, which number shall likewise appear on the official absentee ballot for the qualified elector. The numbers shall appear legibly and in a conspicuous place but before the ballots are distributed the number on the ballot shall be torn off by the county board of election. This number information shall be appropriately inserted and become a part of the Registered Absentee Voters File and the Military, Veterans and Emergency Civilian Absentee Voters File provided in section 1302.3 of this act.⁵

(i) Application for official absentee ballots shall be on forms prescribed by the Secretary of the Commonwealth. The application shall state that a voter who receives an absentee ballot pursuant to section 1301 and who, on election day, is capable of voting at the appropriate polling place must void the absentee ballot and vote in the normal manner at the appropriate voting place. Such forms shall be made freely available to the public at county board of elections, municipal buildings and at such other locations designated by the secretary. No written application or personal request shall be necessary to receive the application forms. Copies of all completed applications for official absentee ballots shall be retained by the county board of elections.

1937, June 3, P.L. 1333, art. XIII, § 1302, added 1951, March 6, P.L. 3, No. 1, § 11. Amended 1963, Aug. 13, P.L. 707, § 20, effective Jan. 1, 1964; 1968, Dec. 11, P.L. 1183, No. 375, §§ 5, 6; 1972, Dec. 6, P.L. 1405, No. 301, § 2; 1976, Dec. 2, P.L. 1221, No. 269, §§ 9, 10, imd. effective; 1980, July 12, P.L. 649, No. 134, § 5, imd. effective; 1982, May 7, P.L. 393, No. 114, § 1, effective Jan. 1, 1983; 1986, May 5, P.L. 150, No. 47, § 4, imd. effective.

¹ 25 P.S. § 3146.1(a) to (h).

² 25 P.S. § 3146.1(f).

³ 25 P.S. § 3058.

⁴ 25 P.S. § 3146.8.

⁵ 25 P.S. § 3146.2c.

Historical and Statutory Notes

The 1976 amendment, in subsec. (e.1), in the third sentence, substituted "such person must submit a written statement asserting continuing disability" for "must file a physician's certificate of permanent disability", and added subsec. (e.2).

The 1980 amendment, in subsec. (a), deleted the former second through fourth sentences, which read:

"An application shall be issued only to an elector who appears in person at the

office of the county board of election and signs for the application, or who, by mail, requests an application with a written and signed communication. No more than one application for an absentee ballot shall be issued to any elector. A copy of the request for the application shall be kept on record at the office of the county board of election."

The 1980 amendment also, in subsec. (e), first paragraph, deleted the former

last sentence, which read: "The request for an application shall be in writing, signed and transmitted by mail."

The 1980 amendment also, in the third paragraph of subsec. (e), deleted the last two sentences, which were the same as the former second and fourth sentences of subsec. (a), and added subsec. (i).

The 1982 amendment, in par. (2) of subsec. (e), following "and the name", deleted "office address and office telephone number" and, following "of their attending physician", deleted ", if any, together with a supporting declaration signed by such attending physician, or, if none, by a registered elector unrelated by

blood or marriage of the election district of the residence of the applicant".

The 1982 amendment also, in subsec. (i), inserted the second sentence.

The 1986 amendment, in subsec. (e), in the third paragraph and par. (1), and in subsec. (e.2), inserted references to county employes and observance of religious holidays; in pars. (1) and (2), preceding "name", substituted "given" for "christian"; in subsec. (e.1), changed the frequency of submitting written statements from every two years to every four years; and, in subsec. (i), in the second sentence, substituted "pursuant to section 1301" for "because of illness or absence from the district".

Library References

Elections ¶216.1.
WESTLAW Topic No. 144.

C.J.S. Elections § 210.
P.L.E. Elections § 61 et seq.

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porting declaration signed by one who was not a physician or a qualified elector of the election district of the applicant, such applications are invalid. And fact that the board of elections, through its clerks, accepted improperly executed applications does not estop board from invalidating the applications and ballots. In re Canvass of Absentee Ballots of Primary Election, 34 D. & C.2d 419, 1965.

Fact that application for an absentee ballot improperly marked reason for requesting an absentee ballot, or gave no indication at all why ballot was sought, did not invalidate the ballot. *Perles v. County Return Bd. of Northumberland County, Pa.*, 36 Northumb.L.J. 46, 1964, affirmed 202 A.2d 538, 415 Pa. 154.

This section, concerning absentee voting shall be enforced as requiring that a qualified absentee elector for president and vice-president affirm that he is unable to vote in person because of absence from his or her voting district, and right to absentee ballot for presidential and vice-presidential elections may not be limited only to those cases where absence of qualified elector is necessitated by military service, governmental service, physical handicap, or other reasons specified in this section prior to 1972 amendment, in accordance with Voting Rights Act Amendments of 1970, 42 U.S.C.A.

1. In general

Denial by the board of challenges to ballots will be affirmed where based on the ground that the name of a physician had been inserted in the ballot application and then erased, in the absence of any additional evidence to support the challenge. *Appeal of McLaughlin*, 45 D. & C.2d 333, 1968.

Challenges to ballots will be sustained where applicants, claiming inability to attend a polling place by reason of illness or physical disability, failed to fill in their applications with the information required under this section. In re Canvass of Absentee Ballots of General Election, 39 D. & C.2d 429, 1966.

Where applicants for absentee ballots have failed properly to complete the application form, either by omitting the reason for their right to an absentee ballot, or, where illness has been stated as a reason, by omitting the name of the attending physician or by having the sup-

25 P.S. § 3146.2

ELECTION CODE

Note 1

§ 1973aa et seq. 1972 Op.Atty.Gen. No. 148.

2. Loss of records

Elector should not be deprived of right to vote absentee because of loss of some part of registration records, if elector's name and address appear on surviving election records as having been properly registered. 1972 Op.Atty.Gen. No. 156.

3. Military ballot

A registration commission should insist on proper military ballot application in accordance with this section and should not issue such a ballot on oral request. In re Northampton Borough Election, 79 D. & C. 481, 1953.

4. Illness or disability

On appeal from the county board of elections sustaining challenges to absentee ballot on the ground that the application for the ballot gave illness as the reason, but did not contain the signature of the attending physician as required by this section, the appeal will be denied. Appeal of McLaughlin, 45 D. & C.2d 333, 1968.

Although applicant failed to check off the reason for requesting the ballot, but it was conceded that on the date the application was signed by her and her attending physician and on election day, she was in a hospital, challenge to her ballot was denied. In re Duquesne Appeals from County Bd. of Elections, 39 D. & C.2d 545, 114 P.L.J. 244, 1966.

Where the attending physician signed an affidavit indicating that he was treating applicant and had advised him not to attend the polls, the challenge was dismissed. In re Canvass of Absentee Ballots of General Election, 39 D. & C.2d 429, 1966.

A challenge to an absentee ballot will be sustained where the applicant designated a particular physician in attendance, but submitted no supporting affida-

vit by the attending physician. In re Canvass of Absentee Ballots of General Election, 39 D. & C.2d 429, 1966.

5. Multiple applications

The board properly dismissed a challenge where the voter applied for two absentee ballots in the belief that the first application had not been received where he returned only one ballot. In re City of Wilkes-Barre Election Appeals, 44 D. & C.2d 535, 1967.

6. Party affiliation

An objection to issuance of an absentee ballot in a general election where applicant had inserted his party affiliation in application on a line specifically provided for that purpose solely because beneath the line it was provided "(If primary election give party enrollment, otherwise leave blank)", was devoid of merit. Perles v. County Return Bd. of Northumberland County, Pa., 36 Northumb.L.J. 46, 1964, affirmed 202 A.2d 538, 415 Pa. 154.

7. Signature

Although application for an absentee ballot, contained a line in Part 1 of the application for the "signature of applicant," an application signed by an "X" mark, adjacent to which is signed the applicant's name apparently written by another, was in sufficient compliance with the Code to permit the counting of the ballot obtained by such application. Perles v. County Return Bd. of Northumberland County, 36 Northumb.L.J. 46, 1964, affirmed 202 A.2d 538, 415 Pa. 154.

8. Forged applications

Had appeal been timely, trial court would have acted properly in voiding votes cast by absentee ballots obtained by means of forged signatures on the applications. Appeal of Orsatti, 598 A.2d 1341, 143 Pa.Cmwth. 12, 1991, appeal denied 600 A.2d 956, 529 Pa. 637.

§ 3146.2a. Date of application for absentee ballot

Applications for absentee ballots unless otherwise specified shall be received in the office of the county board of elections not earlier than fifty (50) days before the primary or election and not later than five o'clock P.M. of the first Tuesday prior to the day of any primary or election: Provided, however, That in the event any elector otherwise

qualified who is so physically disabled or ill on or before the first Tuesday prior to any primary or election that he is unable to file his application or who becomes physically disabled or ill after the first Tuesday prior to any primary or election and is unable to appear at his polling place or any elector otherwise qualified who because of the conduct of his business, duties or occupation will necessarily be absent from the State or county of his residence on the day of the primary or election, which fact was not and could not reasonably be known to said elector on or before the first Tuesday prior to any primary or election, shall be entitled to an absentee ballot at any time prior to five o'clock P.M. on the first Friday preceding any primary or election upon execution of an Emergency Application in such form prescribed by the Secretary of the Commonwealth.

In the case of an elector who is physically disabled or ill on or before the first Tuesday prior to a primary or election or becomes physically disabled or ill after the first Tuesday prior to a primary or election, such Emergency Application shall contain a supporting affidavit from his attending physician stating that due to physical disability or illness said elector was unable to apply for an absentee ballot on or before the first Tuesday prior to the primary or election or became physically disabled or ill after that period.

In the case of an elector who is necessarily absent because of the conduct of his business, duties or occupation under the unforeseen circumstances specified in this subsection, such Emergency Application shall contain a supporting affidavit from such elector stating that because of the conduct of his business, duties or occupation said elector will necessarily be absent from the State or county of his residence on the day of the primary or election which fact was not and could not reasonably be known to said elector on or before the first Tuesday prior to the primary or election.

1937, June 3, P.L. 1333, art. XIII, § 1302.1, added 1963, Aug. 13, P.L. 707, § 21, effective Jan. 1, 1964. Amended 1968, Dec. 11, P.L. 1183, No. 375, § 7.

Library References

Elections ¶216.1.
WESTLAW Topic No. 144.
C.J.S. Elections § 210.

Notes of Decisions

Voting Rights Act 1

1. Voting Rights Act

This section, relating to absentee voting, shall be enforced as requiring that application for absentee ballot for presi-

dential and vice-presidential election be honored if received in office of county board of elections not later than seven days immediately prior to election, in accordance with Voting Rights Act Amendments of 1970, 42 U.S.C.A. § 1973aa et seq. 1972 Op.Atty.Gen. No. 148.

§ 3146.2b. Approval of application for absentee ballot

(a) The county board of elections, upon receipt of any application filed by a qualified elector not required to be registered under preceding section 1301,¹ shall ascertain from the information on such application, district register or from any other source that such applicant possesses all the qualifications of a qualified elector other than being registered or enrolled. If the board is satisfied that the applicant is qualified to receive an official absentee ballot, the application shall be marked approved, such approval decision shall be final and binding except that challenges may be made only on the ground that the applicant did not possess qualifications of an absentee elector. Such challenges must be made to the county board of elections prior to 5:00 o'clock P.M. on the first Friday prior to the election. When so approved, the county board of elections shall cause the applicant's name and residence (and at a primary, the party enrollment) to be inserted in the Military, Veterans and Emergency Civilians Absentee Voters File as provided in section 1302.3, subsection (b).² Providing, however, That no application of any qualified elector in military service shall be rejected for failure to include on his application any information if such information may be ascertained within a reasonable time by the county board of elections.

(b) The county board of elections, upon receipt of any application filed by a qualified elector who is entitled, under the provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting as provided under preceding section 1301, shall ascertain from the information on such application or from any other source that such applicant possesses all the qualifications of a qualified elector. If the board is satisfied that the applicant is entitled, under the provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting and that the applicant is qualified to receive an official absentee ballot, the application shall be marked "approved." Such approval decision shall be final and binding except that challenges may be made only on the ground that the applicant did not possess the qualifications of an absentee elector prior to or concurrently with the time of voting. Such challenges must be made to the county board of elections prior to 5:00 o'clock P.M. on the first Friday prior to the election. When so approved, the county board of elections shall cause the applicant's name and residence (and at³ a primary, the party enrollment) to be

inserted in the Military, Veterans and Emergency Civilian Absentee Voters File as provided in section 1302.3 subsection (b).

(c) The county board of elections, upon receipt of any application of a qualified elector required to be registered under the provisions of preceding section 1301, shall determine the qualifications of such applicant by comparing the information set forth on such application with the information contained on the applicant's permanent registration card. If the board is satisfied that the applicant is qualified to receive an official absentee ballot, the application shall be marked "approved." Such approval decision shall be final and binding, except that challenges may be made only on the ground that the applicant did not possess the qualifications of an absentee elector. Such challenges must be made to the county board of elections prior to 5:00 o'clock P.M. on the first Friday prior to the election. When so approved, the registration commission shall cause an absentee voter's temporary registration card to be inserted in the district register on top of and along with the permanent registration card. The absentee voter's temporary registration card shall be in the color and form prescribed in subsection (e) of this section:

Provided, however, That the duties of the county boards of elections and the registration commissions with respect to the insertion of the absentee voter's temporary registration card of any elector from the district register as set forth in section 1302.2⁴ shall include only such applications and emergency applications as are received on or before the first Tuesday prior to the primary or election. In all cases where applications are received after the first Tuesday prior to the primary or election and before five o'clock P.M. on the first Friday prior to the primary or election, the county board of elections shall determine the qualifications of such applicant by comparing the information set forth on such application with the information contained on the applicant's duplicate registration card on file in the General Register (also referred to as the Master File) in the office of the Registration Commission and shall cause the name and residence (and at primaries, the party enrollment) to be inserted in the Military, Veterans and Emergency Civilian Absentee Voters File as provided in section 1302.3, subsection (b). In addition, the local district boards of elections shall, upon canvassing the official absentee ballots under section 1308,⁵ examine the voting check list of the election district of said elector's residence and satisfy itself that such elector did not cast any ballot other than the one properly issued to him under his absentee ballot application. In all cases where the examination of the local district board of elections discloses that an elector did vote a ballot other than the one properly issued to him under the absentee ballot application, the local district board of elections shall thereupon

cancel said absentee ballot and said elector shall be subject to the penalties as hereinafter set forth.

(d) In the event that any application for an official absentee ballot is not approved by the county board of elections, the elector shall be notified immediately to that effect with a statement by the county board of the reasons for the disapproval.

(e) The absentee voter's temporary registration card shall be in duplicate and the same size as the permanent registration card, in a different and contrasting color to the permanent registration card and shall contain the absentee voter's name and address and shall conspicuously contain the words "Absentee Voter." Such card shall also contain the affidavit required by subsection (b) of section 1306.⁶ 1937, June 3, P.L. 1333, art. XIII, § 1302.2, added 1963, Aug. 13, P.L. 707, § 21, effective Jan. 1, 1964. Amended 1968, Dec. 11, P.L. 1183, No. 375, § 7.

¹ 25 P.S. § 3146.1.

² 25 P.S. § 3146.2c(b).

³ "at" omitted in original.

⁴ This section.

⁵ 25 P.S. § 3146.8.

⁶ 25 P.S. § 3146.6(b).

Library References

Elections ☞ 216.1.
WESTLAW Topic No. 144.
C.J.S. Elections § 210.

Notes of Decisions

Signature 2
Voting Rights Act 1

of 1970, 42 U.S.C.A. § 1973aa et seq.
1972 Op. Atty. Gen. No. 148.

1. Voting Rights Act

This section, relating to absentee voting, shall be enforced as including as qualified absentee electors for presidential and vice-presidential election all voters qualified to vote absentee under provisions of Voting Rights Act Amendments

2. Signature

The board properly rejected an absentee ballot applied for on the ground that the signature on the application was not genuine where witness testified the voter told her he had never made an application for a ballot. In re City of Wilkes-Barre Election Appeals, 44 D. & C.2d 535, 1967.

§ 3146.2c. Absentee electors files and lists

(a) The county board of elections shall maintain at its office a file containing the duplicate absentee voter's temporary registration cards of every registered elector to whom an absentee ballot has been sent. Such duplicate absentee voter's temporary registration cards shall be filed by election districts and within each election district in exact alphabetical order and indexed. The registration cards so filed

shall constitute the Registered Absentee Voters File for the Primary or Election of (date of primary or election) and shall be kept on file for a period commencing the Tuesday prior to the day of the primary or election until the day following the primary or election or the day the county board of elections certifies the returns of the primary or election, whichever date is later. Such file shall be open to public inspection at all times subject to reasonable safeguards, rules and regulations.

(b) The county board of elections shall post in a conspicuous public place at its office a master list arranged in alphabetical order by election districts setting forth the name and residence, and at primaries, the party enrollment, of (1) every military elector to whom an absentee ballot is being sent, each such name to be prefixed with an "M"; (2) every bedridden or hospitalized veteran outside the county of his residence who is not registered and to whom an absentee ballot is being sent, each such name to be prefixed with a "V"; and (3) every registered elector who has filed his application for an absentee ballot too late for the extraction of his original registration card and to whom a ballot is being sent and every qualified elector who has filed his application for an absentee ballot and is entitled, under provisions of the Permanent Registration Law as now or hereinafter enacted by the General Assembly, to absentee registration prior to or concurrently with the time of voting, each such name to be prefixed with a "C." This list shall be known as the Military, Veterans and Emergency Civilians Absentee Voters File for the Primary or Election of (date of primary or election) and shall be posted for a period commencing the Tuesday prior to the day of the primary or election until the day following the primary or election or the day on which the county board of elections certifies the returns of the primary or election, whichever date is later. Such file shall be open to public inspection at all times subject to reasonable safeguards, rules and regulations. This posted list shall not contain any military address or reference to any military organization. Upon written request, the county board shall furnish a copy of such list to any candidate or party county chairman.

(c) Not less than five days preceding the election, the chief clerk shall prepare a list for each election district showing the names and post office addresses of all voting residents thereof to whom official absentee ballots shall have been issued. Each such list shall be prepared in duplicate, shall be headed "Persons in (give identity of election district) to whom absentee ballots have been issued for the election of (date of election)," and shall be signed by him not less than four days preceding the election. He shall post the original of each such list in a conspicuous place in the office of the county election board and see that it is kept so posted until the close of the

polls on election day. He shall cause the duplicate of each such list to be delivered to the judge of election in the election district in the same manner and at the same time as are provided in this act for the delivery of other election supplies, and it shall be the duty of such judge of election to post such duplicate list in a conspicuous place within the polling place of his district and see that it is kept so posted throughout the time that the polls are open. Upon written request, he shall furnish a copy of such list to any candidate or party county chairman.

1937, June 3, P.L. 1333, art. XIII, § 1302.3, added 1963, Aug. 13, P.L. 707, § 21, effective Jan. 1, 1964. Amended 1968, Dec. 11, P.L. 1183, No. 375, § 7.

Library References

Elections ⇨ 216.1.
WESTLAW Topic No. 144.
C.J.S. Elections § 210.

Notes of Decisions

Loss of records 1
Segregation of files 2

1. Loss of records

Elector should not be deprived of right to vote absentee because of loss of some part of registration records, if elector's name and address appear on surviving election records as having been properly registered. 1972 Op.Atty.Gen. No. 156.

2. Segregation of files

This section, concerning absentee voting, shall not be construed to prevent local election officials from segregating files and lists of voters eligible to vote only for president and vice-president, from files and lists of other eligible voters. 1972 Op.Atty.Gen. No. 148.

§ 3146.3. Official absentee voters ballots

(a) In districts in which ballots are used, the ballots for use by such absentee electors under the provisions of this act shall be the official ballots printed in accordance with sections 1002 and 1003¹: Provided, however, That the county board of elections when detaching the official ballots for absentee electors shall be required to indicate on the stub of each ballot so detached the name of the applicant to which that precise ballot is being sent. The county board of elections shall also be required to remove the numbered stub from each such ballot and shall thereupon print, stamp or endorse in red color upon such official ballots the words, Official Absentee Ballot. Such ballots shall be distributed by such boards as hereinafter provided.

(b) In districts in which voting machines are used and in those districts in which paper ballots are used and the county board of elections therein do not print official absentee ballots in accordance with sections 1002 and 1003, the ballots for use by such absentee electors under the provisions of this act shall be prepared sufficiently

in advance by the county board of elections and shall be distributed by such boards as hereinafter provided. Such ballots shall be marked official absentee ballot but shall not be numbered and shall otherwise be in substantially the form for ballots required by article ten of this act, which form shall be determined and prescribed by the secretary of the commonwealth.

(c) In districts in which electronic voting systems are utilized, the absentee ballot may be in the form of a ballot card which shall be clearly stamped on its face "Absentee Ballot."

(d) In cases where there is not time to print on said ballots the names of the various candidates, the county board of elections shall print special write-in absentee ballots which shall be in substantially the form of other official absentee ballots except that such special write-in absentee ballots shall contain blank spaces only under the titles of such offices in which electors may insert the names of the candidates for whom they desire to vote, and in such cases the county board of elections shall furnish to electors lists containing the names of all the candidates named in nomination petitions or who have been regularly nominated under the provisions of this act, for the use of such electors in preparing their ballots. Special write-in absentee ballots also shall include all constitutional amendments and other questions to be voted on by the electors.

(e) The official absentee voter ballot shall state that a voter who receives an absentee ballot pursuant to section 1301² and who, on election day, is capable of voting at the appropriate polling place must void the absentee ballot and vote in the normal manner at the appropriate voting place.

1937, June 3, P.L. 1333, art. XIII, § 1303, added 1951, March 6, P.L. 3, § 11. Amended 1963, Aug. 13, P.L. 707, § 22, effective Jan. 1, 1964; 1980, July 11, P.L. 600, No. 128, § 5, imd. effective; 1982, May 7, P.L. 393, No. 114, § 2, effective Jan. 1, 1983; 1986, May 5, P.L. 150, No. 47, § 5, imd. effective; 1990, Dec. 17, P.L. 681, No. 169, § 6, effective in 60 days.

¹ 25 P.S. §§ 2962 and 2963.

² 25 P.S. § 3146.1.

Historical and Statutory Notes

The 1980 amendment redesignated former subsec. (c) as subsec. (d) and inserted a new subsec. (c).

The 1982 amendment added subsec. (e).

The 1986 amendment, in subsec. (e), substituted "pursuant to section 1301" for "because of illness or absence from the district".

The 1990 amendment rewrote subsec. (d), which formerly read:

"In cases where there is not time, in the opinion of the county boards of election, to print on said ballots the names of the various candidates for district, county, and local offices, the ballots shall contain blank spaces only under the titles of such offices in which electors may insert the names of the candidates for whom they desire to vote, and in such cases the county boards of election shall furnish to electors lists containing the names of all

the candidates named in nomination petitions or who have been regularly nominated under the provisions of this act, for the use of such electors in preparing their ballots."

Library References

Elections ⇄ 166.
WESTLAW Topic No. 144.

C.J.S. Elections § 156 et seq.
P.L.E. Elections § 61 et seq.

Notes of Decisions

Special ballots 1

1. Special ballots

This section, relating to absentee ballots, shall not be construed to prevent

local election officials from printing special absentee ballots for individuals qualified to vote only in presidential and vice-presidential elections. 1972 Op.Atty.Gen. No. 148.

§ 3146.4. Envelopes for official absentee ballots

The county boards of election shall provide two additional envelopes for each official absentee ballot of such size and shape as shall be prescribed by the Secretary of the Commonwealth, in order to permit the placing of one within the other and both within the mailing envelope. On the smaller of the two envelopes to be enclosed in the mailing envelope shall be printed, stamped or endorsed the words "Official Absentee Ballot," and nothing else. On the larger of the two envelopes,¹ to be enclosed within the mailing envelope, shall be printed the form of the declaration of the elector, and the name and address of the county board of election of the proper county. The larger envelope shall also contain information indicating the local election district of the absentee voter. Said form of declaration and envelope shall be as prescribed by the Secretary of the Commonwealth and shall contain among other things a statement of the electors qualifications, together with a statement that such elector has not already voted in such primary or election. The mailing envelope addressed to the elector shall contain the two envelopes, the official absentee ballot, lists of candidates when authorized by section 1303 subsection (b) of this act,² the uniform instructions in form and substance as prescribed by the Secretary of the Commonwealth and nothing else: Provided, however, That envelopes for electors qualified under preceding section 1301, subsections (a) to (h), inclusive,³ shall have printed across the face of each transmittal or return envelope two parallel horizontal red bars, each one-quarter inch wide, extending from one side of the envelope to the other side, with an intervening space of one-quarter inch, the top bar to be one and one-quarter inches from the top of the envelope and with the words "Official Election Balloting Material Via Air Mail" between the bars; that there be printed, in the upper right corner of each such envelope in a box, the words "Free of U.S. Postage, Including

Air Mail;" that all printing on the face of each such envelope be in red, and that there be printed in red, in the upper left corner of each such envelope, the name and address of the county board of elections of the proper county or blank lines for return address of the sender:

Provided further, That the aforesaid envelope addressed to the elector may contain absentee registration forms where required, and shall contain detailed instructions on the procedures to be observed in casting an absentee ballot as prescribed by the Secretary of the Commonwealth, together with return envelope upon which is printed the name and address of the registration commission of the proper county, which envelope shall have printed across the face two parallel horizontal red bars, each one-quarter inch wide, extending from one side of the envelope to the other side, with an intervening space of one-quarter inch, the top bar to be one and one-quarter inches from the top of the envelope and with the words "Official Election Balloting Material Via Air Mail" between the bars; that there be printed in the upper right corner of each such envelope in a box the words "Free of U.S. Postage, Including Air Mail," and, in the upper left corner of each such envelope, blank lines for return address of the sender; that all printing on the face of each such envelope be in red.

1937, June 3, P.L. 1333, art. XIII, § 1304, added 1951, March 6, P.L. 3, § 11. Amended 1963, Aug. 13, P.L. 707, § 22, effective Jan. 1, 1964; 1968, Dec. 11, P.L. 1183, No. 375, § 8.

¹ Probably should read "envelopes".

² 25 P.S. § 3146.3(b).

³ 25 P.S. § 3146.1(a) to (h).

Library References

Elections ⇨ 163.
WESTLAW Topic No. 144.

C.J.S. Elections § 155.
P.L.E. Elections § 61 et seq.

Notes of Decisions

In general 1
Forgeries 2

2. Forgeries

1. In general

This section, relating to absentee ballot envelopes, shall not be construed as preventing envelopes for absentee ballots from individuals qualified to vote only in presidential and vice-presidential elections from being accordingly marked. 1972 Op.Atty.Gen. No. 148.

A challenge to an absentee ballot sustained by the board will be affirmed where the signature on the voter's declaration on the outside of the envelope containing her sealed ballot differs in such material respect from her signature appearing on the original and duplicate of the elector's permanent registration affidavit, that the signature on the declaration is by comparison a forgery. Appeal of McLaughlin, 45 D. & C.2d 333, 1968.

§ 3146.5. Delivering or mailing ballots

(a) The county board of elections upon receipt and approval of an application filed by any elector qualified in accordance with the provisions of section 1301, subsections (a) to (h),¹ inclusive, shall not later than fifty days prior to the day of the primary or not later than seventy days prior to the day of the election commence to deliver or mail to such elector who has included with said application a statement that he or she is unable to vote during the regular absentee balloting period by reason of living or performing military service in an extremely remote or isolated area of the world, and not later than forty-five days prior to the day of the primary or election commence to deliver or mail to all other such electors as provided for in section 1301, subsections (a) to (h), inclusive, official absentee ballots or special write-in absentee ballots as prescribed by subsection (d) of section 1303² when official absentee ballots are not yet printed; as additional applications of such electors are received, the board shall deliver or mail official absentee ballots or special write-in absentee ballots when official absentee ballots are not yet printed to such additional electors within forty-eight hours after approval of their application. If the calling of a special election would make it impossible to comply with the forty-five day delivery or mailing requirement of this section, then the county board of elections shall mail absentee ballots or special write-in absentee ballots within five days of the county board's receipt of the information necessary to prepare said ballots.

(b) The county board of elections upon receipt and approval of an application filed by any elector qualified in accordance with the provisions of section 1301, subsections (i) to (l), inclusive, shall commence to deliver or mail official absentee ballots on the second Tuesday prior to the primary or election. As additional applications are received and approved, the board shall deliver or mail official absentee ballots to such additional electors within forty-eight hours. 1937, June 3, P.L. 1333, art. XIII, § 1305, added 1951, March 6, P.L. 3, No. 1, § 11. Amended 1963, Aug. 13, P.L. 707, § 22, effective Jan. 1, 1964; 1990, Dec. 17, P.L. 681, No. 169, § 7, effective in 60 days.

¹ 25 P.S. § 3146.1(a) to (h).

² 25 P.S. § 3146.3(d).

Historical and Statutory Notes

The 1990 amendment rewrote subsec. (a), which formerly read:

"The county boards of election upon receipt of an application filed by any elector qualified in accordance with the provisions of section 1301, subsections (a) to (h) inclusive, shall as soon as possi-

ble after the respective district ballots are printed and in no event later than the second Tuesday prior to the day of the primary or election commence to deliver or mail official absentee ballots to all such electors whose applications have been approved; as additional applica-

tions of such electors are received, the board shall deliver or mail official absentee ballots to such additional electors

within forty-eight hours after approval of their application."

Library References

Elections ¶54.
WESTLAW Topic No. 144.

C.J.S. Elections § 54 et seq.
P.L.E. Elections §§ 6, 82.

Notes of Decisions

Defective ballots 1
Premature mailing 2

1. Defective ballots

Where a student attending college at a distance received and voted a second ballot sent after she had received a defective ballot, the ballot will be counted although, by reason of an oversight, the defective ballot was not destroyed. In re Canvass of Absentee Ballots of General Election, 39 D. & C.2d 429, 1966.

This section, relating to absentee ballots, shall be enforced as requiring that

absentee ballots on voters eligible to vote only in presidential and vice-presidential elections be delivered or mailed in accord with provisions of this same statute for applications filed by qualified electors. 1972 Op.Atty.Gen. No. 148.

2. Premature mailing

The board properly dismissed a challenge to an absentee ballot dated after its postmark where from the circumstances the premature mailing occurred by mistake. In re City of Wilkes-Barre Election Appeals, 44 D. & C.2d 535, 1967.

§ 3146.5a. Notice to county board of elections

(a) At least fifty days prior to a primary, the Secretary of the Commonwealth shall transmit to the county board of elections a list of candidates who have filed a nominating petition with him and who are not known to have withdrawn or been disqualified, conforming, to the extent possible, with the requirements of section 916.¹

(b) At least seventy days prior to an election, the Secretary of the Commonwealth shall transmit to the county board of elections a list, as he knows it to exist at that time, of candidates to be voted on in the county at the election, as well as a copy of all constitutional amendments and other questions to be voted on at such election, together with a statement of the form in which they are to be placed on the ballot, conforming to the extent possible with the requirements of section 984.²

1937, June 3, P.L. 1333, No. 320, § 1305.1, added 1990, Dec. 17, P.L. 681, No. 169, § 8, effective in 60 days.

¹ 25 P.S. § 2876.

² 25 P.S. § 2944.

§ 3146.6. Voting by absentee electors

(a) At any time after receiving an official absentee ballot, but on or before five o'clock P.M. on the Friday prior to the primary or election, the elector shall, in secret, proceed to mark the ballot only in black lead pencil, indelible pencil or blue, black or blue-black ink,

in fountain pen or ball point pen, and then fold the ballot, enclose and securely seal the same in the envelope on which is printed, stamped or endorsed "Official Absentee Ballot." This envelope shall then be placed in the second one, on which is printed the form of declaration of the elector, and the address of the elector's county board of election and the local election district of the elector. The elector shall then fill out, date and sign the declaration printed on such envelope. Such envelope shall then be securely sealed and the elector shall send same by mail, postage prepaid, except where franked, or deliver it in person to said county board of election:

Provided, however, That any elector, spouse of the elector or dependent of the elector, qualified in accordance with the provisions of section 1301, subsections (e), (f), (g) and (h)¹ to vote by absentee ballot as herein provided, shall be required to include on the form of declaration a supporting declaration in form prescribed by the Secretary of the Commonwealth, to be signed by the head of the department or chief of division or bureau in which the elector is employed, setting forth the identity of the elector, spouse of the elector or dependent of the elector:

Provided further, That any elector who has filed his application in accordance with section 1302 subsection (e)(2),² and is unable to sign his declaration because of illness or physical disability, shall be excused from signing upon making a declaration which shall be witnessed by one adult person in substantially the following form: I hereby declare that I am unable to sign my declaration for voting my absentee ballot without assistance because I am unable to write by reason of my illness or physical disability. I have made or received assistance in making my mark in lieu of my signature.

.....
(Date)	(Mark)
.....
(Complete Address of Witness)	(Signature of Witness)

(b) In the event that any such elector, excepting an elector in military service or any elector unable to go to his polling place because of illness or physical disability, entitled to vote an official absentee ballot shall be in the county of his residence on the day for holding the primary or election for which the ballot was issued, or in the event any such elector shall have recovered from his illness or physical disability sufficiently to permit him to present himself at the proper polling place for the purpose of casting his ballot, such absentee ballot cast by such elector shall be declared void.

Any such elector referred to in this subsection, who is within the county of his residence must present himself at his polling place and,

ABSENTEE ELECTORS

25 P.S. § 3146.6

Note 1

shall be permitted to vote upon presenting himself at his regular polling place in the same manner as he could have voted had he not received an absentee ballot: Provided, That such elector has first presented himself to the judge of elections in his local election district and shall have signed the affidavit on the absentee voter's temporary registration card, which affidavit shall be in substantially the following form:

I hereby swear that I am a qualified registered elector who has obtained an absentee ballot, however, I am present in the county of my residence and physically able to present myself at my polling place and therefore request that my absentee ballot be voided.

..... (Date) (Signature of Elector)
.....
(Local Judge of Elections)

An elector who has received an absentee ballot under the emergency application provisions of section 1302.1,³ and for whom, therefore, no temporary absentee voter's registration card is in the district register, shall sign the aforementioned affidavit in any case, which the local judge of elections shall then cause to be inserted in the district register with the elector's permanent registration card.

1937, June 3, P.L. 1333, art. XIII, § 1306, added 1951, March 6, P.L. 3, § 11. Amended 1963, Aug. 13, P.L. 707, § 22, effective Jan. 1, 1964; 1968, Dec. 11, P.L. 1183, No. 375, § 8.

¹ 25 P.S. § 3146.1(e), (f), (g) and (h).

² 25 P.S. § 3146.2(e)(2).

³ 25 P.S. § 3146.2a.

Library References

Elections ⇄ 216.1.
WESTLAW Topic No. 144.

C.J.S. Elections § 210.
P.L.E. Elections § 87.

Notes of Decisions

In general 1
Declaration 3
Elector in county on election day 4
Marking ballot 2

1. In general

Fact that this section governing absentee ballots had been superseded by federal law with regard to federal contests did not alter its mandatory nature with regard to state contests. In re April 10, 1984 Election of East Whiteland Tp., Chester County, 483 A.2d 1033, 85 Pa. Cmwlth. 594, 1984.

There was no inconsistency between statute providing that no absentee ballot shall be counted which is received in the office of the county board of election later than five o'clock p.m. on the Friday immediately preceding the primary or November election and statute allowing an absentee voter to complete his ballot within the same time period as the ballot is to be received by the board in that the latter statute allows submission of the ballot to the board in person as well as by mail. In re April 10, 1984 Election of East Whiteland Tp., Chester County, 483 A.2d 1033, 85 Pa. Cmwlth. 594, 1984.

25 P.S. § 3146.6

Note 1

This section, relating to absentee voting, shall be enforced as requiring the counting of any absentee votes cast for president and vice-president if the absentee ballot is received before closing of polls on election day. 1972 Op.Atty.Gen. No. 148.

2. Marking ballot

In absence of showing that electors' use of red ink to mark their absentee ballots was an attempt to render ballots capable of identification, such ballots were valid. In re General Election November 6, 1971, 296 A.2d 782, 449 Pa. 386, 1972.

Unless there is a clear showing that the filling in of blocks, instead of use of an "x" or "checkmark," on absentee ballots was for purpose of making the ballots identifiable, ballots marked with filled in blocks are valid. In re General Election November 6, 1971, 296 A.2d 782, 449 Pa. 386, 1972.

A challenge sustained by the board will be reversed in the absence of fraud, where it was alleged that part of the ballot was marked in pencil this section does not require that absentee ballots be marked by the same writing instrument. Appeal of McLaughlin, 45 D. & C.2d 333, 1968.

3. Declaration

Denial of a challenge by the board will be affirmed where the challenge is based on the ground that the voter's declaration on the outer envelope enclosing his sealed ballot was signed by the voter's mark, thus indicating he had received illegal assistance in completing his ballot, where the evidence supported the board's finding that the voter was literate and capable of completing his own ballot and where there was no evidence of fraud. Appeal of McLaughlin, 45 D. & C.2d 333, 1968.

A challenge sustained by the board on the ground that the absentee ballot was placed directly into the declaration envelope and was not enclosed in the envelope marked "Official Absentee Ballot" as required by this section, will be affirmed. Appeal of McLaughlin, 45 D. & C.2d 333, 1968.

ELECTION CODE

The board properly dismissed a challenge to an absentee ballot because of a difference in the signatures on the application and the declaration where no testimony was offered as to the difference. In re City of Wilkes-Barre Election Appeals, 44 D. & C.2d 535, 1967.

The board properly rejected an absentee ballot where applicant failed to list his residence in the place provided for in the declaration, and instead listed the address of his polling place. In re City of Wilkes-Barre Election Appeals, 44 D. & C.2d 535, 1967.

The declaration on the envelope containing the ballot must be signed by the elector and merely signing the return address portion of the envelope is not sufficient. In re Canvass of Absentee Ballots of Primary Election, 34 D. & C.2d 419, 1965.

4. Elector in county on election day

The board properly rejected an absentee ballot on testimony that the voter had voted at the polls on election day. In re City of Wilkes-Barre Election Appeals, 44 D. & C.2d 535, 1967.

A voter who obtains an absentee ballot for reason he expects to be out of county on election day, but who is, in fact, in county on that day, but is unable to vote in person by reason of illness or disability, is entitled to have his absentee ballot counted, notwithstanding his presence in county. Appeal of Petrucci, 38 D. & C.2d 675, 56 Luz.L.Reg. 31, 1966.

Board properly rejected an absentee ballot on uncontradicted testimony that voter to whom it had been issued appeared at polling place on election day to vote in person. Appeal of Petrucci, 38 D. & C.2d 675, 56 Luz.L.Reg. 31, 1966.

The county board of elections properly refused to count an absentee ballot where elector appeared at polling place and attempted to vote in person, since an absentee ballot may not be counted if elector is within the county while the polls are open. Appeal of Fogleman, 36 D. & C.2d 426, 1966.

§ 3146.6a. Assistance in voting by certain absentee electors

Any elector qualified to vote an official absentee ballot in accordance with the provisions of section 1301, subsection (k),¹ may

declaration in such form approved by the Secretary of the Commonwealth, or substantially in the form as set forth below, as he has caused the elector's ballot to be marked in accordance with such elector's desires and instruction. Such declaration form shall be returned to the county board of elections in the mailing envelope addressed to the county board of elections within which the small "official absentee ballot" is returned.

Declaration of Person Rendering Assistance

I,, an adult person hereby

(Name of Person rendering assistance)

declare that I have witnessed the aforesaid elector's signature or mark and that I have caused the aforesaid elector's ballot to be marked in accordance with the desires and instructions of the aforesaid elector.

.....
(Signature of Person Rendering Assistance)

.....
(Address)

1937, June 3, P.L. 1333, art. XIII, § 1306.1, added 1963, Aug. 13, P.L. 707, § 23, effective Jan. 1, 1964.

¹ 25 P.S. § 3146.1.

Library References

Elections ⇨220.
WESTLAW Topic No. 144.
C.J.S. Elections § 208.

Notes of Decisions

In general 1
Failure to submit assistance card 2
Acknowledgment 3

1. In general

This section, relating to absentee voting, shall be enforced as requiring that designated assistance be available, when required, to all qualified absentee voters, including those voters qualified only for purposes of presidential and vice-presidential elections. 1972 Op.Atty.Gen. No. 148.

This section relating to absentee voting shall be enforced as allowing an elector qualified to vote only in presidential and vice-presidential elections under provisions of 1970 Voting Rights Act Amendments, 42 U.S.C.A. § 1973aa, to cast such

ballot in person at polling place as directed by special elections court of court of common pleas. 1972 Op.Atty.Gen. No. 148.

2. Failure to submit assistance card

Denial by the board of a challenge will be affirmed where based on the ground that the registrar's affidavit bore a notation that the voter needed assistance and therefore failure to include an assistance card violated § 3146.1 of this title where however the evidence indicated the voter's disability did not at all times prevent her from using her hands. Appeal of McLaughlin, 45 D. & C.2d 333, 1968.

Challenges to absentee ballots sustained by the board on the ground that the voters received assistance in marking their ballots but failed to submit an assistance card as required by this section,

will be affirmed. Appeal of McLaughlin, 45 D. & C.2d 333, 1968.

the assistance card which was returned with his ballot acknowledged before a qualified person, will be reversed, since an assistance card need not be acknowledged. Appeal of McLaughlin, 45 D. & C.2d 333, 1968.

3. Acknowledgment

A challenge sustained by the board on the ground that the voter failed to have

§ 3146.7. Certain electors voting in districts of residence

(a) Whenever any qualified elector in actual military service is present in his voting district of residence on any primary, special, municipal or general election day and has not already voted in such election, he may apply in person at the office of the county board of election of the county of his residence and he shall then and there execute his application for an official absentee ballot.

(b) Each such application shall be in the form and shall contain the information required by this act together with a statement by the applicant that he has not already voted in the election.

The county board of elections shall ascertain from the information on such application or from any other source that such applicant possesses all the qualifications of a qualified elector other than being registered or enrolled. If the board is satisfied that the applicant is qualified to receive an official absentee ballot, the application shall be marked "Approved," subject to the limitations set out in section 1302.2 of this act.¹ When so approved, the county board of elections shall cause the applicant's name and residence (and at primaries, the party enrollment) to be inserted in the "Military, Veterans and Emergency Civilian Absentee Voters File" as provided in section 1302.3 subsection (b).²

(c) Upon receiving an official absentee ballot and envelopes therefor, he shall, in secret, in the office of the county board of elections vote the ballot and execute the declaration as prescribed by this act. The elector shall then securely seal the second envelope and hand it to the chief clerk of the county board of election who shall securely keep same in accordance with the provisions of section 1308.³

1937, June 3, P.L. 1333, art. XIII, § 1307, added 1951, March 6, P.L. 3, § 11. Amended 1963, Aug. 13, P.L. 707, § 24, effective Jan. 1, 1964; 1968, Dec. 11, P.L. 1183, No. 375, § 8.

¹ 25 P.S. § 3146.2b.

² 25 P.S. § 3146.2c.

³ 25 P.S. § 3146.8.

Library References

Elections ⇐ 216.1.
WESTLAW Topic No. 144.

C.J.S. Elections § 210.
P.L.E. Elections § 87.

Notes of Decisions

Presumptions and burden of proof 1
Supplementary military file 2

boroughs of land of contiguous township. In re Borough of Castle Shannon, Allegheny County, 51 A.2d 526, 160 Pa.Super. 475, 1947.

1. Presumptions and burden of proof

A resident who had never registered as a voter in township was presumptively not an eligible voter, and burden of overcoming the presumption rested on anyone claiming to the contrary but proof that placing of such person's name on military ballot list or presence at an election in his district on any election day during term of military service would not render such person a "qualified elector" within § 19092-312.2 of Title 53. Municipal and Quasi-Municipal Corporations, repealed, providing for the annexation by

2. Supplementary military file

The County Board of Elections should establish a supplementary military file, and upon application of electors formerly in military service, enter their name, residence and local voting district thereon so that their name on said list would entitle them to vote at the general election. In re Registration of Lately Discharged Veterans from Armed Forces of U.S., 54 D. & C. 637, 8 Fay.L.J. 177, 7 Monroe L.R. 56, 1946.

§ 3146.8. Canvassing of official absentee ballots

(a) The county boards of election, upon receipt of official absentee ballots in such envelopes, shall safely keep the same in sealed or locked containers until they distribute same to the appropriate local election districts in a manner prescribed by the Secretary of the Commonwealth.

The county board of elections shall then distribute the absentee ballots, unopened, to the absentee voter's respective election district concurrently with the distribution of the other election supplies. Absentee ballots shall be canvassed immediately and continuously without interruption until completed after the close of the polls on the day of the election in each election district. The results of the canvass of the absentee ballots shall then be included in and returned to the county board with the returns of that district. No absentee ballot shall be counted which is received in the office of the county board of election later than five o'clock P.M. on the Friday immediately preceding the primary or November election.

(b) Watchers shall be permitted to be present when the envelopes containing official absentee ballots are opened and when such ballots are counted and recorded.

(b.1)(1) In the event that an electronic voting system provides for central tabulations of ballots, such absentee ballots shall be opened and deposited in the ballot box without being counted except as to the number of absentee ballots cast. The absentee ballots shall be counted along with the other ballots from the election district at the location and in the manner specified by the county board of elections and provided for by the electronic voting system utilized.

(2) In the event that an electronic voting system provides for tabulation of votes at the election district, such absentee ballots shall be opened, checked for write-in votes in accordance with section 1113-a¹ and then either hand-counted or counted by means of the automatic tabulation equipment, whatever the case may be.

(c) Deleted by amendment. 1968, Dec. 11, P.L. 1183, No. 375, § 8.

(d) Whenever it shall appear by due proof that any absentee elector who has returned his ballot in accordance with the provisions of this act has died prior to the opening of the polls on the day of the primary or election, the ballot of such deceased elector shall be rejected by the canvassers but the counting of the ballot of an elector thus deceased shall not of itself invalidate any nomination or election.

(e) At such time the local election board shall then further examine the declaration on each envelope not so set aside and shall compare the information thereon with that contained in the "Registered Absentee Voters File," the absentee voters' list and the "Military Veterans and Emergency Civilians Absentee Voters File." If the local election board is satisfied that the declaration is sufficient and the information contained in the "Registered Absentee Voters File," the absentee voters' list and the "Military Veterans and Emergency Civilians Absentee Voters File" verifies his right to vote, the local election board shall announce the name of the elector and shall give any watcher present an opportunity to challenge any absentee elector upon the ground or grounds (1) that the absentee elector is not a qualified elector; or (2) that the absentee elector was within the county of his residence on the day of the primary or election during the period the polls were open, except where he was in military service or except in the case where his ballot was obtained for the reason that he was unable to appear personally at the polling place because of illness or physical disability; or (3) that the absentee elector was able to appear personally at the polling place on the day of the primary or election during the period the polls were open in the case his ballot was obtained for the reason that he was unable to appear personally at the polling place because of illness or physical disability. Upon challenge of any absentee elector, as set forth herein the local election board shall mark "challenged" on the envelope together with the reason or reasons therefor, and the same shall be set aside for return to the county board unopened pending decision by the county board and shall not be counted. All absentee ballots not challenged for any of the reasons provided herein shall be counted and included with the general return of paper ballots or voting machines, as the case may be as follows. Thereupon, the local

election board shall open the envelope of every unchallenged absentee elector in such manner as not to destroy the declaration executed thereon. All of such envelopes on which are printed, stamped or endorsed the words "Official Absentee Ballot" shall be placed in one or more depositories at one time and said depository or depositories well shaken and the envelopes mixed before any envelope is taken therefrom. If any of these envelopes shall contain any extraneous marks or identifying symbols other than the words "Official Absentee Ballot," the envelopes and the ballots contained therein shall be set aside and declared void. The local election board shall then break the seals of such envelopes, remove the ballots and record the votes in the same manner as district election officers are required to record votes. With respect to the challenged ballots, they shall be returned to the county board with the returns of the local election district where they shall be placed unopened in a secure, safe and sealed container in the custody of the county board until it shall fix a time and place for a formal hearing of all such challenges and notice shall be given where possible to all absentee electors thus challenged and to every attorney, watcher or candidate who made such challenge. The time for the hearing shall not be later than seven (7) days after the date of said challenge. On the day fixed for said hearing, the county board shall proceed without delay to hear said challenges and, in hearing the testimony, the county board shall not be bound by technical rules of evidence. The testimony presented shall be stenographically recorded and made part of the record of the hearing. The decision of the county board in upholding or dismissing any challenge may be reviewed by the court of common pleas of the county upon a petition filed by any person aggrieved by the decision of the county board. Such appeal shall be taken, within two (2) days after such decision shall have been made, whether reduced to writing or not, to the court of common pleas setting forth the objections to the county board's decision and praying for an order reversing same. Pending the final determination of all appeals, the county board shall suspend any action in canvassing and computing all challenged ballots irrespective of whether or not appeal was taken from the county board's decision. Upon completion of the computation of the returns of the county, the votes cast upon the challenged official absentee ballots shall be added to the other votes cast within the county.

(f) Any person challenging an application for an absentee ballot or an absentee ballot for any of the reasons provided in this act shall deposit the sum of ten dollars (\$10.00) in cash with the local election board, in cases of challenges made to the local election board and with the county board in cases of challenges made to the county board for which he shall be issued a receipt for each challenge made,

which sum shall only be refunded if the challenge is sustained or if the challenge is withdrawn within five (5) days after the primary or election. If the challenge is dismissed by any lawful order then the deposit shall be forfeited. All deposit money received by the local election board shall be turned over to the county board simultaneously with the return of the challenged ballots. The county board shall deposit all deposit money in the General Fund of the county.

Notice of the requirements of subsection (b) of section 1306² shall be printed on the envelope for the absentee ballot.

1937, June 3, P.L. 1333, art. XIII, § 1308, added 1951, March 6, P.L. 3, § 11. Amended 1963, Aug. 13, P.L. 707, § 24, effective Jan. 1, 1964; 1968, Dec. 11, P.L. 1183, No. 375, § 8; 1980, July 11, P.L. 600, No. 128, § 6, imd. effective.

¹ 25 P.S. § 3031.13.

² 25 P.S. § 3146.6.

Historical and Statutory Notes

The 1980 amendment added subsec. (b.1).

Library References

Elections ⇄257.
WESTLAW Topic No. 144.

C.J.S. Elections § 235.
P.L.E. Elections §§ 87, 101, 102.

Notes of Decisions

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lot in order to challenge ballots. Kauffman v. Osser, 271 A.2d 236, 441 Pa. 150, 1970.

This section providing for the canvassing of all absentee ballots received in any particular county by the county board of elections is not in contravention of provision of Const. Art. 7, § 14, authorizing Legislature to provide for the return and canvass of absentee ballots in election district in which respective voters reside, and it is not necessary that absentee ballots be canvassed in each election district of county by the respective district election boards. In re Canvass of Absentee Ballots of 1967 General Election, 245 A.2d 258, 431 Pa. 165, 1968.

1. Validity

Electors, asserting that casting of certain absentee ballots would dilute their votes, possessed interest which was neither peculiar to them nor direct and which was too remote and too speculative to afford them, either in their individual capacities or in their claimed class representative capacity, standing to attack on constitutional grounds the validity of statutes permitting persons on vacations to cast absentee ballots and requiring a \$10 deposit for each challenged absentee bal-

2. In general

There was no inconsistency between statute providing that no absentee ballot shall be counted which is received in the office of the county board of election later than five o'clock p.m. on the Friday immediately preceding the primary or November election and statute allowing an absentee voter to complete his ballot

Note 2

within the same time period as the ballot is to be received by the board in that the latter statute allows submission of the ballot to the board in person as well as by mail. In re April 10, 1984 Election of East Whiteland Tp., Chester County, 483 A.2d 1033, 85 Pa.Cmwlt. 594, 1984.

1963 amendment to this section requiring election board to suspend action in canvassing and computing all challenged ballots pending final determination of all appeals and referring to challenged ballots and describing action of board in an election contest case as a canvass was enacted to provide improved methods in board's process of canvassing and computing absentee ballots and to prevent mixing of good ballots with possibly invalid ones. In re General Election Nov. 3, 1964, 224 A.2d 197, 423 Pa. 504, 1966.

In enacting 1963 Election Code amendments, the Legislature presumably was familiar with earlier decisions of Supreme Court regarding scope of review after extensive two-stage election controversy and Supreme Court's application of rule of narrow certiorari in proceeding involving validity of absentee ballots under the 1960 amendments. In re General Election Nov. 3, 1964, 224 A.2d 197, 423 Pa. 504, 1966.

A registration commission should check the information contained on the ballot with that contained in the "military file" at the time of computing the vote. In re Northampton Borough Election, 79 D. & C. 481, 1953.

The canvass of absentee ballots is a procedural directive and not a substantive interdict and is, therefore, directory and not mandatory. In re Canvass of Absentee Ballots of 1967 General Election, 69 Lack.Jur. 1, 1967, affirmed 245 A.2d 258, 431 Pa. 165.

The method of canvass of absentee ballots adopted by the legislature is a reasonable effort to carry out the basic intent of the constitution. In re Canvass of Absentee Ballots of 1967 General Election, 69 Lack.Jur. 1, 1967, affirmed 245 A.2d 258, 431 Pa. 165.

This section relating to absentee voting, shall not be enforced to deprive any individual of rights guaranteed by Voting Rights Act Amendments of 1970, 42 U.S.C.A. § 1973aa et seq. 1972 Op.Atty. Gen. No. 148.

3. Board of elections

This section providing for the canvassing of all absentee ballots received in any particular county by the county board of elections is not in contravention of provision of Const. Art. 7, § 14, authorizing Legislature to provide for the return and canvass of absentee ballots in election district in which respective voters reside, and it is not necessary that absentee ballots be canvassed in each election district of county by the respective district election boards. In re Canvass of Absentee Ballots of 1967 General Election, 245 A.2d 258, 431 Pa. 165, 1968.

4. Deadline for receipt of ballot

County board of election was correct in refusing to count an absentee ballot which was received by the board after the statutorily prescribed Friday deadline but before the primary election for the position of Republican female committee member. In re April 10, 1984 Election of East Whiteland Tp., Chester County, 483 A.2d 1033, 85 Pa.Cmwlt. 594, 1984.

"Shall" in this section providing no absentee ballot "shall" be counted which is received in the office of the county board of election later than five o'clock p.m. on the Friday immediately preceding the primary or November election was intended to be mandatory in nature rather than directory. In re April 10, 1984 Election of East Whiteland Tp., Chester County, 483 A.2d 1033, 85 Pa.Cmwlt. 594, 1984.

5. Challenges—In general

Challenge made as to an absentee ballot on ground enumerated in this section and substantially in language thereof was sufficient to require hearing be held in conformity with Code. In re Primary Election, April 28, 1964, 200 A.2d 882, 414 Pa. 449, 1964.

Challenge to an absentee ballot need not be supported, at time of challenge or prior to hearing, by an affidavit or memorandum. In re Primary Election, April 28, 1964, 200 A.2d 882, 414 Pa. 449, 1964.

Absentee ballots that were properly completed by eligible voters will not be invalidated as a result of a technical violation of the canvassing procedure under 25 P.S. § 3146.8. In re Recanvassing of the First Election Dist. of Jefferson Tp., 12 D. & C.4th 536, 1991.

Pursuant to this section challenges to absentee ballots must be made to the county and local election boards and not by means of an election contest. Election of Tax Collector of W. Bethlehem Tp., 41 D. & C.2d 37, 1986.

Where the county board of elections, for the purpose of expediting the handling of absentee ballots, approved an agreement for modification of certain procedures so that at the time of canvass there would be less confusion, the court, while not condoning the agreement to short-cut canvassing procedures, will not sustain a challenge to all such absentee ballots. In re Canvass of Absentee Ballots of General Election, 39 D. & C.2d 429, 1966.

The power to throw out a ballot or an entire group of ballots must be exercised very sparingly with the idea in mind, that neither an individual voter nor a group of voters is to be disfranchised at an election except for compelling reasons. In re Canvass of Absentee Ballots of 1967 General Election, 69 Lack.Jur. 1, 1967, affirmed 245 A.2d 258, 431 Pa. 165.

6. — Limitations and laches, challenges

Challenges to absentee ballots as improperly issued were too late when made nearly a month after the election. In re Silver Spring Tp. Supervisor Election, 72 D. & C.2d 396, 26 Cumb. 16, 1975.

7. — Standing, challenges

The question of eligibility to challenge an absentee ballot before county board of elections does not raise an issue of jurisdiction of board requiring affirmative proof, but, rather, is a matter of standing, requiring an objection to be put in issue, and to raise such matter on appeal to court of common pleas, it must first be raised before board. In re Zimmerman, 400 A.2d 895, 41 Pa.Cmwlt. 575, 1979.

8. — Burden of proof, challenges

In proceedings under the election Code to challenge the validity of absentee ballots, 1) the burden of proof is upon the challenger to establish the truth of his averment in support of his challenge by the fair preponderance of the credible evidence before the Board of Elections, 2) absent such proof, the ballot will be sustained. Appeal of Petrucci, 38 D. & C.2d 675, 56 Luz.L.Reg. 31, 1966.

A voter's absentee ballot may be successfully challenged before the Election Board if satisfactory proof is adduced that the voter was in the county on the election day in question. Appeal of Petrucci, 38 D. & C.2d 675, 56 Luz.L.Reg. 31, 1966.

In proceedings before board challenging validity of absentee ballots, burden is on challenger to establish truth of his averments by fair preponderance of credible evidence. Appeal of Petrucci, 38 D. & C.2d 675, 56 Luz.L.Reg. 31, 1966.

9. — Evidence, challenges

The action of the county board of elections in accepting evidence from an investigator that he had telephoned an absentee elector who had informed him that because of a change in employment plans, the elector was actually in the city on election day will be upheld. In re Canvass of Absentee Ballots of Primary Election, 34 D. & C.2d 419, 1965.

10. — Findings, challenges

Absentee ballots of electors who were present in county on date of primary were properly excluded by board of elections of county, even though judge of elections failed to write word "challenged" on face of ballot envelopes, and reasons for rejection were listed on envelopes, even if the electors filed ballots because they anticipated being out of town, and even if there was no danger of electors attempting to vote twice because they would have been subject to criminal sanctions. Appeal of Marcinek, 598 A.2d 323, 142 Pa.Cmwlt. 600, 1991, affirmed 598 A.2d 280, 528 Pa. 402.

While this section requires absentee ballots to be counted at each polling place after the close of the polls, a contest based upon the fact that the election officials at a particular polling place chose to count them in the afternoon, where all of the watchers were present, including the contesting candidate's wife, who made no objection, and all of the ballots for the particular office in question were cast for a single candidate was dismissed since it was a harmless error under the circumstances. In re Silver Spring Tp. Supervisor Election, 72 D. & C.2d 396, 26 Cumb. 16, 1975.

Where absentee voter failed to sign his name to the declaration on the back of ballot envelope, challenge would be sus-

Note 10

tained. In re Canvass of Absentee Ballots of General Election, 39 D. & C.2d 429, 1966.

Challenge to an absentee ballot on ground that voter did not sign it will not be sustained, in absence of any testimony before board that signature was not that of voter. Appeal of Petrucci, 38 D. & C.2d 675, 56 Luz.L.Reg. 31, 1966.

Where absentee elector's declaration had no written signature, although she signed the application for a ballot, county board of elections properly rejected her ballot, and likewise properly rejected ballot of an absentee voter whose name was printed in the declaration in line reserved for her mark. Appeal of Fogleman, 36 D. & C.2d 426, 1966.

Rejecting an absentee ballot applied for on account of illness or physical disability, was sustained where applicant failed to disclose the nature of his illness and to name the physician. Appeal of Fogleman, 36 D. & C.2d 426, 1966.

Where a father orally requested that a military ballot be sent his son, and a ballot was sent for the ward in which the father lived, rather than that of the son's residence, although son was properly registered and correctly stated his residence on the ballot, the ballot could not be counted in the election in the father's ward. In re Northampton Borough Election, 79 D. & C. 481, 1953.

An objection to counting absentee ballots upon ground that certain persons in military service had improperly applied for, and had been issued, civilian absentee ballots, was dismissed where there was no proof that the applicants were in actual military service. *Perles v. County Return Bd. of Northumberland County*, 36 Northumb.L.J. 46, 1964, affirmed 202 A.2d 538, 415 Pa. 154.

An objection to counting absentee ballots on ground that applicants for ballots indicated on application form that they needed assistance in voting was dismissed where there was no proof that such assistance was offered or received, and each application also contained the declaration of the voter properly executed that he and he alone secretly marked the ballot. *Perles v. County Return Bd. of Northumberland County*, 36 Northumb.L.J. 46, 1964, affirmed 202 A.2d 538, 415 Pa. 154.

An objection to counting absentee ballots applied for because applicants expect to be absent from county on day of election because of duties, occupation or business, as provided for by § 3149.3 of this title, on ground that applicants did not comply with Election Code in making their applications, was dismissed in absence of sufficient evidence that those ballots were not properly applied for. *Perles v. County Return Bd. of Northumberland County*, 36 Northumb.L.J. 46, 1964, affirmed 202 A.2d 538, 415 Pa. 154.

11. — Review, challenges

The scope of review of Supreme Court on appeal from court of common pleas' decision partly sustaining and partly reversing decision of board of elections with relation to challenges of absentee ballots was in the nature of narrow certiorari and was limited to whether common pleas court had jurisdiction, whether its proceedings were regular, whether it exceeded its powers, and whether there was violation of constitutional rights. In re General Election, Nov. 3, 1964, 224 A.2d 197, 423 Pa. 504, 1966.

Absent claim that court of common pleas lacked jurisdiction, conducted irregular proceedings, exceeded its powers, or violated constitutional rights, § 3157 of this title, prohibiting appeal from any order or decree of that court by persons aggrieved from order or decision of county board regarding computation or canvassing of election returns necessitated affirmance of that court's orders partly sustaining and partly reversing board's decision sustaining some challenges to absentee ballots and overruling others. In re General Election, Nov. 3, 1964, 224 A.2d 197, 423 Pa. 504, 1966.

Appeal of nominee for school director from refusal of county board of election to reject the military ballots cast in municipal election was properly dismissed. Appeal of Swallow, 46 A.2d 247, 353 Pa. 522, 1946.

The court may not substitute its judgment as to the credibility of the witnesses for that of the Board of Elections before whom the witnesses appeared and testified, and 4) the court, in reviewing the rulings of the Board, may reverse the Board of Elections only for a mistake of law or for a clear abuse of discretion, including a capricious disregard of the

ABSENTEE VOTING

25 P.S. §§ 3149.1 to 3149.8
Repealed

testimony. Appeal of Petrucci, 38 D. & C.2d 675, 56 Luz.L.Reg. 31, 1966.

Where board overruled challenges to absentee ballots on ground that challenger's testimony was not credible, board's decision will be upheld. Appeal of Petrucci, 38 D. & C.2d 675, 56 Luz.L.Reg. 31, 1966.

In proceedings before board challenging validity of absentee ballots, court in

reviewing rulings of board may reverse only for a mistake of law or for clear abuse of discretion. Appeal of Petrucci, 38 D. & C.2d 675, 56 Luz.L.Reg. 31, 1966.

In appealing the decision of the County Board of Elections in an absentee ballot contest, proper practice is to pay a single fee for each appeal petition. *Leader v. Bergdoll*, 44 D. & C. 18, 81 York 168, 1967.

§ 3146.9. Public records

All official absentee ballots, files, applications for such ballots and envelopes on which the executed declarations appear, and all information and lists are hereby designated and declared to be public records and shall be safely kept for a period of two years, except that no information concerning a military elector shall be made public which is expressly forbidden by the War Department because of military security.

1937, June 3, P.L. 1333, art. XIII, § 1309, added 1951, March 6, P.L. 3, § 11. Amended 1963, Aug. 13, P.L. 707, § 24, effective Jan. 1, 1964.

Library References

Records ⇐ 13.
WESTLAW Topic No. 326.

C.J.S. Records §§ 34, 40.
P.L.E. Records § 5.

ARTICLE XIII-A. VOTING BY BEDRIDDEN OR HOSPITALIZED VETERANS [REPEALED]

§§ 3148.1 to 3148.8. Repealed. 1963, Aug. 13, P.L. 707, § 26, effective Jan. 1, 1964

Historical and Statutory Notes

Former §§ 3148.1 to 3148.8, which derived from Act 1937, June 3, P.L. 1333, art. XIII-A, §§ 1301-A to 1306-A, and 1308-A, 1309-A, and were added by Act 1951, March 6, P.L. 3, § 11, related to voting by bedridden or hospitalized veterans.

Prior to repeal, § 3148.1 was amended by Act 1956, Feb. 23, P.L.(1955) 1091, § 1; Act 1957, July 8, P.L. 568, No. 316, § 1.

The subject matter is now covered by §§ 3146.1 to 3146.9 of this title.

ARTICLE XIII-B. ABSENTEE VOTING [REPEALED]

§§ 3149.1 to 3149.8. Repealed. 1963, Aug. 13, P.L. 707, § 26, effective Jan. 1, 1964

Historical and Statutory Notes

Former §§ 3149.1 to 3149.8, which derived from Act 1937, June 3, P.L. 1333,

art. XIII-B, §§ 1301-B to 1308-B, and were added by Act 1960, Jan. 8,

Repealed

P.L.(1959) 2135, § 2, related to absentee voting.

The subject matter is now covered by §§ 3146.1 to 3146.9 of this title.

ARTICLE XIV. RETURNS OF PRIMARIES AND ELECTIONS

Cross References

Compilation and publication of election returns by the Department of State, see 71 P.S. § 273.

§ 3151. Offices of county boards to remain open during primaries and elections and until completion of count; reports and returns to be made public

Each county board of elections shall cause its office to remain open, in charge of one or more members of the board, during the entire duration of each primary and election, and after the close of the polls, until all the ballot boxes and returns have been received in the office of the county elections board, or received in such other place as has been designated by the board.

1937, June 3, P.L. 1333, art. XIV, § 1401.

Library References

Elections ⇨247.

WESTLAW Topic No. 144.

C.J.S. Elections § 229.

P.L.E. Elections § 102.

§ 3152. Returns to be open to public inspection; exceptions

The general returns from the various districts which have been returned unsealed shall be open to public inspection at the office of the county board as soon as they are received from the judges of election. None of the envelopes sealed by election officers and entrusted to the judge of election for delivery to the county board shall be opened by any person, except by the order of the return board, or of the court of common pleas.

1937, June 3, P.L. 1333, art. XIV, § 1402.

Library References

Elections ⇨251.

WESTLAW Topic No. 144.

C.J.S. Elections § 232.

P.L.E. Elections § 102.

§ 3153. Place of meeting for computation of votes; notice; papers to be prepared; assistants to be sworn

(a) The county board of elections shall arrange for the computation and canvassing of the returns of votes cast at each primary and election at its office or at some other convenient public place at the

county seat with adequate accommodations for the watchers and attorneys authorized by this act to be present, who shall be permitted to keep or check their own computation of the votes cast in the several election districts as the returns from the same are read, as hereinafter directed. The county board shall give at least one week's previous notice by newspaper publication, as provided by section 106 of this act,¹ of the time and place when and where the board will commence and hold its sessions for the computation and canvassing of the returns, and keep copies of such advertisement posted in its office during said period. The county board shall also prepare a sufficient number of blank forms of returns made out in proper manner, and headed as the nature of the primary or election may require, for making out full and fair statements of all votes which shall have been cast within the county or any political district therein, according to the returns from the several election districts thereof, for any person voted for therein, or upon any question voted upon therein. All the clerks of the county board and other persons designated to assist in the computation and canvassing of the votes shall be first sworn to perform their duties impartially and not read, write, count or certify any return or vote falsely or fraudulently.

(b) If any member of the county board of any county shall be a candidate for any nomination or election to public office, he shall not act as a member of said board for the computation and canvassing of returns, but the other members, if qualified, and if both such remaining members are not of the same political party affiliation, shall act; and in case in any county there are not at least a majority of the members of said board so qualified, two (2) or more judges of the court of common pleas shall be designated by said court to act as a return board provided that neither of them is a candidate for any nomination or election to public office; and if there shall be only one judge of such court in such county or if less than two (2) judges are qualified and able to act in such county, any judge who is qualified may act alone, and if there be none qualified, the following county officers, in order named, not being candidates for any nomination or election to any public office, shall act as the return board: the prothonotary, sheriff, county treasurer, clerk of the orphans' court, clerk of oyer and terminer and quarter sessions court, register of wills and the recorder of deeds. If none of the above officers can qualify, the president judge of the court of common pleas in such county shall make a written request to the Chief Justice of the Supreme Court for the assignment of a judge from another judicial district, who shall act as the return board. The county solicitor shall serve as counsel for the return board in the several counties of the

Commonwealth and shall receive no additional compensation therefor in addition to his compensation as county solicitor.

1937, June 3, P.L. 1333, art. XIV, § 1403. Amended 1952, Jan. 14, P.L. (1951) 1936, § 1; 1953, July 28, P.L. 686, § 1; 1959, Nov. 30, P.L. 1614, § 1.

¹ 25 P.S. § 2606.

Repealed in Part

Subsection (b) is repealed by § 11 of Act 1976, Dec. 2, P.L. 1221, No. 269, effective immediately, to the extent that it is inconsistent with the provisions of that Act.

Library References

Elections ☞ 258, 259.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 236, 237.
P.L.E. Elections §§ 101, 102.

Notes of Decisions

Computation meeting 1 Designation of board of elections 2

1. Computation meeting

Failure of candidate to attend computation board's meeting did not show laches in discovering mistake. In re Twenty-Sixth Election Dist., Second Ward, Borough of Lehigh, 41 A.2d 657, 351 Pa. 544, 1945.

2. Designation of board of elections

Where two county commissioners, who by § 2641 of this title were specifically designated to serve as members of county board of elections, were candidates for nomination in coming primary election, court of common pleas, though it had limited power under this section to ap-

point two members of court to serve as return board to compute and canvass returns of elections, exceeded its authority in designating three members of court to act as county board of elections. In re Primary Election, 1963, Delaware County, 191 A.2d 96, 411 Pa. 154, 1963.

Where all three members of the existing board of county commissioners are candidates at a primary election to succeed themselves and the only additional law judge of the county is likewise a candidate for nomination to that office, the president judge of the county, not a candidate in the election, is constituted as acting return board and acting county board of elections. Petition of Harer, 49 D. & C. 344, 1944.

§ 3154. Computation of returns by county board; certification; issuance of certificates of election

Computation in general

(a) The county board shall, at nine o'clock A.M. on the third day following the primary or election, at its office or at some other convenient public place at the county seat, of which due notice shall have been given as provided by section 1403,¹ publicly commence the computation and canvassing of the returns, and continue the same from day to day until completed, in the manner hereinafter provided. For this purpose any county board may organize itself into sections, each of which may simultaneously proceed with the computation and

canvassing of the returns from various districts of the county in the manner provided by this section. Upon the completion of such computation and canvassing, the board shall tabulate the figures for the entire county and sign, announce and attest the same, as required by this section.

Registration lists

(b) It shall be the duty of each board of registration commissioners in each county, before the time fixed for the county board to convene for purpose of computing and canvassing returns of any primary or election, to certify to said county board the total registration of each election district within its jurisdiction, and the enrollment of each district by political parties at primaries. The county board, before computing the votes cast in any election district, shall compare said registration and enrollment figures with the certificates returned by the election officers showing the number of persons who voted in each district or the number of ballots cast. If, upon consideration by said return board of the returns before it from any election district and the certificates aforesaid, it shall appear that the total vote returned for any candidate or candidates for the same office or nomination or on any question exceeds the number of registered or enrolled electors in said election district or exceeds the total number of persons who voted in said election district or the total number of ballots cast therein, or, if it shall appear that the total number of partisan votes returned for any candidate or candidates for the same office or nomination at any primary exceeds the number of electors registered or enrolled in said district as members of that political party, or exceeds the total number of persons belonging to that party who voted in said district or the total number of ballots of that party cast therein, in any such case, such excess shall be deemed a discrepancy and palpable error, and shall be investigated by the return board, and no votes shall be recorded from such district until such investigation shall be had, and such excess shall authorize—(a) the summoning of the election officers, overseers, machine inspectors, and clerks to appear forthwith with any election papers in their possession; (b) the production of the ballot box before the return board, and the examination and scrutiny of all of its contents, and all of the registration and election documents whatever, relating to said district, in the presence of representatives of each party and candidate interested who are attending the canvass of such votes; and the recount of the ballots contained in said ballot box, either generally or respecting the particular office, nomination, or question as to which the excess exists, in the discretion of the return board; (c²) the correction of the returns in accordance with the result of said recount; (d) in the discretion of the return board, the exclusion of the

poll of that district, either as to all offices, candidates, questions, and parties, or as to any particular offices, candidates, questions, or parties as to which said excess exists, if the ballot box be found to contain more ballots than there are electors registered or enrolled in said election district, or more ballots of one party than there are electors registered or enrolled in said district as members of that party, or more ballots than the number of voters who voted at said election, or more ballots of one party than the number of voters of that party who voted at said election; (e) a report of the facts of the case to the district attorney where such action appears to be warranted.

Accounting for ballots

(c) The county board shall first publicly account for all extra official ballots printed under the provisions of section 1007 of this act.³ The general returns made by the election officers from the various election districts shall then be read one after another in the usual order, slowly and audibly, by one of the clerks who shall, in each case of a return from a district in which ballots were used, read therefrom the number of ballots (in the case of primaries the number of ballots of each party) issued, spoiled and cancelled, and cast, respectively, whereupon the clerk having charge of the records of the county board showing the number of ballots furnished for each election district, including the number of extra official ballots as provided by section 1007 of this act as so furnished, and the number of stubs and unused ballots and spoiled and cancelled ballots returned, shall publicly announce the number of the same respectively, and unless it appears by said number or calculations therefrom that said records, and the said general return correspond, no further returns shall be read from the latter until all discrepancies are explained to the satisfaction of the county board. In the case of districts in which voting machines are used, there shall be read from the general return the identifying number or other designation of each voting machine used, the numbers registered on the protective counter or device on each machine prior to the opening of the polls and immediately after the close of the same, whereupon the clerk having charge of the records of the county board showing the number registered on the protective counter or device of each voting machine prior to delivery at the polling place, shall publicly announce the numbers so registered, and unless it appears that the said records, and the said general return correspond, no further returns shall be read from the latter until any and all discrepancies are explained to the satisfaction of the county board.

Reading of votes; discrepancies

(d)(1) In districts in which paper ballots have been used, when the records agree with said returns regarding the number of ballots and the number of votes recorded for each candidate (on each party ticket at primaries), said votes for each candidate shall be read by the clerk slowly, audibly, and in an orderly manner from the general return which has been returned unsealed, and the figures announced shall be compared by other clerks with the general return which has been returned sealed. The figures announced for all districts shall be compared by one of the clerks with the tally papers from the respective districts. If any discrepancies are discovered, the county board shall thereupon examine all of the return sheets, tally papers and other papers in its possession relating to the same election district. If the tally papers and sealed general return sheet agree, the unsealed general return shall be forthwith corrected to conform thereto. But in every other case the county board shall forthwith cause the ballot box of the district to be opened and the vote therein to be recounted in the presence of attorneys, watchers, and candidates interested, and if the recount shall not be sufficient to correct the error, the county board may summon the election officers and overseers, if any, to appear forthwith with all election papers in their possession.

(2) In districts in which voting machines have been used, when the records agree with the returns regarding the number registered on the voting machine, the votes recorded for each candidate shall be read by the clerk slowly, audibly, and in an orderly manner from the general return sheet which has been returned unsealed, and the figures announced shall be compared by other clerks with the duplicate return sheet which has been returned sealed, and if the voting machine is of the type equipped with mechanism for printing paper proof sheets, said general and duplicate return sheets shall also be compared with said proof sheets, which have been returned as aforesaid. If any discrepancies are discovered, the county board shall thereupon examine all of the return sheets, proof sheets and other papers in its possession relating to the same election district. The said proof sheets shall be deemed to be the primary evidence of the result of the election and to be prima facie accurate, and if the proper proof sheets properly identified, shall be mutually consistent, and if the general and duplicate returns, or either of them, from said district shall not correspond with said proof sheets, they shall be corrected so as to correspond with same, in the absence of allegation of specific fraud or error, proved to the satisfaction of the county board.

(3) If any error or fraud is discovered, the county board shall compute and certify the votes justly regardless of any fraudulent or erroneous returns presented to it, and shall report the facts to the district attorney of the proper county for action.

(4) In districts where electronically tabulated ballots are used in conjunction with central ballot tabulation, the return board shall compare the number of persons voting as indicated on the computer return sheets, with the number voting as indicated on the sealed general return from the election district. In the case of a discrepancy, the procedures specified for paper ballots in subsection (d)(1) shall be followed.

(5) In districts where ballots are tabulated at the election district, the procedures specified for paper ballots in subsection (d)(1) shall be followed.

Provision for recanvass of vote

(e)(1) Whenever it shall appear that there is a discrepancy in the returns of any election district, or, upon petition of three voters of any district, verified by affidavit, that an error, although not apparent on the face of the returns, has been committed therein, or of its own motion, the county board shall at any time prior to the completion of the computation of all of the returns for the county, summon the election officers of the district, and said officers, in the presence of said board, shall make a record of the number of the seal upon the voting machine, and the number on the protective counter or other device; shall make visible the registering counters of such machine, and, without unlocking the machine against voting, shall recanvass the vote cast thereon. Before making such recanvass, the said board shall give notice in writing to the proper custodian of voting machines, and to each candidate, and to the county chairman of each party or political body, affected by the canvass, and each such candidate may be present in person, or by attorney, and each of such parties, or bodies, may send two representatives to be present at such recanvass. If, upon such recanvass, it shall be found that the original canvass of the returns has been correctly made from the machine, and that the discrepancy still remains unaccounted for, the said board, with the assistance of the custodian, in the presence of the election officers and the authorized candidates and representatives, shall unlock the voting and counting mechanism of the machine, and shall proceed thoroughly to examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in returns from such machine. Each counter shall be reset at zero (000) before it is tested, after which it shall be operated at least one hundred times. After the completion of such examina-

tion and test, the custodian shall then and there prepare a statement, in writing, giving in detail the result of the examination and test, and such statement shall be witnessed by the persons present, and shall be filed with the said board. If, upon such recanvass, it shall appear that the original canvass of the returns by the election officers was incorrect, the said returns and all papers being prepared by the said board shall be corrected accordingly: (2) Provided, however, That in the case of returns from any election district wherein the election was held by the use of a voting machine equipped with mechanism for printing paper proof sheets, said proof sheets, if mutually consistent, shall be deemed to be the primary evidence of the result of the election and to be prima facie accurate, and there shall not be considered to be any discrepancy or error in the returns from any such district, such as to require a recanvass of the vote, if all available proof sheets, from the voting machine used therein, identified to the satisfaction of the return board and shown to its satisfaction to have been produced from proper custody, shall be mutually consistent, and, if the general and duplicate returns, or either of them, from said district shall not correspond with said proof sheets, they, and all other papers being prepared by said return board, shall be corrected so as to correspond with the same, in the absence of allegation of specific fraud or error, proved to the satisfaction of the return board by the weight of the evidence, and only in such case shall the vote of said election district be recanvassed under the provisions of this section.

Certificates of election

(f) As the returns from each election district are read, computed and found to be correct or corrected as aforesaid, they shall be recorded on the blanks prepared for the purpose until all the returns from the various election districts which are entitled to be counted shall have been duly recorded, when they shall be added together, announced and attested by the clerks who made and computed the entries respectively and signed by the members of the county board. At the expiration of five days after the completion of the computation of votes, in case no petition for a recount or recanvass has been filed in accordance with the provisions of this act, or upon the completion of the recount or recanvass if a petition therefor has been filed within five days after the completion of the computation of votes, the county board shall certify the returns so computed in said county in the manner required by this act, unless upon appeals taken from any decision, the court of common pleas shall have directed any returns to be revised, or unless in case of a recount, errors in the said returns shall have been found, in which case said returns shall be revised, corrected and certified accordingly. The county board shall there-

upon, in the case of elections, issue certificates of election to the successful candidates for all county, city, borough, township, ward, school district, poor district and election offices, and local party offices to be filled by the votes of the electors of said county, or of any part thereof.

1937, June 3, P.L. 1333, art. XIV, § 1404. Amended 1971, Oct. 28, P.L. 493, No. 112, § 2; 1980, July 11, P.L. 600, No. 128, § 7, imd. effective.

¹ 25 P.S. § 3153.

² "e" in enrolled bill.

³ 25 P.S. § 2967.

Historical and Statutory Notes

The 1980 amendment, in subsec. (d), added cl. (4) and (5).

Law Review Commentaries

Sprague v. Casey and its seven deadly sins. Mark C. Rahdert, 62 Temp.L.Rev. 625 (1989).

Library References

Elections ⇨257, 263, 265.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 235, 239, 240.
P.L.E. Elections §§ 102, 104, 105.

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peal of McCracken, 88 A.2d 787, 370 Pa. 562, 1952.

2. Powers, duties and qualifications of board

Return judges are mere ministerial officers; it is their duty simply to cast up the votes and award certificates to the persons having the highest number; they have no judicial powers. *Thompson v. Ewing*, 1 Brewst. 67, 77, 1867; *Com. v. Emminger*, 74 Pa. 479, 1873; *Felt's Case*, 11 Abb.Pr.N.S.,N.Y., 203, 1876.

County commissioners, when they canvass election returns, are not sitting as district election officers but as return board of their county. In re *Canvass of Absentee Ballots of 1967 General Election*, 245 A.2d 258, 431 Pa. 165, 1968.

Provision of Const. Art. 7, § 12, relating to persons qualified to serve as election officers is intended to regulate qualifications of person supervising polling places on election day and not county board of election which operates after election day. In re *Canvass of Absentee Ballots of 1967 General Election*, 245 A.2d 258, 431 Pa. 165, 1968.

1. In general

Canvassing and computing election returns by County Board of Elections necessarily embrace acts of discretion. Ap-

County Board of Elections acted without authority when it changed the vote in an election district for the office of township supervisor after its official duty in respect thereof had become final without an appeal therefrom to the Court of Common Pleas. *Petition to Open Ballot Box of Oneida Dist. in East Union Tp.*, 103 A.2d 652, 376 Pa. 456, 1954.

County Board of Elections was without authority to change vote in an election district for the office of township supervisor under its power under paragraph (d)(1) of this section to open ballot boxes of the district, where such power had expired before board ordered recount of the votes; the period of limitation to open the box not being tolled because of the Board's failure to open the box when discrepancies on the face of returns became apparent. *Petition to Open Ballot Box of Oneida Dist. in East Union Tp.*, 103 A.2d 652, 376 Pa. 456, 1954.

County Election Board in canvassing election returns has duty of ascertaining for whom votes were cast. *Appeal of McCracken*, 88 A.2d 787, 370 Pa. 562, 1952.

County Election Boards throughout Commonwealth are empowered by Election Code of 1937 to cumulate ballot write-in votes for any candidate ascertained through appropriate proceedings to be entitled to them. *Appeal of McCracken*, 88 A.2d 787, 370 Pa. 562, 1952.

An election return board could not consider validity of individual votes, and could not compare signatures on voters' certificates with those on registration books to determine whether there had been forgery or other fraud, but was to leave such action, if called for, to registration commission. *Appeal of Harner*, 62 D. & C. 56, 59 Dauph. 185, 1948.

Under the Election Code and under the law prior to the adoption of the code, a county board of electors has power to hear testimony and to cumulate the vote. *In re Whitpain Tp. Election Case*, 45 D. & C. 279, 58 Montg. 291, 1942.

The County Board of Elections is clothed with quasi-judicial functions, and has the power to hear testimony as to the identity of the candidate for whom votes have been cast under different names by write-ins, and in proper cases to cumulate the votes cast for him. *Appeal of*

McCracken, 100 P.L.J. 128, 1952, affirmed 88 A.2d 787, 370 Pa. 562.

3. Correction of errors in general

Where more votes were reported by a precinct than there were registered voters therein, and there was no way of determining for whom excess votes were cast, election board would not reject entire vote of precinct, but would reduce votes cast for all candidates proportionally to aggregate number of votes which might legally have been cast. *Appeal of Harner*, 62 D. & C. 56, 59 Dauph. 185, 1948.

Where at an election a greater number of votes were recorded on the machines in a certain district than the number of voters who signed their names to the voters' list, and the election officers, in view of that fact, did not subscribe to their oaths or sign any election returns, the entire return of that district must be disregarded in conformity with paragraph (b) of this section, and the matter should be referred to the district attorney for proper action. *In re Dunmore Borough Election*, 42 D. & C. 215, 1942.

4. Fraud

Where ballots marked in manner which has been declared legal by Supreme Court are rejected by election judge, his action is palpable fraud and will be corrected by court sitting as return board by examination of contents of ballot-boxes and of all papers relating to election. *Fourth Div. 26th Ward, 26 Dist. 1081*, 1917.

5. Time for determination of allegations of fraud or mistake

County Board of Elections was without authority to change vote in an election district for the office of township supervisor under its power under paragraph (d)(1) of this section to open ballot boxes of the district, where such power had expired before board ordered recount of the votes; the statutory period of limitation to open the box not being tolled because of the Board's failure to open the box when discrepancies on the face of returns became apparent. *Petition to Open Ballot Box of Oneida Dist. in East Union Tp.*, 103 A.2d 652, 376 Pa. 456, 1954.

6. Recount of votes

Because school board candidate's petition for recount of votes cast in election

25 P.S. § 3154

Note 6

was not filed with required signatures of three voters, it was fatally defective, and county board of elections was without jurisdiction to entertain same or grant relief. In re Reading School Bd. Election, 634 A.2d 170, Sup.1993.

Decree of election return board declaring results of election, rendered while statutory recount was in progress, was properly amended to conform to result of recount, since decree was not final. In re Returns from Herminie Election Dist. of Sewickley Tp., Westmoreland County, 192 A. 130, 326 Pa. 321, 1937.

Recomputation of votes cast at election held not substitute for contest in which legality of votes actually cast may be determined. Kline v. Eagen, 170 A. 263, 314 Pa. 23, 1934.

7. Petition for cumulation, correction or recount of votes

Evidence failed to sustain existence of claimed regulation of election board fixing five-day limitation for filing of petitions to cumulative write-ins votes cast in primary election. Appeal of Antonelli, 174 A.2d 107, 405 Pa. 179, 1961.

Where write-in candidate's petition to cumulate was filed within five-day period after compilation of computation, election board was duty bound to delay final certification of primary election results until appropriate proceedings ensued to determine questions presented, and when second candidate personally appeared, 3 days after filing of the petition, and requested cumulation of his votes, and canvass of vote for that office was still in progress, second candidate's petition could be considered. Appeal of Antonelli, 174 A.2d 107, 405 Pa. 179, 1961.

Where defeated candidate failed to follow procedure of this section or § 3262 of this title, for obtaining recanvass of votes in that he did not present petitions for recanvass from each election district, each signed by three voters or by three qualified electors, election board's failure to proceed to a recanvass did not constitute a competent order appealable to Court of Common Pleas. In re General Election Luzerne County, 94 A.2d 565, 372 Pa. 486, 1953.

Petition presented to court of common pleas, sitting as election return board, in effect, attempt to have that body determine election contest, held improper.

ELECTION CODE

Kline v. Eagen, 170 A. 263, 314 Pa. 23, 1934.

Where petition, praying ballot box be opened and votes be recounted, did not contain averments, presenting palpable fraud or mistake, within act of 1874, Jan. 30, P.L. 31, § 13, as amended, repealed, and where there was no allegation that alleged errors would have affected result of election, relief sought was unwarranted. In re Parsons Borough Election Returns, 126 A. 350, 281 Pa. 205, 1924.

Petition for opening of ballot box and recount, for purpose of determining whether, "as matter of law," ballots marked in described manner should have been counted for certain persons, presents question for election contest, and, where petition lacks sufficiently specific averments of fraud, question is not proper one for consideration in computation proceeding. In re Parsons Borough Election Returns, 126 A. 350, 281 Pa. 205, 1924.

A petition asking court for a recanvass, failed to meet requirements of paragraph (e)(1) of this section in that it was not a petition of three voters, and it was immaterial that the board did not demand such petition. In re Recanvassing Votes in Philadelphia, 35 D. & C.2d 384, 1965.

8. Second computation, power of board to make

When the return board has performed its duty and made its return, its power ceases. It cannot reconvene and make another computation. The remedy of a dissatisfied party is in the courts. Keeler v. Shaw, 24 C.C. 337, 1900.

9. Return of board, conclusiveness

The return of the board is the only evidence of election, and is conclusive until corrected or set aside by a judicial decision. Ewing v. Thompson, 43 Pa. 372, 1862.

10. Certification of returns

A county board of elections is a quasi judicial body, whose certifications made after a hearing and investigation in a disputed election matter are entitled to great weight and should not be disregarded lightly. Appeal of Miraglia, 1 D. & C.2d 717, 56 Lack.Jur. 49, 1955.

11. Certificate of election—Persons entitled

If for any reason the candidates having the majority of the votes cast are not entitled to certificates of election, the minority candidates cannot be returned as elected. *Com. v. Cluley*, 56 Pa. 270, 1866; *Twenty-ninth Ward Election*, 1 W.N.C. 114, 1874; *Wier's Case*, 13 Phila. 579, 34 L.I. 214, 1877.

A petition to open a ballot box under § 3263 of this title will be dismissed where filed more than five days after the computation has been completed and the fact of such completion orally announced, even though the certification required by this section was not executed until within the five-day period. *Appeal of McCloskey*, 32 D. & C. 242, 1939.

12. — Sufficiency of certificate of election

A certificate which states that the candidates received a certain number of votes respectively, "but that fraud and bribery appearing to have been used, they declined to certify the election of either," is not a proper certificate. *Com. v. Emminger*, 74 Pa. 479, 1871.

13. — Effect of certificate of election

In case of a disagreement between the certificate of election and the return filed

in the prothonotary's office the former must prevail. *Mann v. Cassidy*, 1 Brewst. 11, 1856; *Timlin's Case*, Op. Atty. Gen., 4 C.C. 535, 1887; *Com. v. Jenkins*, 6 Kulp, 17, 1890.

And equity will not enjoin an officer from acting under a certificate of election. *Rink's Appeal*, 3 Walk. 337, 1882; but see *Miller v. Lowry*, 5 Phila. 202, 1863; nor determine the rights of two persons, each holding a certificate of election to the same office. *Goldsworthy v. Boyle*, 34 A. 630, 175 Pa. 246, 1896.

The certificate of the election officers, under act of 1840, June 13, P.L. 683, § 1, repealed, is the legal and prima facie evidence of the title to a township or borough office; and the only way of setting it aside is by a contest. *Com. v. Baxter*, 35 Pa. 263, 1860.

The certificate of election is prima facie evidence of title to the office and can be set aside only in a proceeding to contest the election; it is conclusive on quo warranto. *Com. v. Baxter*, 35 Pa. 263, 1860.

14. — Mandamus to compel signing certificate of election

Return judges may be compelled by mandamus to sign certificates of election. *Com. v. Emminger*, 74 Pa. 479, 1873.

§ 3155. Manner of computing irregular ballots

The county board, in computing the votes cast at any primary or election, shall compute and certify votes cast on irregular ballots exactly as such names were written, stamped, affixed to the ballot by sticker, or deposited or affixed in or on receptacles for that purpose, and as they have been so returned by the election officers. In the primary the Secretary of the Commonwealth shall not certify the votes cast on irregular ballots for any person for a national office including that of the President of the United States, United States Senator and Representative in Congress; or for any State office including that of Governor and Lieutenant Governor, Auditor General, State Treasurer, Senator and Representative in the General Assembly, justices and judges of courts of record or for any party office including that of delegate or alternate delegate to national conventions and member of State committee unless the total number of votes cast for said person is equal to or greater than the number of signatures required on a nomination petition for the particular office. In the primary the county board shall not certify the votes cast on irregular ballots for any person for a justice of the peace, constable,

National, State, county, city, borough, town, township, ward, school district, election or local party office unless the total number of votes cast for said person is equal to or greater than the number of signatures required on a nomination petition for the particular office. 1937, June 3, P.L. 1333, art. XIV, § 1405. Amended 1968, March 13, P.L. 57, No. 17, § 1; 1971, Dec. 22, P.L. 621, No. 165, § 15.

Historical and Statutory Notes

Section 3(d) of Act 1978, April 28, P.L. 202, No. 53 (the Judiciary Act Repealer Act) [42 P.S. § 20003(d)] provides:

“An express reference in any statute or other law to a justice of the peace or to the office of justice of the peace shall hereafter be deemed a reference to a dis-

trict justice or to the office of district justice. Any person appointed or elected to judicial office in a magisterial district shall be known as and hereafter shall be commissioned as the ‘district justice’ in and for the appropriate magisterial district.”

Library References

Elections ⇄ 253.
WESTLAW Topic No. 144.

C.J.S. Elections § 230.
P.L.E. Elections § 101.

Notes of Decisions

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1. Validity

This section was not unconstitutional on ground of inequality because under certain circumstances votes in districts that had not adopted voting machines may still be cumulated. *Petition of Hafer*, 33 Berks 11, 55 D. & C. 139, 1946.

2. In general

This section dealing with irregular ballots cast on a voting machine must be construed in *pari materia* with § 3062 of this title, prescribing powers and duties of election boards, and as so construed, meant that Court of Common Pleas, upon appeal of a decision of the county election board, could cumulate votes for a candidate by write-ins on voting machines, if the evidence warranted it, in order to effectuate the will of the voters. *Petition of Stieska*, 135 A.2d 62, 390 Pa. 249, 1957.

3. Write-in candidates

Where votes were written in on a ballot under a number of variations of what may have been intended to be the same names, which names did not appear on the printed ballot, and in addition some

of the votes were written in on the wrong lines of the ballot, this section requires that a petition to cumulate all such votes under the correct names of the candidates be dismissed. *In re Election in Twenty-first Ward*, 1 D. & C.2d 615, 1954.

County Board in computing votes had no authority to cumulate votes of similar but not identical true names of “write-in” candidates on irregular ballots but must compute them exactly as written. *Petition of Hafer*, 38 Berks 11, 55 D. & C. 139, 1946.

Under this section the county board of elections may not cumulate a ballot where voting machines are used; but such rule does not prevail where paper ballots are in effect. *In re Whitpain Tp. Election Case*, 45 D. & C. 279, 58 Montg. 291, 1942.

A County Board of Election has power to cumulate write-in-votes. *Petition of Stieska*, 39 West. 151, 1958, exceptions dismissed 39 West. 159, affirmed 135 A.2d 62, 360 Pa. 249.

When voter’s intention is found, it should not be defeated by fact that name of candidate is misspelled, wrong initials employed, or some other or slightly different name or like or similar pronunciation has been written instead of that of the candidate actually intended to be vot-

ed for. Petition of Stieska, 39 West. 151,
1958, exceptions dismissed 39 West. 159,
affirmed 135 A.2d 62, 360 Pa. 249.

§ 3156. Petition to establish identity by candidate nominated under different names; cumulation prohibited

Any person who has been nominated at a primary election by more than one party for the same office under different names may, at any time not later than five (5) days after the certification by the county board of the votes cast at a primary election, present a petition to the court of common pleas of the proper county, praying for an order declaring such petitioner by his true name to be the person who was thus nominated by more than one party under different names. If the court shall determine that the different names so appearing on the returns of the primary represent one and the same person, the court shall enter an order finding said fact and directing the county board to revise its return accordingly. No such order shall be entered by any court, unless notice of the filing of said petition shall first have been given to the county board, and to all the other candidates who appear to have been nominated for the same office, in such manner as the court may, by its order, direct, which notice shall specify the time and place of the hearing on said petition. Upon the filing of any such petition, said court shall proceed to hear said matter due without delay, having due regard to the proximity of the ensuing election. Immediately upon the entry of any order as aforesaid, a certified copy thereof shall be served on the county board, which shall correct and revise its returns accordingly. No candidate for public office at any November election whose name, for any reason, is printed more than once for the same office on any ballot at any general, municipal or special election, shall be entitled to have cumulated, either by the election officers, by the county board, or by any court, the votes cast after such different names. 1937, June 3, P.L. 1333, art. XIV, § 1406. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

Historical and Statutory Notes

The 1978 act repealed the former third sentence, which read: "Jurisdiction is hereby conferred upon the courts of common pleas to entertain such petitions and to make the orders provided herein."

Library References

Elections Ⓒ244.
WESTLAW Topic No. 144.

C.J.S. Elections § 226.
P.L.E. Elections § 103.

Notes of Decisions

Cumulation 3

Validity 1

Write-in candidates 2**1. Validity**

"Party raiding" provisions of election code, limiting nominations to one political party, do not constitute an unconstitutional interference with freedom of elections. *Krull v. City and County of Philadelphia*, 114 A.2d 119, 382 Pa. 1, 1955.

A petition to contest an election contending that the votes for M Bruce H. (Dem.) and those for Bruce H. (Rep.) who was admittedly one and the same person should be cumulated and that he be declared elected or that the election be declared illegal, was dismissed. *In re Union Tp. Election*, 27 D. & C.2d 193, 3 Adams L.J. 197, 1963.

This section is regulatory only, and does not violate the provisions of the federal and state constitutions, denying any abridgement of the right of suffrage. *Petition of Urik*, 80 D. & C. 200, 100 P.L.J. 123, 1952.

Section 3156 of this title, providing for accumulation of votes for same person under different names, and forbidding such accumulations in certain elections, is valid and constitutional, offending neither Pa.Const. Art. 1, § 5, nor art. 8, § 1, nor U.S. Const. Amend. 15, § 1. *Petition of Urik*, 80 D. & C. 200, 100 P.L.J. 123, 1952.

2. Write-in candidates

The anti-party raiding statutes forbid filing of petitions for nomination of same person by, and printing of his name on primary election ballots as candidate of, more than one political party for same office, but do not prohibit voter from writing or pasting in name of person whose name is not printed on ballot of political party of which such voter is a member. *Appeal of Magazzu*, 49 A.2d 411, 355 Pa. 196, 1946.

The fact that person's name appeared on voting machine as candidate for Republican nomination for office of representative in General Assembly did not render him ineligible to receive write-in votes for nomination as Democratic candidate for such office. *Appeal of Magazzu*, 49 A.2d 411, 355 Pa. 196, 1946.

3. Cumulation

A candidate, properly named William H. Lamb, who was nominated for an elective office as the candidate of one party at a primary election, and who received write-in votes for nomination as candidate of another party, was permitted to cumulate the write-in votes cast for him under the names "Lamb", "Wm. H. Lamb", "William Lamb", "Wm. Lamb", "W. H. Lamb", "Bill Lamb", "W. H. Lamp", "W. Lamb", and "Bill Lambe," where the registration rolls disclosed no registered voter with a substantially similar name, and the only other person receiving a substantial number of votes for said nomination, although served with a copy of the petition to cumulate, filed no answer thereto. *In re Nomination of Lamb*, 73 D. & C.2d 142, 24 Chest. 110, 1975.

While under this section a petition to cumulate votes cast for petitioner, who claims to have been nominated at a primary election by more than one party for the same office under different names, requires notice to the other candidates and a hearing, where the court is acting as a county board of elections because the county commissioners are candidates, it may cumulate votes cast for a candidate under different names under other circumstances, pursuant to the court's general power to compute and certify irregular ballots, and notice and hearing in such cases is within the court's discretion. *In re Election of Peeke*, 71 D. & C.2d 421, 1975.

Under this section, where a candidate has receive more than one nomination for the same office under different names and his name appears on the printed ballot at the general election more than once, spelled or printed differently, the votes cast for him under such different names cannot be cumulated; however, the court will allow votes for a candidate to be cumulated although his name appears on the ballot more than once where his name is spelled and printed identically and where it affirmatively appears that the voters were neither confused nor misled and that the candidate did not receive more than one vote per ballot. *Appeal of Leitzell*, 33 D. & C.2d 324, 1965.

A candidate who has been nominated by more than one party for same office under different names may present a petition for proceedings by which vote may

be accumulated, but if he fails to file such a petition, only penalty is that votes may not be accumulated. In re Upper Chester Tp. Election, 62 D. & C. 688, 35 Del.Co. 357, 1949.

§ 3157. Appeals to court from decisions of the county board

(a) Any person aggrieved by any order or decision of any county board regarding the computation or canvassing of the returns of any primary or election, or regarding any recount or recanvass thereof under sections 1701, 1702 and 1703 of this act,¹ may appeal therefrom within two days after such order or decision shall have been made, whether then reduced to writing or not, to the court of common pleas of the proper county, setting forth why he feels that an injustice has been done, and praying for such order as will give him relief. Upon the payment to the prothonotary of a fee for filing such appeal, a judge of the court shall fix a time and place for hearing the matter in dispute within three days thereafter, of which due notice shall be served, with a copy of such appeal, by the appellant upon a member of the county board whose action is complained of and upon every attorney, watcher or candidate who opposed the contention of the appellant before the county board, and upon any other person that the judge shall direct, at least two days before the matter shall be reviewed by the court. Proof of such notice or the waiver thereof must be filed therein before any appeal is sustained.

(b) The court on an appeal shall have full power and authority to hear and determine all matters pertaining to any fraud or error committed in any election district to which such appeal relates, and to make such decree as right and justice may require. Pending such appeal, the county board shall suspend any official certification of the votes cast in such election district. None of the orders or decisions of either the county board or the court of common pleas on appeal shall be deemed a final adjudication regarding the results of any primary or election, so as to preclude any contest thereof. No appeal shall be allowed or granted from any order or decree of the court of common pleas made in pursuance of this section. The court of common pleas, upon any appeal under this section, may compel the appellant or any opposing party, other than the county board, to pay all the witness fees, if any, or other legal costs of the hearing, which costs may be taxed by the prothonotary in the usual manner.

1937, June 3, P.L. 1333, art. XIV, § 1407. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

¹ 25 P.S. §§ 3261 to 3263.

Historical and Statutory Notes

The 1978 act in subsec. (a) repealed a fee specification of 3 dollars.

Library References

Elections ⇨239.
WESTLAW Topic No. 144.

C.J.S. Elections § 227.
P.L.E. Elections §§ 105, 107.

Notes of Decisions

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3. Jurisdiction

Where no appeal was taken from action of county board in recording votes for candidates for Democratic nomination for school director, and no notice of any appeal was served on any candidate for school director, court of common pleas did not have jurisdiction on appeal taken by candidate for Democratic nomination for burgess to throw out the entire vote of district and thereby deprive successful candidate of the nomination for school director. Appeal of McIntyre, 22 A.2d 200, 343 Pa. 87, 1941.

4. Appealable orders or decisions

Wrongdoing on part of county return board is not a prerequisite to right of appeal under this section. In re Field, 99 A.2d 867, 375 Pa. 276, 1953.

Where defeated candidate failed to follow procedure of § 3154 or § 3262 of this title, for obtaining recanvass of votes in that he did not present petitions for recanvass from each election district, each signed by three voters or by three qualified electors, election board's failure to proceed to a recanvass did not constitute a competent order appealable to Court of Common Pleas. In re General Election Luzerne County, 94 A.2d 565, 372 Pa. 486, 1953.

A petition for appeal by a qualified elector pursuant to this section, challenging counting by county board of election of certain absentee ballots, on ground that voters were not unavoidably absent from their voting residences on election day by reason of duty, is proper proceeding to determine validity of challenged votes. In re Decision of County Bd. of Election, 29 D. & C.2d 499, 1964.

5. Review, generally

Judgment dismissing candidate's appeal from county return board, on claim that overruled absentee ballots had been commingled and counted with others,

1. In general

In recount proceeding lower court has duty to discover any fraud or error in computation or canvassing of returns and must correct and certify votes of election district justly, regardless of any fraudulent or erroneous returns made by election officers thereof. In re Democratic Primary Election of Somerset Tp., Washington County, 174 A.2d 23, 405 Pa. 169, 1961.

2. Persons entitled to appeal

The board's refusal to act did not constitute an appealable order since in absence of a showing that board's refusal to recanvass the vote would infringe on his legal rights or that he would suffer injury, the petitioner was not a person "aggrieved" by the board. In re Recanvassing Votes in Philadelphia, 35 D. & C.2d 384, 1965.

Where if all votes reported by a precinct for one candidate were counted and all reported for his opponent were rejected, opponent would still win election, candidate was not a person "aggrieved" by count in precinct and had no standing to appeal from a recount. Appeal of Harner, 62 D. & C. 56, 59 Dauph. 185, 1948.

was affirmed. *Perles v. County Return Bd. of Northumberland County*, 202 A.2d 538, 415 Pa. 154, 1964.

Record on appeal from order of Common Pleas Court, entered on appeal from decision of county election board, showed no jurisdictional defect, irregularity in proceedings, or violation of constitutional rights, and order would be affirmed. In re Primary Election of Somerset Tp., Washington County, 174 A.2d 25, 405 Pa. 174, 1961.

Failure of recount board to include votes cast by six ballots found outside ballot box in separate package with unused ballots and stubs of used ballots, was error in computation which should have been corrected by court in recount proceeding. In re Democratic Primary Election of Somerset Tp., Washington County, 174 A.2d 23, 405 Pa. 169, 1961.

Where there was no statutory authority for the County Board of Elections to change vote in an election district for the office of township supervisor because of failure to follow the statutory procedure, the court was not authorized to disregard the omission in order that effect might be given to the will of the electorate. *Petition to Open Ballot Box of Oneida Dist. in East Union Tp.*, 103 A.2d 652, 376 Pa. 456, 1954.

The court of common pleas on appeal from action of a return board is limited to the matters raised by the appeal of the person aggrieved, and the court cannot broaden its inquiry to have a general investigation of fraud in the election in question. *Appeal of McIntyre*, 22 A.2d 200, 343 Pa. 87, 1941.

Ballots, which had been rejected by local election officials as void, but which were found to be regular by the common pleas court sitting in recount of votes, would not be rejected merely because ballots were not found inside the ballot box when it was opened by the court in the recount proceedings, but were in a separate package with the unused ballots and the stubs of used ballots, where there was no reason to suspect fraud or tampering. *Appeal of McCaffrey*, 11 A.2d 893, 337 Pa. 552, 1940.

Where a county board of elections corrected entries made by it in the returns of an election district in compliance with the certificate of the common pleas court sitting in recount of the votes for such

district, and an appeal was taken from the action of the county board in so correcting its return, common pleas court on such appeal was authorized to inquire only as to whether the board, either fraudulently or mistakenly, failed to correct its return in accordance with the decision of the court in the prior proceeding, and could not review matters of fraud or error already judicially passed upon in the earlier proceeding, nor matters of fraud or error in the orders or decisions of the court in such proceeding. *Appeal of McCaffrey*, 11 A.2d 893, 337 Pa. 552, 1940.

Where an order sustains exceptions to the nomination for a public office, and the court refuses to grant a rehearing, on appeal only the legality of the record can be considered, and, where no abuse of discretion in refusing the rehearing appears, the judgment will be affirmed. In re Foy, 73 A. 324, 224 Pa. 358, 1909.

Where county board of election overruled challenges in each instance, and thereafter without investigating challenge or giving petitioner opportunity to appeal, board mingled challenged ballots with unchallenged absentee ballots and counted them all, and where there were 470 absentee ballots, appeal will be dismissed, since dismissal will not preclude an election contest if future events should disclose successful avoidance of all votes cast in absentia will change result of the election. In re Decision of County Bd. of Election, 29 D. & C.2d 499, 1964.

When an election matter comes before the court on appeal from the county board of elections and testimony is submitted in full, the court must take the testimony as submitted and base its decision upon the facts as developed as the hearing on the appeal. *Appeal of Miraglia*, 1 D. & C.2d 717, 56 Lack.Jur. 49, 1955.

The appropriate court has jurisdiction in proper proceedings to recompute a vote by excluding an improperly cast military ballot. In re Northampton Borough Election, 79 D. & C. 481, 1953.

6. Refusal to order recount

Under act 1906, Feb. 17, P.L. 36, § 11, repealed, providing that upon petition of 10 qualified electors, setting forth that fraud has been committed in any election district upon a primary election, "together with a statement of the reasons why

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such an assertion is made," the county commissioners shall recount the votes, and that any person aggrieved by a decision of the commissioners relative to such counting may appeal to the court of common pleas, where the county commissioners refused to grant a recount of votes cast at a primary election, because in their judgment petitioners had not stated any adequate reason for asserting that fraud had been committed, and that the petition did not conform to the requirements of the act, the remedy is by appeal to the common pleas under the act, and not by mandamus. *Madden v. Moore*, 77 A. 821, 228 Pa. 503, 1910.

7. Legislative contest

Under act of 1913, July 12, P.L. 719, § 15, as amended, repealed, court is without jurisdiction to hear and determine contest growing out of primary election for members of general assembly, the general assembly itself being authorized to judge of election and qualifications of its members. *McCormick's Contested Election*, 13 West. 103, affirmed 126 A. 568, 281 Pa. 281, 1924.

Court can only determine which candidate at election is entitled to certificate of election. *McCormick's Contested Election*, 13 West. 103, affirmed 126 A. 568, 281 Pa. 281, 1924.

8. Rejection of entire vote of district

Where the unsuccessful candidate for congressional nomination, appealing from the count which disclosed a majority against him, claimed that enough disqualified persons had been permitted to vote to change the result of the election, and the court hearing the appeal stated that a strong suspicion attached to the legality of those votes, but there was no proof that they were illegal, which was not a question the court could consider and no proof as to the candidate for whom those persons voted, the entire vote of the district cannot be disregarded. *In re Eighteenth District Republican Nomination*, 119 A. 494, 275 Pa. 449, 1923.

To same effect under act of 1921, May 25, P.L. 1125, § 1, repealed. *In re Eighteenth District Republican Nomination*, 119 A. 494, 275 Pa. 449, 1923.

Act 1913, July 12, P.L. 719, § 15, as amended by act 1919, July 9 P.L. 839, § 5, repealed, authorizing return boards

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to open ballot boxes and recount the votes and certify the votes justly, regardless of any fraudulent or erroneous returns, and authorizing the court of common pleas on appeal to make such decree as right and justice require, only authorizes a recount of the votes, and does not authorize a rejection of the votes of a particular district because disqualified voters were permitted to vote or because of the absence of a guard rail, these being solely subjects for a contest; and the fact that no contest is authorized in the case of congressional nominations cannot require a different construction respecting that office. *In re Republican Nomination for Office of Congressman in Twenty-Eighth Congressional Dist.*, 112 A. 74, 268 Pa. 313, 1920.

9. Moot questions

In view of act of 1913, July 12, P.L. 719, § 16, repealed, requiring certification of the result of the computation of the primary vote at least thirty days prior to the date of the election, an appeal in primary election contest will be dismissed as raising moot questions, where time between day of argument and date of election is less than thirty days. In re McCormick's Contested Election, 126 A. 568, 281 Pa. 281, 1924.

Supreme court is warranted in dismissing appeals from trial court's rulings on offers of evidence of fraudulent voting in computation proceeding where matter cannot be determined before time for printing ballots and appellants had ample time to obtain any proper relief by contest. *In re Twenty-First Senatorial Dist. Nomination*, 126 A. 566, 281 Pa. 573, 1924.

10. Time to appeal

Compliance with statutorily imposed time limits which grant two days to appeal to court of common pleas from decision of county board concerning validity of an election under this section and which grant 30 days to appeal from court of common pleas order concerning such election under 17 P.S. § 211.502, is especially important in primary elections. *Petition of Jones*, 346 A.2d 260, 464 Pa. 152, 1975.

Where unsuccessful candidate did not appeal within 30 days from trial court order denying his request to reopen and recanvass all ballot boxes within the county, petitioner's appeal was not time-

ly. Petition of Jones, 346 A.2d 260, 464 Pa. 152, 1975.

Where trial court denied unsuccessful candidate request for opening and recounting of all ballot boxes throughout the county, such denial was a final order from which candidate had but 30 days to appeal, and fact that trial court deferred its judgment on whether to reopen and recount ballot boxes in 28 districts within the county did not affect finality of court's judgment regarding request to reopen all ballot boxes within county. Petition of Jones, 346 A.2d 260, 464 Pa. 152, 1975.

Appeal from order of election board filed on March 4, 1968 was filed within two-day statutory period allowed for appeal where order of board was entered on February 29, 1968 and second day following such order was Saturday, March 2, 1968. Petition of Kehler, 256 A.2d 623, 434 Pa. 274, 1969.

A candidate for school director who was allowed an appeal nunc pro tunc from action of computation board in the tabulation of election returns must be placed in the same position in respect to his rights to a recanvassing of the votes as he would have been in had his appeal been taken during the period prescribed by statute. Appeal of Koch, 46 A.2d 263, 353 Pa. 619, 1946.

An appeal nunc pro tunc would be allowed candidate who, having received majority of votes cast at general election for office of school director, did not learn until after statutory time limit for taking appeals had passed, that county computation board erroneously certified to county board of elections the election of another, where candidate was not guilty of laches by reason of failing to discover earlier computation board's erroneous action. In re Twenty-Sixth Election Dist., Second Ward, Borough of Lehigh, 41 A.2d 657, 351 Pa. 544, 1945.

Where each of two candidates at a primary election petitioned for a recount of ballots for frauds in certain election precincts, and the court on appeal by one candidate from the recount of county commissioners inquired only into frauds in districts covered by appellants' petition, and threw out enough votes to give him nomination, the other candidate could not urge that court continue inquiry into precincts covered by his original petition, where he failed to appeal from

commissioners' recount within time prescribed by act of 1913, July 12, P.L. 719, § 15, as amended, repealed. Appeal of Phillips, 105 A. 547, 262 Pa. 396, 1918.

Where the second day after certification fell on a Sunday, an appeal taken the following Monday is proper under § 538 of Title 46. In re Northampton Borough Election, 79 D. & C. 481, 1953.

Even though an appeal from certification of election returns were not filed in time, the court would allow it nunc pro tunc to correct an obvious error where appellant has not been guilty of laches. In re Northampton Borough Election, 79 D. & C. 481, 1953.

The two-day period of limitation under this section runs, in case of an appeal from computation of votes, from the certification of the results by the county board, rather than from the completion of the computation and attestation of the results by the clerks. In re Northampton Borough Election, 79 D. & C. 481, 1953.

Petition was filed too late as not having been filed within two days after day on which County Board of Elections took action complained of. Petition of Hafer, 38 Berks 11, 55 D. & C. 139, 1946.

11. Verification

Where appellant's petition, filed pursuant to this section, was verified on a date prior to the date that it was completed, and contained a fact which was inserted after verification, the verification was defective, but it was not jurisdictional and appellant was permitted to amend by supplying a proper verification. Appeal of Noll, 27 D. & C.2d 780, 54 Berks 196, 1963.

Where a petition filed to appeal a decision of the county board of elections was sworn to and subscribed on a date prior to the date of the petition's completion and the petition contained a fact inserted thereafter, the verification is defective; however, the appeal will not be quashed, since the verification to such a petition is not jurisdictional, and petitioner will be permitted to amend by supplying a proper verification. Appeal of Noll, 27 D. & C.2d 780, 54 Berks 196, 1963.

12. Appellate review

The scope of review of Supreme Court on appeal from court of common pleas' decision partly sustaining and partly re-

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versing decision of board of elections with relation to challenges of absentee ballots was in the nature of narrow certiorari and was limited to whether common pleas court had jurisdiction, whether its proceedings were regular, whether it exceeded its powers, and whether there was violation of constitutional rights. In re General Election, Nov. 3, 1964, 224 A.2d 197, 423 Pa. 504, 1966.

Provision of this section that person aggrieved by order or decision of county board regarding computation or canvassing of election returns may appeal to court of common pleas and that no appeal shall be allowed or granted from any order or decree of that court precluded broad review of common pleas court's order partly sustaining and partly reversing decision of election board overruling challenges to some absentee ballots and sustaining challenges to others. In re General Election, Nov. 3, 1964, 224 A.2d 197, 423 Pa. 504, 1966.

Absent claim that court of common pleas lacked jurisdiction, conducted irregular proceedings, exceeded its powers, or violated constitutional rights, § 3157 of this title, prohibiting appeal from any order or decree of that court by persons aggrieved from order or decision of county board regarding computation or canvassing of election returns necessitated affirmance of that court's orders partly sustaining and partly reversing board's decision sustaining some challenges to absentee ballots and overruling others. In re General Election, Nov. 3, 1964, 224 A.2d 197, 423 Pa. 504, 1966.

Election Code provision permitting any person aggrieved by order or decision of county board regarding computation or canvassing of election returns to appeal to court of common pleas but permitting no appeal from any order or decree of that court covered not only order of the court involving regularity of the ballot but also irregularities on envelopes enclosing absentee ballots and qualifications of absentee voters, insofar as narrow review was concerned. In re General Election, Nov. 3, 1964, 224 A.2d 197, 423 Pa. 504, 1966.

Since lack of jurisdiction or irregularity in recanvassing proceedings was not asserted on appeal to Supreme Court and it did not appear in examination of record that Common Pleas Court on appeal from decision of county board of elections, had

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abused its power or violated constitutional rights order would be affirmed. In re Recanvass of Eleventh Ward, Third Dist., City of Nanticoke, 174 A.2d 106, 405 Pa. 176, 1961.

Supreme Court's scope of review of order of Common Pleas Court on appeal from decision of county board of elections is limited to questions of jurisdiction, regularity of proceeding, abuse of power by court and violation of constitutional rights, and it cannot inquire into merits of controversy. In re Recanvass of Eleventh Ward, Third Dist., City of Nanticoke, 174 A.2d 106, 405 Pa. 176, 1961.

Appeal from order of Common Pleas Court, entered on appeal from decision of county election board, was before Supreme Court on narrow certiorari with inquiry limited to questions of jurisdiction, regularity of proceedings, and violation of constitutional rights, and validity of individual votes could not be considered. In re Primary Election of Somerset Tp., Washington County, 174 A.2d 25, 405 Pa. 174, 1961.

When original vote certification resulted in tie vote, not until court entered final order declaring one candidate the winner was issue ripe for appeal. In re Democratic Primary Election of Somerset Tp., Washington County, 174 A.2d 23, 405 Pa. 169, 1961.

Where proceedings were brought under § 3261 of this title providing for recount boards upon petition to court of common pleas, there was no need to appeal to court of common pleas from order of recount board as in proceeding under this section relating to appeals to court of common pleas from orders or decisions of a county board of elections, and matter could be reviewed on certiorari by Supreme Court without any appeal to court of common pleas. In re Recount of Ballots of Albany Tp., 141 A.2d 389, 392 Pa. 602, 1958.

On appeal from orders of the Court of Common Pleas, in proceedings involving opening of ballot boxes for purpose of correcting official returns of Board, Supreme Court was limited to determining whether court below had jurisdiction, whether its proceedings were regular and whether it exercised powers in excess of those granted or possessed by it; and validity of disputed ballots was not within

scope of Supreme Court's review. In re Disputed Ballots of Morann Precinct, Woodward Tp., 133 A.2d 824, 389 Pa. 538, 1957.

Where Court of Common Pleas refused to cumulate votes cast for candidate as Republican nominee and as Democratic nominee, proceedings were regular. In re Burrell Tp., 108 A.2d 696, 379 Pa. 186, 1955.

An appeal from order of Court of Common Pleas quashing appeal to it was before Supreme Court as on certiorari, and review was accordingly limited to a consideration of the jurisdiction of the court below and the regularity of the proceedings. In re General Election Luzerne County, 94 A.2d 565, 372 Pa. 486, 1953.

Where Supreme Court allowed school director candidate on appeal nunc pro tunc from action of computation board in the tabulation of election returns, no competent and relevant evidence of the fact in issue should have been rejected at the ensuing hearing before the Common Pleas Court. Appeal of Koch, 46 A.2d 263, 353 Pa. 619, 1946.

Supreme Court's consideration of election computation proceedings on appeal from an order with respect to counting of certain ballots was not to be considered a precedent for its review of election counts. Appeal of McCaffrey, 11 A.2d 893, 337 Pa. 552, 1940.

13. Certiorari

Appeals that emanate from orders of Court of Common Pleas that, in turn, are reviewing orders of county board of elections under Election Code, are accepted by Supreme Court in nature of certiorari review in its broadest sense, despite Election Code section stating that "no appeal shall be allowed or granted from any order or decree of the court of common pleas. * * *" 25 P.S. § 3157(b). In re Reading School Bd. Election, 634 A.2d 170, Sup.1993.

Even though Supreme Court was statutorily precluded from inquiring into merits of candidate's challenge to absentee ballots, Supreme Court was not foreclosed from accepting matter on certiorari and reviewing record, including testimony, to determine whether findings were supported by competent evidence and to correct any conclusions of law erroneous-

ly made. In re Reading School Bd. Election, 634 A.2d 170, Sup.1993.

Under Const. Art. 5, § 9, review by Supreme Court upon appeals concerning the counting of election ballots was on broad certiorari, and review was not limited to questions of jurisdiction, regularity of the proceedings, excess in exercise of power and constitutional issues. In re General Election November 6, 1971, 296 A.2d 782, 449 Pa. 386, 1972.

Scope of review in Supreme Court of order of Court of Common Pleas dismissing appeal from order of election board on challenges to absentee ballots was in nature of narrow certiorari and inquiry was limited to determination of whether court had jurisdiction, whether proceedings were regular, whether court exceeded its power and authority, and whether there had been a violation of constitutional rights, but validity of ballots was not before Supreme Court. Appeal of Meell, 174 A.2d 110, 405 Pa. 184, 1961.

Under this section scope of review of Supreme Court is in nature of a narrow certiorari. In re Recount of Ballots of Albany Tp., 141 A.2d 389, 392 Pa. 602, 1958.

It was legislative intent that orders and decisions of Courts of Common Pleas, in proceedings involving opening of ballot boxes for purpose of correcting official returns of Board, be deemed final and conclusive; and scope of Supreme Court's review is in nature of a narrow certiorari. In re Disputed Ballots of Morann Precinct, Woodward Tp., 133 A.2d 824, 389 Pa. 538, 1957.

Review by writ of certiorari of order of Court of Common Pleas was limited to consideration of jurisdiction of court and regularity of proceedings. In re Burrell Tp., 108 A.2d 696, 379 Pa. 186, 1955.

Statute providing, relative to appeals to common pleas court from return boards, that no appeal shall be allowed from order or decree of court of common pleas, does not affect right of Supreme Court to issue a certiorari in order to determine from the record whether court exceeded its jurisdiction, and for that purpose to examine opinion of the court to discover reasons for its actions. Appeal of Gallagher, 41 A.2d 630, 351 Pa. 451, 1945.

On proceeding in nature of certiorari to review action of election computation

Note 13

board in recounting votes, judicial review is restricted to regularity of record, though fact findings concerning funda-

mental questions may be considered. Appeal of Gallagher, 41 A.2d 630, 351 Pa. 451, 1945.

§ 3158. Copy of certified returns to be filed; copy to be forwarded to the Secretary of the Commonwealth; duplicate copies

After the certification of the returns of any primary or election, as provided by section 1404 of this act,¹ the county board shall retain in its office one copy of the returns so certified. In the case of elections of presidential electors, United States Senators, Representatives in Congress, Governor, Lieutenant Governor, Auditor General, State Treasurer and Secretary of Internal Affairs, Judges of the Supreme Court, Judges of the Superior Court and judges of other courts of record, including associate judges, senators and representatives in the General Assembly, a separate certificate, showing totals of the returns cast for each of such offices respectively, shall also be forwarded by the county board to the Secretary of the Commonwealth on forms furnished by the Secretary of the Commonwealth.

1937, June 3, P.L. 1333, art. XIV, § 1408.

¹ 25 P.S. § 3154.

Library References

Elections ⇨259.

WESTLAW Topic No. 144.

C.J.S. Elections § 237.

P.L.E. Elections § 102.

§ 3159. Secretary of the Commonwealth to tabulate, compute and canvass returns

Upon receiving the certified returns of any primary or election from the various county boards, the Secretary of the Commonwealth shall forthwith proceed to tabulate, compute and canvass the votes cast for all candidates enumerated in section 1408,¹ and upon all questions voted for by the electors of the State at large, and shall thereupon certify and file in his office the tabulation thereof.

1937, June 3, P.L. 1333, art. XIV, § 1409.

¹ 25 P.S. § 3158.

Library References

Elections ⇨259.

WESTLAW Topic No. 144.

C.J.S. Elections § 237.

P.L.E. Elections § 102.

§ 3160. Returns of local officers voted for in two or more counties; certificates of election; returns of county and local officers commissioned by Governor to be transmitted to Governor; commissions; contests

(a) In the case of any city, borough, township, ward, school district, or poor district office, or of the submission of any question to the electors, voted for or upon by the electors of two or more counties or parts of counties, the county election board, in each of the counties in which such municipality is located, shall certify to the county board of the county in which reside the majority of registered electors of such city, borough, township, ward, school district or poor district, the return of the vote cast for such officers or upon such questions. After completing the tabulation of such returns, the return board of said county shall issue certificates of election to the successful candidates. In case of any county, borough, city or township officer who is by law required to be commissioned by the Governor, the said return board shall also transmit a certified copy of such return to the Secretary of the Commonwealth, who shall forthwith lay the results of such election before the Governor.

(b) In case of the election of judge of a court of record, prothonotary, clerk of the courts, recorder of deeds, register of wills, or any other officer required by law to be commissioned by the Governor in any of the several counties of this Commonwealth, it shall be the duty of the county elections board to transmit immediately to the Secretary of the Commonwealth a certified copy of the returns for all such offices. The Secretary of the Commonwealth shall forthwith lay the return so made before the Governor, and the Governor shall issue a commission to any persons elected to said offices, notwithstanding that the election of such person to any or either of said offices may be contested in the manner provided by this act.

(c) Whenever it shall appear by the decision of the proper tribunal having jurisdiction of a contested election, that the person to whom said commission shall have been issued has not been legally elected to the office for which he has been commissioned, then a commission shall issue to the person who shall appear to be legally elected to said office, the issuing of which commission shall nullify and make void the commission already issued, and all power and authority under said commission first issued shall thereupon cease and determine.

1937, June 3, P.L. 1333, art. XIV, § 1410.

Library References

Elections ⇨ 165, 269.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 156 et seq., 245 et seq.
P.L.E. Elections §§ 104, 121.

§ 3161. Secretary of the Commonwealth to certify votes of National Delegates and members of State Committee

Following his tabulation of the returns received from each Spring primary, the Secretary of the Commonwealth shall issue certificates of election to the persons in each political party who have been duly elected delegates or alternate delegates to the National convention of each party, and to the persons in each party who have been duly elected members of the National Committee or the State committee of each party. In the case of delegates or alternate delegates to a National party convention, the certificates of election shall show the number of votes received in the State or in the political district, as the case may be, by each candidate of such delegate's or alternate delegate's political party for nomination as President of the United States. The Secretary of the Commonwealth shall also certify to the State chairman of each party the votes cast for each candidate for the office of member of State committee of each party.

1937, June 3, P.L. 1333, art. XIV, § 1411.

Library References

Elections ⇨265.

WESTLAW Topic No. 144.

C.J.S. Elections § 240.

P.L.E. Elections § 104.

§ 3162. Secretary of the Commonwealth to certify presidential votes by congressional districts

The Secretary of the Commonwealth, following his tabulation of the returns from each such Spring primary held in years in which candidates for President of the United States are to be nominated, shall prepare a statement from the said returns, showing the total number of votes cast in the State and in each congressional district of the State for each political party for nomination as President of the United States.

1937, June 3, P.L. 1333, art. XIV, § 1412.

Library References

Elections ⇨265.

WESTLAW Topic No. 144.

C.J.S. Elections § 240.

P.L.E. Elections § 104.

§ 3163. United States Senators, Representatives in Congress; certificates of election; returns

Upon completing the tabulation of any election for United States Senator or Representative in Congress, the Secretary of the Commonwealth shall lay the same before the Governor, who shall immediately issue certificates of election under the seal of the Common-

wealth, duly signed by himself, and attested by the Secretary of the Commonwealth, and deliver the same to the candidates receiving the highest number of votes for the respective offices. The Governor shall also transmit the returns of such election to the President of the United States Senate, in the case of the election of a United States Senator, and to the Speaker of the House of Representatives of the United States, in the case of the election of representatives in Congress.

1937, June 3, P.L. 1333, art. XIV, § 1413. Amended 1945, May 18, P.L. 694, No. 298, § 1.

Library References

Elections ⇨258, 265.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 236, 240.
P.L.E. Elections §§ 102, 104.

§ 3164. Members of the General Assembly; certificates of election; returns

The Secretary of the Commonwealth shall issue certificates of election to the persons elected members of the Senate and House of Representatives of the Commonwealth, and between the hours of twelve noon and one P.M. on the first Tuesday in January of each odd-numbered year, present before the Senate and the House of Representatives the several returns of the elections of members of the respective houses: Provided, however, That if the General Assembly shall be convened in extraordinary session during the month of December next following their election, the said returns shall be presented as aforesaid, on the first day of said extraordinary session. In case of a special election occurring during a session of the General Assembly, he shall present the returns thereof to the proper House as soon as received and tabulated by him.

1937, June 3, P.L. 1333, art. XIV, § 1414.

Library References

Elections ⇨265.
WESTLAW Topic No. 144.

C.J.S. Elections § 240.
P.L.E. Elections § 104.

§ 3165. Governor and other State officers; Judges; certificates of election; commissions

The Secretary of the Commonwealth, at the first meeting of the General Assembly following the election of a Governor, Lieutenant Governor, Secretary of Internal Affairs, Auditor General or State Treasurer, shall deliver to the President of the Senate the returns of elections for all such offices, who shall open and publish them in the presence of members of both houses of the General Assembly. The

person receiving the highest number of votes for the respective offices shall be declared elected thereto, and certificates of such elections shall be made and filed with the Secretary of the Commonwealth. The Secretary of the Commonwealth shall immediately lay before the Governor such certificates of election, except the certificate of election of Governor, whereupon the Governor shall issue a commission to each person so elected. The Secretary of the Commonwealth shall immediately after tabulating and computing the returns of each election of Judge of every court, certify the result thereof to the Governor, who shall immediately issue a commission to such person.

1937, June 3, P.L. 1333, art. XIV, § 1415. Amended 1945, May 18, P.L. 694, No. 298, § 1. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

Historical and Statutory Notes

The 1978 act repealed references to judges of the supreme and superior courts and to courts of record.

Library References

Elections ⇨258, 265.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 236, 240.
P.L.E. Elections § 102, 104.

§ 3166. Presidential electors; certificates of persons elected

The Secretary of the Commonwealth, on receiving and computing the returns of the election of presidential electors, shall lay them before the Governor, who shall enumerate and ascertain the number of votes given for each person so voted for, and shall cause a certificate of election to be delivered to each person so chosen. 1937, June 3, P.L. 1333, art. XIV, § 1416. Amended 1945, May 18, P.L. 694, No. 298, § 1.

Library References

Elections ⇨265.
WESTLAW Topic No. 144.

C.J.S. Elections § 240.
P.L.E. Elections §§ 102, 104.

§ 3167. Persons receiving highest number of votes to be declared elected

Except as otherwise provided by law, the persons receiving the highest number of votes for any office at any election shall be declared elected to such office, up to the number required by law to be elected thereto.

1937, June 3, P.L. 1333, art. XIV, § 1417.

Library References

Elections ⇨237.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 241, 242.
P.L.E. Elections § 101.

§ 3168. Tie votes

In the case of a tie vote not otherwise provided for by law, the candidates receiving the tie vote shall cast lots before¹ the county board or the Secretary of the Commonwealth, as the case may be, at 12 o'clock noon on the third Friday after the election, and the one to whom the lot shall fall¹ shall be declared elected. In any case where the fact of a tie vote is not authoritatively determined until after the third Wednesday after the election, the time for casting lots shall be 12 o'clock noon of the second day after the fact of such tie vote is authoritatively determined. If any candidate or candidates receiving a tie vote, fail to appear before twelve o'clock noon of said day, the county board or the Secretary of the Commonwealth, as the case may be, shall cast lots for him or them. For the purpose of casting lots any candidate may appear in person, or by proxy duly appointed in writing.

1937, June 3, P.L. 1333, art. XIV, § 1418.

¹ Enrolled bill reads "fail".

Library References

Elections ⇨238.
WESTLAW Topic No. 144.

C.J.S. Elections § 244.
P.L.E. Elections §§ 47, 101, 126, 127.

ARTICLE XV. ELECTORAL COLLEGE

§ 3191. Election of presidential electors

At the general election to be held in the year 1940, and every fourth year thereafter, there shall be elected by the qualified electors of the Commonwealth, persons to be known as electors of President and Vice-President of the United States, and referred to in this act as presidential electors, equal in number to the whole number of senators and representatives to which this State may be entitled in the Congress of the United States.

1937, June 3, P.L. 1333, art. XV, § 1501.

Library References

United States ⇨25.
WESTLAW Topic No. 393.

C.J.S. United States § 28.
P.L.E. Elections § 42.

§ 3192. Meeting of electors; duties

The electors chosen, as aforesaid, shall assemble at the seat of government of this Commonwealth, at 12 o'clock noon of the day

which is, or may be, directed by the Congress of the United States, and shall then and there perform the duties enjoined upon them by the Constitution and laws of the United States.

1937, June 3, P.L. 1333, art. XV, § 1502.

§ 3193. Filling of vacancies existing in presidential electors

If any such presidential elector shall die, or for any cause fail to attend at the seat of government at the time appointed by law, the electors present shall proceed to choose viva voce a person of the same political party as such deceased or absent elector, to fill the vacancy occasioned thereby, and immediately after such choice the name of the person so chosen shall be transmitted by the presiding officer of the college to the Governor, who shall forthwith cause notice in writing to be given to such person of his election; and the person so elected (and not the person in whose place he shall have been chosen) shall be an elector and shall, with the other electors, perform the duties enjoined on them.

1937, June 3, P.L. 1333, art. XV, § 1503.

§ 3194. Compensation of presidential electors; expenses of electoral college

Each presidential elector aforesaid, shall receive from the State Treasury the sum of three dollars for every day spent in traveling to, remaining at, and returning from, the place of meeting aforesaid, and shall be entitled to mileage at the rate of three cents per mile to and from his home, to be computed by the ordinary mail route between their homes and the place of meeting aforesaid. And the contingent expenses of the electoral college, not exceeding one hundred dollars in amount, shall likewise be paid by the State Treasurer, in both cases upon warrants drawn by the presiding officer of the college.

1937, June 3, P.L. 1333, art. XV, § 1504.

Library References

States ⇨123.

WESTLAW Topic No. 360.

C.J.S. States § 226.

P.L.E. State Government § 19.

ARTICLE XVI. PRIMARY AND ELECTION EXPENSES

§§ 3221 to 3234. Repealed. 1978, Oct. 4, P.L. 893, No. 171, § 1, effective Jan. 1, 1979

Historical and Statutory Notes

The repealed sections, which related to primary and elections expenses, were de-

rived from Act 1937, June 3, P.L. 1333, art. XVI, §§ 1601 to 1614.

Prior to repeal, the sections were amended or affected as follows:

Section	Amended or Affected by
3224	1943, June 3, P.L. 851, § 1; 1949 April 21, P.L. 693, § 5.
3225	1943, June 3, P.L. 851, § 1; 1976, July 1, P.L. 523, No. 124, § 3.
3226	1943, June 3, P.L. 851, § 1.
3227	1943, June 3, P.L. 851, § 1; 1949, April 21, P.L. 693, § 5; 1963, July 17, P.L. 266, § 1; 1976, July 1, P.L. 523, No. 124, § 4.
3228	1943, June 3, P.L. 851, § 1.
3231	1971, June 3, P.L. 118, No. 6, § 1 (§ 509(a)(117)); 1974, July 21, P.L. 587, No. 204, § 1; 1978, April 28, P.L. 202, No. 53, § 2(a)[1193].
3233	1949, April 21, P.L. 693, § 6.

Section 3222.1, which provided for a single treasurer to handle campaign funds, was derived from Act 1937, June 3, P.L. 1333, No. 320, art. XIV, § 1602.1, and was added by Act 1974, July 21, P.L. 585, No. 202, § 1.

Section 3225.1, which provided for reports of political contributions by businesses receiving non-bid governmental contracts, was derived from Act 1937, June 3, P.L. 1333, No. 320, art. XVI, § 1605.1, was added by Act 1974, July 21, P.L. 583, No. 201, § 1, and was amended by Act 1975, May 12, P.L. 1, No. 1, § 1.

Section 3230.1, which provided for accounts relating to primary and election expenses being made available to the public, was derived from Act 1937, June 3, P.L. 1333, No. 320, art. XVI, § 1610.1, and was added by Act 1974, July 21, P.L. 586, No. 203, § 1.

Section 3234, which related to notice of advertisements prior to elections, was derived from Act 1937, June 3, P.L. 1333, art. XVI, § 1614, and was added by Act 1972, Dec. 28, P.L. 1658, No. 353, § 1.

For subject matter of the repealed sections, see, now § 3241 et seq. of this title.

§ 3241. Definitions

As used in this article, the following words have the following meanings:

(a) The word **“candidate”** shall mean any individual who seeks nomination or election to public office, other than a judge of elections or inspector of elections, whether or not such individual is nominated or elected. For the purpose of this article, an individual shall be deemed to be seeking nomination or election to such office if he has:

(1) Received a contribution or made an expenditure or has given his consent for any other person or committee to receive a contribution or make an expenditure, for the purpose of influencing his nomination or election to such office, whether or not the individual has made known the specific office for which he or she will seek nomination or election at the time the contribution is received or the expenditure is made; or

(2) Taken the action necessary under the laws of the Commonwealth to qualify himself for nomination or election to such office.

(b) The word **“contribution”** shall mean any payment, gift, subscription, assessment, contract, payment for services, dues, loan,

forbearance, advance or deposit of money or any valuable thing, to a candidate or political committee made for the purpose of influencing any election in this Commonwealth or for paying debts incurred by or for a candidate or committee before or after any election. "Contribution" shall also include the purchase of tickets for events such as dinners, luncheons, rallies and all other fund-raising events; the granting of discounts or rebates not available to the general public; or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; and any payments provided for the benefit of any candidate, including any payments for the services of any person serving as an agent of a candidate or committee by a person other than the candidate or committee or a person whose expenditures the candidate or committee must report under this act. The word "contribution" includes any receipt or use of anything of value received by a political committee from another political committee and also includes any return on investments by a political committee.

(c) The word "**election**" shall mean any retention, primary, special, municipal or general election at which candidates appear on the ballot for nomination or election or at which questions are to be voted on by the electors of this Commonwealth.

(d) The word "**expenditure**" shall mean:

(1) the payment, distribution, loan or advancement of money or any valuable thing by a candidate, political committee or other person for the purpose of influencing the outcome of an election;

(2) the payment, distribution, loan, advance or transfer of money or other valuable thing between or among political committees;

(3) the providing of a service or other valuable thing for the purpose of influencing the outcome of a nomination or election of any person to any public office to be voted for in this Commonwealth; or

(4) the payment or providing of money or other valuable thing by any person other than a candidate or political committee, to compensate any person for services rendered to a candidate or political committee.

(e) The words "**independent expenditure**" shall mean an expenditure by a person made for the purpose of influencing an election without cooperation or consultation with any candidate or any political committee authorized by that candidate and which is not made in concert with or at the request or suggestion of any candidate or political committee or agent thereof.

(f) The word “**lobbyist**” shall mean any person who is registered pursuant to the provisions of the act of September 30, 1961 (P.L. 1778, No. 712), known as the “Lobbying Registration and Regulation Act¹.”

(g) The word “**pledge**” shall mean any written contract, promise or agreement to contribute personally money or anything of value.

(h) The words “**political committee**” shall mean any committee, club, association or other group of persons which receives contributions or makes expenditures.

(i) The words “**prosecutorial officer**” shall mean the attorney general of this Commonwealth or the district attorneys of the respective counties.

(j) The word “**supervisor**” shall mean the Secretary of the Commonwealth or the respective county boards of elections.

(k) The words “**valuable thing**” shall mean all securities, goods, facilities, equipment, supplies, personnel, advertising, services, membership lists commonly offered or used commercially or other in-kind contributions provided without compensation, or at compensation which is below the usual and normal compensation for the items. The dollar value of a contribution of a valuable thing is the difference between the usual and normal charge for goods or services at the time of the contribution and the amount charged the candidate or political committee.

Any of the categories hereinafter excluded from the definition of “valuable thing” shall not be deemed a contribution or expenditure for purposes of reporting or record keeping. The words “valuable thing” shall not include such de minimus items as the following:

(1) Voluntary personal services provided by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee.

(2) The operation of a motor vehicle owned or leased by a candidate or a member of his immediate family or for consumption of food or beverages by a candidate or his immediate family.

(3) The use of real or personal property, including a community room or a church used on a regular basis by members of a community for noncommercial purposes, and the cost of invitations, food and beverages voluntarily provided by an individual to any candidate in rendering voluntary personal services on the individual’s residential premises or in the church or community room for candidate related activities, to the extent that the cumulative value of such invitations, food and beverages provided by such individual on behalf of any single candidate does not exceed two hundred fifty dollars (\$250), with respect to any single election.

(4) The sale of any food or beverage by a vendor other than a corporation or unincorporated association for use in any candidate's campaign at a charge less than the normal comparable charge, if such charge is at least equal to the cost of such food or beverage to the vendor to the extent that the cumulative value of such reduced charge by such vendor on behalf of any single candidate does not exceed two hundred fifty dollars (\$250) with respect to any single election.

(5) Any unreimbursed payment for travel expenses made by any individual on behalf of any candidate to the extent that the cumulative value of such travel activity by such individual on behalf of any single candidate does not exceed two hundred fifty dollars (\$250) with respect to any single election.

(6) The use of the personal residence or the business or office space of the candidate other than a corporation or unincorporated association and the use of personal property owned or leased by the candidate: Provided, however, That the cumulative value of the use of such personal property does not exceed one thousand dollars (\$1,000) with respect to any single election.

(7) The use of the personal residence or the business or office space of any volunteer, other than a corporation or unincorporated association, and the use of personal property owned or leased by a volunteer: Provided, however, That the cumulative value of the use of such personal property does not exceed two hundred fifty dollars (\$250) with respect to any single election. Nothing in this section shall be construed to permit any matter prohibited in sections 1633 and 1843.²

(l) The words "**Political Action Committee**" shall mean any political committee as defined in subsection (h) which receives contributions and makes expenditures to, or on behalf of, any candidate other than a candidate's own authorized political committees or the political committees of any State, county, city, borough, township, ward or other regularly constituted party committee of any political party or political body.

(m) The words "**Candidate's Political Committee**" shall mean any political committee formed on behalf of a specified candidate and authorized by said candidate.

1937, June 3, P.L. 1333, § 1621, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979. Amended 1979, July 21, P.L. 189, No. 63, §§ 7 and 8, imd. effective; 1980, July 11, P.L. 591, No. 127, § 6, imd. effective.

¹ 46 P.S. § 148.1 et seq.

² 25 P.S. §§ 3253 and 3543.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be applicable to campaign financing for all elections thereafter."

The 1979 amendment added the definitions of "Political Action Committee" and "Candidate's Political Committee".

The 1980 amendment rewrote the definition of "valuable thing" which formerly read:

"The words 'valuable thing' shall mean all securities, goods, facilities, equipment, supplies, personnel, advertising, services,

membership lists commonly offered or used commercially or other in-kind contributions provided without compensation, except voluntary personal services provided by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, or at compensation which is below the usual and normal compensation for the items. The dollar value of a contribution of a valuable thing is the difference between the usual and normal charge for goods or services at the time of the contribution and the amount charged the candidate or political committee."

Pennsylvania Code References

Registration and organization of political committees, see 4 Pa. Code § 176.1 et seq.

Reports by candidates, political committees, and other persons, see 4 Pa. Code § 177.1 et seq.

Library References

Elections ¶317.
WESTLAW Topic No. 144.

C.J.S. Elections § 329.
P.L.E. Elections § 142.

§ 3242. Organization of political committees; treasurer and assistant treasurer; records of candidates and committees

(a) Every political committee shall have a treasurer and a chairman. No contribution shall be received nor shall any expenditure be made when there is a vacancy in either one of these offices. All money received and disbursed by a political committee must be done through the treasurer of the committee.

(b) Every candidate who authorizes a committee or committees, to receive and disburse funds on behalf of this candidacy, shall name a sole treasurer, irrespective of the number of committees so authorized, to receive and disburse all funds for said committees. Nothing herein shall be construed to prohibit a candidate from receiving or expending moneys on his behalf or a treasurer of a political party committee or a committee authorized to receive and distribute funds on behalf of more than one (1) candidate from receiving or expending moneys on behalf of said candidates, notwithstanding the appointment of a sole treasurer. A sole treasurer may delegate authority, in writing, to any number of assistant treasurers to receive and disburse moneys collected on behalf of a candidate for election. Nothing in this section shall prohibit authorized individuals from selling tickets or soliciting funds when funds are deposited in the campaign account of the candidate.

(c) Each candidate and committee shall keep records of the names and addresses of each person from whom a contribution of over ten dollars (\$10) has been received and a record of all other information required to be reported pursuant to this act. All such records shall be retained by the candidate or treasurer for a period of three (3) years after such information is reported as required by this act.

(d) Any person receiving any contribution on behalf of a political committee or candidate shall turn such contributions over to the treasurer of that committee or the candidate within ten (10) days of its receipt.

1937, June 3, P.L. 1333, § 1622, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979. Amended 1980, July 11, P.L. 591, No. 127, § 6, imd. effective.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be applicable to campaign financing for all elections thereafter."

The 1980 amendment in subsec. (c) substituted "three (3) years" for "five (5) years".

§ 3243. Authorization of political committee

No treasurer of any political committee shall receive any money on behalf of a candidate until such political committee shall have been so authorized in writing by the candidate on a form designed by the Secretary of the Commonwealth. A copy of such written authorization shall be filed with the appropriate supervisor; however the treasurer of any State, county, city, borough, township, ward or other regularly constituted party committee of any political party or political body is hereby authorized to receive money on behalf of the candidates of such political party or political body in a general, municipal or special election, without special written authorization from such candidate.

1937, June 3, P.L. 1333, § 1623, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be

applicable to campaign financing for all elections thereafter."

§ 3244. Registration

(a) Any political committee which receives contributions in an aggregate amount of two hundred fifty dollars (\$250) or more shall file a registration statement, designed by the Secretary of the Com-

monwealth, with the appropriate supervisor within twenty (20) days after the date on which it receives such amount. Each committee in existence shall have sixty (60) days from the effective date of this amendatory act to comply with the requirements of this section.

(b) Each registration statement shall contain the following information:

(1) The name, addresses and phone numbers of the political committee.

(2) The name, address and phone number of the committee's treasurer.

(3) The name, address and phone number of the committee's chairman.

(4) The names, addresses and relationships of other affiliated or connected organizations.

(5) The candidates, if any, and their names and addresses.

(6) The ballot question, if any, which the committee intends to support or oppose.

(7) The banks, safety deposit boxes or other repositories and their addresses used by the committee.

(8) The proposed period of operation of the committee.

(c) The committee shall inform the appropriate supervisor of any changes in the information contained in subsection (b) within thirty (30) days of that change.

(d) No political committee which receives an aggregate amount of contributions of two hundred fifty dollars (\$250) or more may make a contribution to any candidate or political committee unless it has registered with the appropriate supervisor.

1937, June 3, P.L. 1333, § 1624, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be applicable to campaign financing for all elections thereafter."

§ 3245. Statements by lobbyists

(a) Any lobbyist who has given a contribution or pledge regardless of amount, to any candidate, shall be subject to the same registration and reporting provisions as are political committees.

(b) The registration statement required by section 1624¹ shall be filed by a lobbyist who has given a contribution or pledge regardless of amount, to any candidate.

1937, June 3, P.L. 1333, § 1625, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979.

¹ 25 P.S. § 3244.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be applicable to campaign financing for all elections thereafter."

§ 3246. Reporting by candidate and political committees and other persons

(a) Each treasurer of a political committee and each candidate for election to public office shall file with the appropriate supervisor reports of receipts and expenditures on forms, designed by the Secretary of the Commonwealth, if the amount received or expended or liabilities incurred shall exceed the sum of two hundred fifty dollars (\$250). Should such an amount not exceed two hundred fifty dollars (\$250), then the candidate or the treasurer of the committee shall file a sworn statement to that effect with the appropriate supervisor rather than the report required by this section.

(b) Each report shall include the following information:

(1) The full name, mailing address, occupation and name of employer, if any, or the principal place of business, if self-employed, of each person who has made one or more contributions to or for such committee or candidate within the reporting period in an aggregate amount or value in excess of two hundred fifty dollars (\$250), together with the amount and date of such contributions. The accuracy of the information furnished to the candidate or committee shall be the responsibility of the contributor.

(2) The full name and mailing address of each person who has made one or more contributions to or for such committee or candidate within the reporting period in an aggregate amount or value in excess of fifty dollars (\$50), together with the amount and date of such contributions. The accuracy of the information furnished by the contributor shall be the responsibility of the contributor.

(3) The total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under clauses (1) and (2).

(4) Each and every expenditure, the date made, the full name and address of the person to whom made and the purpose for which such expenditure was made.

(5) Any unpaid debts and liabilities, with the nature and amount of each, the date incurred and the full name and address of the person owed.

(6) The account shall include any unexpended balance of contributions or other receipts appearing from the last account filed.

(c) Vouchers or copies of vouchers for all sums expended amounting to more than twenty-five dollars (\$25) shall be retained by the candidate or the committee treasurer and shall be available for public inspection and copying as herein provided. Any person may inspect or copy such vouchers or copies thereof by filing a written request with the appropriate supervisory office which shall notify the candidate or political committee of such request. The candidate or political committee shall have the option of either forwarding such vouchers or copy of the same to the supervisor for such purpose or making the vouchers or copy of the same available to the requesting person. If a candidate or a treasurer of a political committee shall fail to make said vouchers or copies thereof available for inspection and copying when requested by the appropriate supervisory officer, such officer shall direct the candidate or political committee to promptly deliver the vouchers or copies thereof to the supervisory office for purposes of inspection and copying. Costs of copying and costs of delivery by the candidate or treasurer of the requested vouchers or copies thereof shall be borne by the person requesting same.

(d) Pre-election reports by candidates for offices to be voted for by the electors of the State at large and all political committees, which have expended money for the purpose of influencing the election of such candidate, shall be filed not later than the sixth Tuesday before and the second Friday before an election, provided that the initial pre-election report shall be complete as of fifty (50) days prior to the election and the subsequent pre-election report shall be complete as of fifteen (15) days prior to the election. Pre-election reports by all other candidates and political committees which have received contributions or made expenditures for the purpose of influencing an election shall be filed not later than the second Friday before an election, provided that such report be complete as of fifteen (15) days prior to the election.

(e) All candidates or political committees, required to file under this section, shall also file a post-election report not later than thirty (30) days after an election which shall be complete as of twenty (20) days after the election. In the case of a special election the post-

election report shall be complete as of ten (10) days after such special election.

(f) Each report shall also contain a summary, on a separate page, of the information required by subsection (b).

(g) Every person, other than a political committee or candidate, who makes independent expenditures expressly advocating the election or defeat of a clearly identified candidate, or question appearing on the ballot, other than by contribution to a political committee or candidate, in an aggregate amount in excess of one hundred dollars (\$100) during a calendar year shall file with the appropriate supervisor, on a form prepared by the Secretary of the Commonwealth, a report which shall include the same information required of a candidate or political committee receiving such a contribution and, additionally, the name of the candidate or question supported or opposed. Reports required by this subsection shall be filed on dates on which reports by political committees making expenditures are required to report under this section.

(h) All reports required to be filed pursuant to this section shall be filed pursuant to section 1630.¹ All reports and statements required by this section shall cover the campaign activity of a candidate only from the last prior report or statement.

(i) An expenditure from a candidate's political committee to another political committee shall be reported as a contribution by the political committee receiving the contribution but need not be reported by the contributing candidate's political committee until the time required by law for that candidate's political committee to report: Provided, however, That if the amount of the contribution exceeds two hundred fifty dollars (\$250) to a single political committee or one thousand dollars (\$1,000) in aggregate contributions to more than one political committee for any primary, general or special election, then receipts and expenditures shall be reported by the contributing committee at the same time as required by law for the committee receiving same.

(j) All "Political Action Committees" shall report to the Secretary of the Commonwealth all expenditures to or made on behalf of, any Statewide candidate, candidate for the Pennsylvania House of Representatives, or candidate for the State Senate, in the same manner as indicated in this section as a candidate's political committee. This provision shall be in addition to any other filing and reporting provisions of this act which apply to such committees, their treasurers and chairmen.

1937, June 3, P.L. 1333, § 1626, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979. Amended 1979, July 21, P.L. 189, No. 63, § 8, imd.

effective; 1980, July 11, P.L. 591, No. 127, § 6, imd. effective; 1980, July 11, P.L. 600, No. 128, § 8, imd. effective; 1981, July 10, P.L. 256, No. 84, § 1, imd. effective.

¹ 25 P.S. § 3250.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be applicable to campaign financing for all elections thereafter."

The 1979 amendment added subsecs. (i) and (j).

Act 1980, P.L. 591, rewrote subsec. (c) and in subsec. (h) added the provision that all reports and statements required by this section shall cover campaign activity from the last prior report or statement. Prior to amendment subsec. (c) read:

"A report filed under the provisions of this act shall be accompanied by vouchers for all sums expended amounting to more than twenty-five dollars (\$25)."

Act 1980, P.L. 600, in subsec. (d) substituted "the sixth Tuesday before and the second Friday before" for "forty-five (45) days and ten (10) days prior to" and substituted "the second Friday before" for "ten (10) days prior to".

The 1981 amendment in subsec. (e) added the provision relating to special elections.

§ 3246.1. Waiver of reporting by local candidates upon filing of additional affidavits

(a) In lieu of filing the reports or statements required by sections 1626 and 1627,¹ a candidate for local office (which shall include county, township, city, school district, magisterial district, town and borough offices), who does not form a political committee, shall file an additional affidavit on the form required in section 910 or 951² attesting to the following:

(1) that the candidate for local office does not intend to receive contributions or make expenditures in excess of two hundred fifty dollars (\$250) during any reporting period;

(2) that the candidate for local office will keep records of contributions and expenditures, as required by this act;

(3) that the candidate for local office will file reports in accord with sections 1626 and 1627 for any reporting period during which he receives contributions or makes expenditures in excess of two hundred fifty dollars (\$250).

(b) Any candidate for local office filing an affidavit pursuant to this section, who exceeds the two hundred fifty dollar (\$250) limit herein specified, during a reporting period shall file the report required by section 1626 which shall be cumulative from the beginning of the reporting period. No further report shall be required for any subsequent period unless a candidate for local office receives contributions

or makes expenditures in excess of two hundred fifty dollars (\$250) during said reporting period.

1937, June 3, P.L. 1933, § 1626.1, added 1980, July 11, P.L. 591, No. 127, § 7, imd. effective.

¹ 25 P.S. §§ 3246 and 3247.

² 25 P.S. §§ 2870 or 2911.

§ 3247. Annual reports

(a) All political committees and candidates, including those committees and candidates filing reports under section 1626(d) and (e),¹ shall file a report on January 31 of each year which shall be complete as of December 31 of the prior year. Such reports shall be filed annually at this time until there is no balance or debt in the report of the candidate or political committee. Such reports shall be cumulative. However, if there has been no change in the account, then the candidate or political committee shall file a statement to that effect with the appropriate supervisor. Each form designated by the Secretary of the Commonwealth for filing a report or statement required by section 1626(e) shall contain a block which may be marked by the candidate or political committee designating it a termination report or statement. If such report or statement is so designated, or if an authorized candidate elects to file no report or statement pursuant to section 1626.1,² no annual report need be filed under this section unless contributions were received or expenditures made subsequent to the time period for filing of such termination report. However, no candidate or political committee may terminate by way of a statement where the unpaid balance indicated in the previous report was greater than two hundred fifty dollars (\$250). In the case of annual reports said report shall cover the campaign activity of a candidate or political committee from the last prior report or statement.

(b) Any political committee required to be registered under this act and not reporting under section 1626 shall file an annual report under this section. However, if a political committee makes aggregate expenditures as defined in section 1621³ in an amount less than two hundred fifty dollars (\$250) or incurs aggregate debt in an amount less than two hundred fifty dollars (\$250) during the calendar year to influence an election, it need not file an annual report; provided that this exception shall not be applicable to a candidate's political committee or to a State or county committee of a political

party or political body or to a political action committee of a corporation or unincorporated association.

1937, June 3, P.L. 1333, § 1627, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979. Amended 1980, July 11, P.L. 591, No. 127, § 8, imd. effective; 1980, July 11, P.L. 625, No. 129, § 1, imd. effective.

¹ 25 P.S. § 3246(d) and (e).

² 25 P.S. § 3246.1.

³ 25 P.S. § 3241.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be applicable to campaign financing for all elections thereafter."

Act 1980, P.L. 591, rewrote the section which formerly read:

"(a) All political committees and candidates, including those committees and candidates filing reports under section 1626(d) and (e), shall file a report on January 31 of each year which shall be complete as of January 15 of each year. Such reports shall be filed annually at this time until there is no balance or debt

in the report of the candidate or political committee. Such reports shall be cumulative. However, if there has been no change in the account, then the candidate or political committee shall file a statement to that effect with the appropriate supervisor.

"(b) Any political committee required to be registered under this act and not reporting under section 1626 shall file an annual report under this section."

Act 1980, P.L. 625, in subsec. (b) made the same changes as did Act 1980, P.L. 591.

§ 3248. Late contributions and independent expenditures

Any candidate or political committee, authorized by a candidate and created solely for the purpose of influencing an election on behalf of that candidate, which receives any contribution or pledge of five hundred dollars (\$500) or more, and any person making an independent expenditure, as defined by this act, of five hundred dollars (\$500) or more after the final pre-election report has been deemed completed shall report such contribution, pledge or expenditure to the appropriate supervisor by telegram or mailgram. Such telegram or mailgram shall be sent by the candidate, chairman or treasurer of the political committee within twenty-four (24) hours of receipt of the contribution. It shall be the duty of the supervisor to confirm the substance of such telegram or mailgram. Any candidate in his own behalf, or chairman, treasurer or candidate in behalf of the political committee may also comply with this section by appearing personally before such supervisor and reporting such late contributions or pledges.

1937, June 3, P.L. 1333, § 1628, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979. Amended 1980, July 11, P.L. 600, No. 128, § 8, imd. effective.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be applicable to campaign financing for all elections thereafter."

The 1980 amendment inserted "or mailgram" three times and rewrote the last sentence to provide for compliance by a candidate in his own behalf or in behalf of a political committee.

§ 3249. Oath of compliance; perjury; disqualification from office; commercial use

(a) Each report shall be subscribed and sworn to by the individual submitting the report. In addition, any report filed by a political committee, authorized by a candidate and created solely for the purpose of influencing an election on behalf of that candidate, must be accompanied by an affidavit from that candidate which provides that, to the best of the candidate's knowledge, the political committee has not violated any provision of this act.

(b) Any wilfully false, fraudulent or misleading statement or entry made by any candidate or treasurer in any statement or report under oath as required by this article, shall constitute the crime of perjury, and be punishable as such according to the laws of this Commonwealth.

(c) Any person hereafter convicted of such an act shall be disqualified from holding public office in this Commonwealth. Conviction, as used in this subsection, shall include a finding or verdict of guilt, an admission of guilt, or a plea of nolo contendere.

(d) It shall be unlawful for any person to use the contents of any statement or report filed under this article for any commercial purpose whatsoever.

1937, June 3, P.L. 1333, § 1629, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979, and "shall be

applicable to campaign financing for all elections thereafter."

Cross References

Perjury, see 18 Pa.C.S.A. § 4902.

§ 3250. Residual funds

In the event that a candidate or political committee terminates its financial activity as such, then the disbursement of any residual funds remaining in such an account shall be made in the following manner:

(1) any such funds may be used for any expenditure as defined by this article; and

(2) may be returned, pro rata, to the contributors by the candidate or treasurer of the political committee. A final report must be made by the next January 31 in accordance with section 1627.¹

1937, June 3, P.L. 1333, § 1630, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979.

¹ 25 P.S. § 3247.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be

applicable to campaign financing for all elections thereafter."

§ 3251. Place of filing

Any statement or report required by this article to be filed, shall be done in the following manner:

(1)(i) Any candidate, individual, or committee required to file a report concerning any candidate shall file that statement or report in the office of the supervisor with whom the candidate filed a nomination paper, nomination certificate, nomination petitions or with the supervisor with whom the candidate would have filed such if he had sought nomination in that manner.

(ii) All candidates and political committees, authorized by candidates and created solely for the purpose of influencing the election of such candidates, who must file reports with the Secretary of the Commonwealth, shall also file copies of their reports in the county in which the candidate resides.

(2)(i) Any statement or report concerning an issue to be voted on by the electors of the State at large shall be filed with the Secretary of the Commonwealth.

(ii) Any statement or report concerning any other issue to be voted on by the electors of this Commonwealth shall be filed in the county wherein the electors reside.

(3) However, if any report of any political committee concerns both candidates who file for nomination with the Secretary of the Commonwealth and candidates who file with a county board of elections, then such report shall be filed with the Secretary of the Commonwealth.

1937, June 3, P.L. 1333, § 1631, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be

applicable to campaign financing for all elections thereafter."

§ 3252. Late filing fee; certificate of filing

(a) A late filing fee for each report or statement of expenditures and contributions which is not filed within the prescribed period shall be imposed as follows. Such fee shall be ten dollars (\$10) for each day or part of a day excluding Saturdays, Sundays and holidays that a report is overdue. An additional fee of ten dollars (\$10) is due for each of the first six (6) days that a report is overdue. The maximum fee payable with respect to a single report is two hundred fifty dollars (\$250). A supervisor shall receive an overdue report or statement even if any late filing fee due has not been paid but the report or statement shall not be considered filed until all fees have been paid upon the receipt by the supervisor of an overdue report. No further late filing fees shall be incurred notwithstanding the fact that the report or statement is not considered filed. The late filing fee is the personal liability of the candidate or treasurer of a political committee and cannot be paid from contributions to the candidate or committee, nor may such fee be considered an expenditure. A report or statement of expenditures and contributions shall be deemed to have been filed within the prescribed time if the letter transmitting the report or statement which is received by the supervisor is transmitted by first class mail and is postmarked by the United States Postal Service on the day prior to the final day on which the report or statement is to be received: Provided, That this sentence shall not be applicable to the reporting requirements contained in section 1628.¹

(b) No person shall be deemed elected to a public office under the laws of this commonwealth or enter upon the duties thereof, or receive any salary or emoluments therefrom until all of the reports and statements of contributions and expenditures required to be filed by any candidate and treasurers of committees authorized by such candidate and due before the person may take office, have been filed. No candidate may be sworn in until the appropriate supervisor certifies that all required reports have been filed, and no official of the commonwealth or any of its political subdivisions may issue a commission or administer an oath of office until that official has received this certification. No certification shall be issued until the supervisor has received post-election reports of any candidate and treasurer of committees authorized by such candidate.

(c) No late filing fees shall be imposed under this section for pre-election filings due any primary, special, or municipal election held through November 6, 1979. Late filing fees paid for any primary,

special, or municipal election held through November 6, 1979 shall be refunded after any candidate or committee in violation has filed the required pre-primary, pre-special, pre-municipal, post-primary, post-special, or post-municipal election report. No late filing fee shall be imposed under this section, for the required post-primary election report for the primary election held May 15, 1979 where such post-primary election report is filed on or before July 16, 1979. No late filing fee shall be imposed under this section for the required pre-election or post-election report for the municipal election held November 6, 1979 where such report is filed on or before February 15, 1980: Provided, however, That no one shall be issued a commission or take the oath of office until all reports required on account of his or her candidacy shall be filed. Any pre-election or post-election late filing fees, collected for primary, special, or municipal elections held on or before November 6, 1979, shall be refunded within thirty (30) days.

1937, June 3, P.L. 1333, § 1632, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979. Amended 1979, Dec. 13, P.L. 551, No. 124, § 1, imd. effective; 1980, July 11, P.L. 591, No. 127, § 8, imd. effective.

¹ 25 P.S. § 3248.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be applicable to campaign financing for all elections thereafter."

The 1979 amendment added subsec. (c).

The 1980 amendment in subsec. (a) excluded Saturdays in the computation of the daily late fee, deleted "officially" preceding "filed" twice, and added the last sentence and proviso.

§ 3253. Contributions or expenditures by national banks, corporations or unincorporated associations

(a) It is unlawful for any National or State bank, or any corporation, incorporated under the laws of this or any other state or any foreign country or any unincorporated association, except those corporations formed primarily for political purposes or as a political committee, to make a contribution or expenditure in connection with the election of any candidate or for any political purpose whatever except in connection with any question to be voted on by the electors of this Commonwealth. Furthermore, it shall be unlawful for any candidate, political committee, or other person to knowingly accept or receive any contribution prohibited by this section, or for any officer or any director of any corporation, bank, or any unincorporated association to consent to any contribution or expenditure by the corporation, bank or unincorporated association, as the case may be, prohibited by this section.

(b) No provision of the laws of this Commonwealth shall be deemed to prohibit a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations in the ordinary course of business; however, any such loans shall be included in the reports filed by the candidates and political committees. No provision of the laws of this Commonwealth shall be deemed to prohibit the receipt of interest or dividends on investments where the interest or dividends are received in accordance with the applicable banking laws and in the ordinary course of business. Any such interest and dividends shall be included in the financial records maintained by the candidate and political committees and reported where appropriate under the filing requirements of this act.

(c) No provision of the laws of this Commonwealth shall be deemed to prohibit direct private communications by a corporation to its stockholders and their families or by an unincorporated association to its members and their families on any subject; nonpartisan registration and get-out-vote campaigns by a corporation aimed at its stockholders and their families or by an unincorporated association aimed at its members and their families; and the establishment, and administration by a corporation or an unincorporated association of a separate segregated fund which fund is to be created by voluntary individual contributions, including those solicited by the corporation or unincorporated association and to be utilized for political purposes, provided that any such separate segregated fund shall be deemed to be a political committee for purposes of this article. 1937, June 3, P.L. 1333, § 1633, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979. Amended 1978, Nov. 26, P.L. 1313, No. 318, § 1, effective in 60 days; 1980, July 11, P.L. 591, No. 127, § 9, imd. effective.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be applicable to campaign financing for all elections thereafter."

The 1978 amendment rewrote the section which formerly read:

"Contributions or Expenditures by National Banks, Corporations or Labor Organizations.

"(a) It is unlawful for any National or State bank, or any corporation, incorporated under the laws of this or any other State or any foreign country, except those corporations formed primarily for political purposes or as a political committee, or any labor organization to make a con-

tribution or expenditure in connection with the election of any candidate or for any political purpose whatever except in connection with any question to be voted on by the electors of this Commonwealth. Furthermore, it shall be unlawful for any candidate, political committee, or other person to knowingly accept or receive any contribution prohibited by this section, or for any officer or any director of any corporation, bank, or any labor organization to consent to any contribution or expenditure by the corporation, bank or labor organization, as the case may be, prohibited by this section.

"(b) For the purposes of this section, the term "labor organization" shall mean any organization of any kind, or any

agency or employe representation committee or plan, in which employes participate and which exists for the purpose, in whole or in part, of dealing with employes concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

"(c) No provision of the laws of this Commonwealth shall be deemed to prohibit a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations in the ordinary course of business; however, any such loans shall be included in the reports filed by the candidates and political committees.

"(d) No provision of the laws of this Commonwealth shall be deemed to prohibit direct private communications by a

corporation to its members and their families on any subject, nonpartisan registration and get-out-vote campaigns by a corporation aimed at its stockholders and their families or by a labor organization aimed at its members and their families, and the establishment, and administration by a corporation or a labor organization, of a separate segregated fund which fund is to be created by voluntary individual contributions, solicited by the corporation or labor organization, and to be utilized for political purposes, provided that any separate segregated fund shall be deemed to be a political committee for purposes of this article."

The 1980 amendment in subsec. (b) added the provisions relating to receipt of interest and dividends.

United States Supreme Court

Free speech, equal protection, corporate expenditures for political candidates from general treasury, see *Austin v. Mich-*

igan Chamber of Commerce, 1990, 110 S.Ct. 1391, 494 U.S. 652, 108 L.Ed.2d 652, on remand 937 F.2d 608.

§ 3254. Contributions by agents; anonymous contributions; cash contributions

(a) It shall be unlawful for any person to make any contribution with funds designated or given to him for the purpose by any other person, firm or corporation. Each person making a contribution shall do so only in his own name.

(b) It shall be unlawful for any candidate or political committee to disburse money received from an anonymous source. All such money shall be handed over to the State Treasurer within twenty (20) days of its receipt.

(c) It shall be unlawful for any person to make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which in the aggregate, exceed one hundred dollars (\$100), with respect to any candidate for election.

1937, June 3, P.L. 1333, § 1634, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979. Amended 1978, Nov. 26, P.L. 1313, No. 318, § 1, effective in 60 days.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said act shall take effect on January 1, 1979 and "shall be

applicable to campaign financing for all elections thereafter."

The 1978 amendment in the section heading deleted "Bribery for Contribu-

tions;" and in subsec. (a) inserted ", firm or corporation".

§ 3254.1. Lawful election expenses

No candidate, chairman or treasurer of any political committee shall make or agree to make any expenditure or incur any liability except as provided in section 1621(d).¹

1937, June 3, P.L. 1333, § 1634.1, added 1978, Nov. 26, P.L. 1313, No. 318, § 2, effective in 60 days. Amended 1980, July 11, P.L. 591, No. 127, § 10, imd. effective.

¹ 25 P.S. § 3241(d).

Historical and Statutory Notes

The 1980 amendment rewrote the section which formerly read:

"No candidate, chairman or treasurer of any political committee shall make or agree to make any expenditure or incur any liability except for the following purposes:

"(1) For printing and traveling expenses and personal expenses incident thereto, stationery, advertising, postage, expressage, freight, telegraph, telephone and public messenger service.

"(2) For the rental of radio facilities and amplified systems.

"(3) For political meetings, demonstrations and conventions and for the pay and transportation of speakers.

"(4) For the rent, maintenance and furnishing of offices.

"(5) For the payment of clerks, typewriters, stenographers, janitors and messengers actually employed.

"(6) For the transportation of electors to and from the polls.

"(7) For the employment of watchers at primaries and elections to the number and in the amount permitted by this act.

"(8) For expenses, legal counsel, incurred in good faith in connection with any primary or elections.

"(9) For contributions to other political committees."

Library References

- Elections ⇨317.
- WESTLAW Topic No. 144.
- C.J.S. Elections § 329.

§ 3255. Independent audit

(a) Every two (2) years, the Secretary of the Commonwealth shall contract for the services of a certified public accountant or certified public accounting firm. Such contract shall be awarded on a bid basis and no certified public accountant or certified public accounting firm shall be eligible to obtain such a contract for two (2) successive contract periods.

(b) The Secretary of the Commonwealth shall select by lottery, at a public drawing, forty (40) days after each primary, general and municipal election three (3) per cent of all public offices for which candidates must file nominating petitions or papers with the Secre-

tary of the Commonwealth. For the purpose of this subsection, a legislative or senatorial district shall be considered a public office. Any public office filled at a special election occurring other than at a primary, general or municipal election shall be placed in the lottery of public offices for audit at the next succeeding primary, general or municipal election whichever occurs first. Any public office filled at a special election held at the same time as any other election shall be included in the lottery for that election.

(c) The certified public accountant shall audit the reports of all candidates for each public office selected in accordance with subsection (b) and those committees, authorized and created solely for the purposes of influencing an election on behalf of those candidates.

(d) The accountants shall conduct their audit in accord with sound accounting principles and shall make findings of any possible violations of this act with respect to campaign contributions or expenses. All audited candidates and their committees shall furnish any records to the accountants which the accountants deem necessary for the completion of their work.

(e) The accountant shall report his or her findings to the Secretary of the Commonwealth who shall make public the report of the accountants. The results of the primary election audit shall not be released to the public until after the general or municipal election. Nothing in this subsection shall be construed to prohibit the initiation of prosecution for criminal violations by the appropriate agencies.

(f) The accountants shall also furnish a report of their findings to the Attorney General for the institution of such criminal proceedings as he or she shall deem necessary.

1937, June 3, P.L. 1333, § 1635, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979. Amended 1980, July 11, P.L. 591, No. 127, § 11, imd. effective.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be applicable to campaign financing for all elections thereafter."

The 1980 amendment rewrote subsecs. (b), (c) and (e) which formerly read:

"(b) The Secretary of the Commonwealth shall select by lottery, at a public drawing, forty (40) days after each election the names of ten (10) per cent of all

candidates filing with the Secretary of the Commonwealth.

"(c) The certified public accountant shall audit the reports of all such candidates and those committees, authorized and created solely for the purposes of influencing an election on behalf of those candidates.

"(e) The accountant shall report his or her findings to the Secretary of the Commonwealth who shall make public the report of the accountants."

§ 3256. Audit of expense accounts

(a) Within ninety (90) days after the last day for filing any report and affidavit required by this act, any five (5) electors of the Commonwealth or of the political division may present a petition to the court of common pleas of the county in which is situated the office where such original report has been filed or with the Commonwealth Court in the case of original report filed with the Secretary of the Commonwealth for an audit of such report. Thereupon the court shall direct the officer or board with whom such report has been filed to certify the same to the court for audit and may, in its discretion, require security to be entered for costs. The court may, in its discretion, appoint an auditor to audit such report, but the fees of such auditor shall be a reasonable sum per day for each day actually engaged. The court or auditor shall fix a day as early as may be convenient for the audit, at which time the person by whom such report has been filed shall be required to be present in person to vouch his report and to answer on oath or affirmation all such relevant questions concerning the same, as may be put to him by the petitioners or their counsel. The auditor shall issue subpoenas to all parties whom the petitioners or the filer of the report may require, to give evidence concerning such report, and he shall determine, subject to exception, all questions as to the admissibility of evidence, and shall file a copy of the evidence with his findings. If upon the audit, the court shall decide that the report was false in any substantial manner, or that any expenses have been incurred in contravention of this act, the costs of said audit shall be paid by the filer of the report, otherwise the court shall make such order as to payment of costs as shall be just in the circumstances.

(b) If the court shall decide upon the audit that any person, whether a candidate or not, has accepted contributions or incurred expense or has expended or disbursed money in contravention of this act, or has otherwise violated any of the provisions of this act, it shall certify its decision to the appropriate prosecutorial officer and it shall thereupon be the duty of such officer to institute criminal proceedings as he or she shall deem necessary.

(c) No person shall be excused from answering any question in any proceeding under this section on the ground that such answer would tend to incriminate him, but no such answer shall be used as evidence against such person in any criminal action or prosecution whatever, except in an action for perjury in giving such testimony. 1937, June 3, P.L. 1333, § 1636, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be

applicable to campaign financing for all elections thereafter."

Notes of Decisions

In general 1
Costs 4
Purpose 2
Reservation of ruling 3

1. In general

Any invocation of the penalties to be applied to a person who, while a candidate for office, has violated the Election Code is dependent upon adherence to procedures set out in 25 P.S. § 3231 (repealed; see, now, 25 P.S. § 3256) requiring that, within 30 days after the last date for filing an expense account, five electors of the state or of the political division may present a petition to the court of common pleas for an audit; any party seeking to disqualify candidate from holding office by reason of alleged illegal or otherwise irregular campaign contributions and expenses must comply with the audit procedure. *Brunwasser v. Fields*, 397 A.2d 479, 40 Pa.Cmwth. 381, 1979, affirmed 409 A.2d 352, 487 Pa. 283.

2. Purpose

Purpose of audit process for candidate committees is not merely to determine

whether the candidate's returns are arithmetically correct, but to determine whether any person has accepted contributions, incurred expenses, or expended or disbursed money in violation of the election code or has otherwise violated any provision of the code. *Cole v. Evanina*, 590 A.2d 72, 139 Pa.Cmwth. 219, 1991.

3. Reservation of ruling

Auditor appointed upon filing of petition challenging candidate's expenditures acted within his discretion by reserving ruling on report which had not yet been filed and was not subject of the audit. *Cole v. Evanina*, 590 A.2d 72, 139 Pa. Cmwth. 219, 1991.

4. Costs

In view of the fact that there was no evidence which supported finding that election committee either placed or paid for an advertisement for another candidate, party which filed petition challenging the asserted expenditure was required to bear the costs of the audit. *Cole v. Evanina*, 590 A.2d 72, 139 Pa.Cmwth. 219, 1991.

§ 3257. Proceedings against candidates violating provisions relating to contributions and expenditures

If any candidate, who has been nominated or elected, is found by any court of this Commonwealth in criminal proceedings to have wilfully accepted any contributions or made any expenditures in contravention of this act, either directly or through the treasurer of any committee authorized by section 1623¹ or through any other person with his knowledge or consent, whether expressly or not, that fact shall be certified by the court to the Attorney General. In the case of a candidate for nomination the Attorney General shall make a motion to the proper court to remove the candidate's name from the ballot. In the case of an elected candidate the Attorney General shall file in the proper court a suggestion for a writ of quo warranto against such candidate. If upon the hearing of such motion or writ, it shall be determined that such candidate has wilfully accepted any

contribution, or made any expenditure in contravention of this act, either directly or through the treasurer of any committee authorized by section 1623 to pay or incur primary or election expenses in furtherance of his candidacy or through any other person with his knowledge and consent, whether expressly authorized or not, judgment of ouster from nomination, in the case of a candidate for nomination where the judgment is entered prior to the subsequent election, or judgment of ouster from office in the case of a candidate for election or in the case of a candidate for nomination who has been subsequently elected to the office for which he was nominated, shall be entered against him. However, in the case of a candidate elected to the office of Senator or Representative in the General Assembly, the decision of the court shall be certified to the President of the Senate or to the Speaker of the House of Representatives, as the case may be.

1937, June 3, P.L. 1333, § 1637, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979.

¹ 25 P.S. § 3243.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be applicable to campaign financing for all elections thereafter."

§ 3258. Advertising

(a) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a candidate, or ballot questions, through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication:

(1) If authorized by the candidate, his authorized political committee or their agents, shall clearly and conspicuously state that the communication has been authorized.

(2) If not authorized by a candidate, his authorized political committee, or their agents, shall clearly and conspicuously state the name of the person who made or financed the expenditure for the communication, including, in the case of a political committee the name of any affiliated or connected organization.

(b)(1) No candidate for public office, or political committee or party acting on his behalf, shall place any advertisement referring to an opposing candidate for the same office which is to be broadcast or published during the one hundred and twenty (120) hours immediately prior to an election or published in a weekly newspaper or

periodical during the eight (8) days immediately prior to an election, with a television or radio broadcasting station, newspaper or periodical, unless he has first given a copy of the material to appear or be used in the advertisement and reasonable notice to the opposing candidate and the county board of elections of the county where the advertisement is to be placed in sufficient time for a reply advertisement to be published or broadcast at the same approximate time or in the same issue of the publication or on the same radio or television broadcast as the original advertisement and prior to the election in question.

(2) The reasonable notice referred to in clause (1) shall be given in writing by registered mail, return receipt requested, addressee signature only, with a true copy of the material enclosed to appear or be used in the advertisement so as to afford the recipient sufficient time to place a reply advertisement to be published or broadcast at the same approximate time or in the same issue of the publication or on the same radio or television broadcast as the original advertisement and prior to the election in question.

(3) Any person, firm or corporation, political committee or party or member thereof, violating any of the provisions of this section, shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), or to undergo an imprisonment of not less than one (1) month nor more than two (2) years, or both, in the discretion of the court.

1937, June 3, P.L. 1333, § 1638, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be applicable to campaign financing for all elections thereafter."

Law Review Commentaries

Imposition of criminal sanctions on candidates for public office who publish political advertisements referring to an opponent without first complying with prescribed notice requirements is unconstitutional. 54 Temp.L.Q. 440 (1981).

Notes of Decisions

Disclosure of payment source 2
Validity of prior law 1

1. Validity of prior law

Former section which imposed criminal sanctions on candidates for public office if they published political advertisements referring to opponents without

first complying with prescribed notice requirements, unreasonably restricted protected speech in contravention of First and Fourteenth Amendments. *Com. v. Wadzinski*, 422 A.2d 124, 492 Pa. 35, 1980.

2. Disclosure of payment source

Testimony by candidate that notation on advertisement that it was paid for by

Note 2

particular committee was mistaken and that a retraction and explanation were subsequently effectuated supported determination that the candidate's committee had not violated statute requiring that

campaign advertisements disclose the identity of the person or committee which has paid for it and authorized it. *Cole v. Evanina*, 590 A.2d 72, 139 Pa.Cmwlth. 219, 1991.

§ 3259. Powers and duties of the supervisor

It shall be the duty of the supervisor to:

(1) Furnish to the persons, subject to the provisions of this act, a bookkeeping and reporting manual and the prescribed forms for the making of the reports and statements required to be filed under this article.

(2) Develop a filing system consistent with the purposes of this article.

(3) Make the reports and statements filed with him or her available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to provide copies of any such report or parts thereof, as requested by any person, at the expense of such person, at the rate not to exceed the actual cost of reproduction.

(4) Preserve such reports and statements for a period of five (5) years from the date of filing.

(5) Compile and maintain a current list of all statements pertaining to each candidate and political committee.

(6) Make from time to time inquiries and field investigations with respect to reports and statements filed under the provisions of this article and with respect to alleged failures to file any report or statement required under provisions of this article.

(7) Report apparent violations of this article to the appropriate law enforcement authorities.

(8) Collect any fines relating to the filing of late reports and transmit all such fines collected to the appropriate fiscal officer of the receiving supervisor.

(9) Inform each candidate or committee which has failed to file of that fact.

(10) Publish a list of all those candidates and their committees who have failed to file reports as required by this act within six (6) days of their failure to comply.

1937, June 3, P.L. 1333, § 1639, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be applicable to campaign financing for all elections thereafter."

Notes of Decisions

Actions 1

1. Actions

Insofar as petitioner prayed for order enjoining Secretary of Commonwealth from refusing to promulgate regulations and to report asserted illegality under this section and § 3260 of this title dealing with primary and election expenses, relief requested was in nature of mandatory injunction, for which it was required that plaintiff establish clear right to relief and to establish that he would suffer irreparable injury if injunction was not granted. *Moyer v. Davis*, 446 A.2d 1355, 67 Pa. Cmwlth. 251, 1982, affirmed 460 A.2d 754, 501 Pa. 192.

Where complaint alleging that Secretary of Commonwealth failed to report alleged improper retention of residual moneys by campaign committee and that committee failed to either transfer funds to another political committee or return money to contributors failed to establish right to injunctive relief requested, there was failure to plead elements essential to cause of action and, since dismissal of case as to Secretary was required, Commonwealth Court no longer had jurisdiction over remainder of the matter. *Moyer v. Davis*, 446 A.2d 1355, 67 Pa. Cmwlth. 251, 1982, affirmed 460 A.2d 754, 501 Pa. 192.

§ 3260. Additional powers and duties of the Secretary of the Commonwealth

The Secretary of the Commonwealth shall have the following additional powers and duties:

- (1) To serve as the State clearing house for information concerning the administration of this act.
- (2) To prescribe suitable rules and regulations to carry out the provisions of this act.
- (3) To develop the prescribed forms required by the provisions of this article for the making of the reports and statements required to be filed with the supervisor.
- (4) To prepare a manual setting forth recommended uniform methods of bookkeeping and reporting which shall be furnished by the supervisor to the person required to file such reports and statements as required by this article.
- (5) To examine the contributions to State legislative and statewide candidates and publish a list of all those political committees who have contributed to candidates and who have failed to file reports as required by this act within six (6) days of their failure to comply. 1937, June 3, P.L. 1333, § 1640, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be

applicable to campaign financing for all elections thereafter."

Pennsylvania Code References

Rules authorized by this section, see 4 Pa. Code § 171.1 et seq.

Notes of Decisions**Actions 1****1. Actions**

Where complaint alleging that Secretary of Commonwealth failed to report alleged improper retention of residual moneys by campaign committee and that committee failed to either transfer funds to another political committee or return money to contributors failed to establish right to injunctive relief requested, there was failure to plead elements essential to cause of action and, since dismissal of case as to Secretary was required, Commonwealth Court no longer had jurisdiction over remainder of the matter. *Moy-*

er v. Davis, 446 A.2d 1355, 67 Pa. Cmwlth. 251, 1982, affirmed 460 A.2d 754, 601 Pa. 192.

Insofar as petitioner prayed for order enjoining Secretary of Commonwealth from refusing to promulgate regulations and to report asserted illegality under this section and § 3259 of this title dealing with primary and election expenses, relief requested was in nature of mandatory injunction, for which it was required that plaintiff establish clear right to relief and to establish that he would suffer irreparable injury if injunction was not granted. *Moyer v. Davis*, 446 A.2d 1355, 67 Pa. Cmwlth. 251, 1982, affirmed 460 A.2d 754, 601 Pa. 192.

§ 3260a. Reports by business entities; publication by Secretary of the Commonwealth

(a) Any business entity including but not limited to a corporation, company, association, partnership or sole proprietorship, which has been awarded non-bid contracts from the Commonwealth or its political subdivisions during the preceding calendar year, shall report by February 15 of each year to the Secretary of the Commonwealth an itemized list of all political contributions known to the business entity by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner or individual owner that has been made by:

(1) any officer, director, associate, partner, limited partner, individual owner or members of their immediate family when the contributions exceed an aggregate of one thousand dollars (\$1,000) by any individual during the preceding year; or

(2) any employe or members of his immediate family whose political contribution exceeded one thousand dollars (\$1,000) during the preceding year.

For the purposes of this subsection, "immediate family" means a person's spouse and any unemancipated child.

(b) It shall be the duty of the Secretary of the Commonwealth to publish sixty (60) days after February 15 of each year a complete itemized list of all contributions given under the provisions of subsection (a). This list shall be a matter of public record open to public inspection and copies made available at cost to any individual who requests them.

1937, June 3, P.L. 1333, § 1641, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979. Amended 1980, July 11, P.L. 649, No. 134, § 6, imd. effective.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be applicable to campaign financing for all elections thereafter."

The 1980 amendment in subsec. (a)(1) added the provision relating to contributions exceeding an aggregate of \$1000.

§ 3260b. Enforcement

(a) The Attorney General shall have prosecutorial jurisdiction over all violations connected with any statement or report and the contents thereof which is to be filed with the Secretary of the Commonwealth.

(b) The district attorneys of the respective counties shall have jurisdiction over any other violations committed under this act.

(c) The district attorney of any county in which a violation, referred to in subsection (a) occurs, has concurrent powers and responsibilities with the Attorney General over such violations.

1937, June 3, P.L. 1333, § 1642, added 1978, Oct. 4, P.L. 893, No. 171, § 2, effective Jan. 1, 1979.

Historical and Statutory Notes

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be

applicable to campaign financing for all elections thereafter."

ARTICLE XVII. RECOUNTS AND CONTESTS

(a) RECOUNTS

Library References

Elections ⇨260.
WESTLAW Topic No. 144.

C.J.S. Elections § 237.
P.L.E. Elections § 105 et seq.

§ 3261. Opening ballot boxes upon petition of electors alleging fraud or error; deposit or bond

(a) The court of common pleas, or a judge thereof, of the county in which any election district is located in which ballots were used,

shall open the ballot box of such election district used at any general, municipal, special or primary election held therein, and cause the entire vote thereof to be correctly counted by persons designated by such court or judge, if three qualified electors of the election district shall file, as hereinafter provided, a petition duly verified by them, alleging that upon information which they consider reliable they believe that fraud or error, although not manifest on the general return of votes made therefrom, was committed in the computation of the votes cast for all offices or for any particular office or offices in such election district, or in the marking of the ballots, or otherwise in connection with such ballots. It shall not be necessary for the petitioners to specify in their petition the particular act of fraud or error which they believe to have been committed, nor to offer evidence to substantiate the allegations of their petition.

(b) Every petition for the opening of a ballot box under the provisions of this section shall be filed in the office of the prothonotary of the proper county, accompanied by a deposit of cash in the amount of fifty (\$50.00) dollars, or by a bond signed by the petitioners as principals and by a corporate surety to be approved by the court, in the amount of one hundred (\$100.00) dollars, conditioned upon the payment to the county treasurer for the use of the county of the sum of fifty (\$50.00) dollars, in the event that, upon the opening of the ballot box, it shall not appear that fraud or substantial error was committed in the computation of the votes cast on the ballots contained therein, or fraud in the marking of the ballots contained therein, or otherwise in connection with such ballots.

(c) Before any ballot box is opened under the provisions of this section, the court shall direct that notice of time and place of proposed recount be given, either personally or by registered mail, to each candidate for the office or offices which are to be recounted by the order of the court, and each such candidate may be present at such recount, either in person or by his attorney or by his duly authorized representative, under such regulations as the court may prescribe.

(d) If, upon opening any such ballot box, it shall appear that fraud or substantial error was committed in the computation of the votes cast on the ballots contained therein, or fraud in the marking of the ballots contained therein, or otherwise in connection with such ballots, it shall be the duty of the court to certify such fact to the prothonotary and thereupon the prothonotary shall return to the petitioners the said sum of fifty (\$50.00) dollars, or if the petitioners shall have filed a bond in lieu of cash, to mark said bond cancelled and notify the petitioners that he has done so.

(e) If, upon opening any ballot box under the provisions of this section, it shall not appear that fraud or substantial error was committed in the computation of the votes cast on the ballots contained therein, or fraud in the marking of the ballots contained therein, or otherwise in connection with such ballots, the persons upon whose petition such ballot box shall have been opened, shall forfeit to the county the sum of fifty (\$50.00) dollars. If said petitioners shall have deposited the said sum in cash with the prothonotary at the time of filing the petition, the prothonotary, upon certification of the court that fraud or substantial error was not discovered, shall pay said sum deposited with him to the county treasurer; and if the petitioners shall have filed with their petition a bond in the sum of one hundred (\$100.00) dollars, it shall be the duty of the county treasurer forthwith to collect from the principals or surety on said bond, the sum of fifty (\$50.00) dollars, and costs of suit, and for this purpose, he is hereby authorized to institute any necessary legal proceedings. When so collected, the said sum of fifty (\$50.00) dollars shall be paid over to the county treasurer.

(f) Ballot boxes may be opened under the provisions of this section at any time within four months after the date of the general, municipal, special or primary election at which the ballots therein shall have been cast.

1937, June 3, P.L. 1333, art. XVII, § 1701.

Historical and Statutory Notes

Section 1641 of Act 1937, June 3, P.L. 1333, No. 320, which was added by Act 1978, Oct. 4, P.L. 893, No. 171, relating to reports of political contributions by businesses receiving non-bid governmental contracts, and which was originally classified to this section, was reclassified as § 3260a of this title.

Section 1642 of Act 1937, June 3, P.L. 1333, No. 320, which was added by Act 1978, Oct. 4, P.L. 893, No. 171, relating to enforcement of violations, and which was originally classified to this section, was reclassified as § 3260b of this title.

Library References

Elections ⇨260, 263.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 237, 239.
P.L.E. Elections §§ 105, 106.

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1. In general

The Election Code does not manifest a legislative intent to enlarge the powers of courts in election contests or alter the existing laws by authorizing election contests in cases other than the nomination and election of public officers. In re Granting Malt Beverage Licenses in Greene Tp., Franklin County, 1 A.2d 670, 331 Pa. 536, 1938.

A court lacks the authority under sections 3261 and 3263 of the Election Code, to open a ballot box for a recount 3 1/2 months after the election where no election contest is pending. In re Opening of Ballot Box of Morris Tp. 14 D. & C. 4th 417, 1992, affirmed 620 A.2d 565, 152 Pa.Cmwth. 590.

2. Purpose

The primary purpose of election recount statute is to secure an accurate count and true return of ballots actually cast at election. Petition to Open and Recount Ballot Box of Coaf Tp., Johnson City, 42 A.2d 155, 352 Pa. 63, 1945.

3. Public questions

It was intended to provide recount machinery for all matters voted upon including recount of votes on a liquor referendum. In re Recount of Ballots of Rome Tp., Crawford County, 155 A.2d 361, 397 Pa. 331, 1959.

Under the election laws, court of law is without power to entertain contest of result of a referendum. *Gunnett v. Trout*, 112 A.2d 333, 380 Pa. 504, 1955.

Elections on referenda under the Beverage License Law, §§ 84 et seq., 100n, of Title 47, Liquor (repealed), and the Liquor Control Act, §§ 744-1 et seq., 744-502, of Title 47, Liquor (repealed), could not be contested under the Pennsylvania Election Code, § 2600, et seq., of this title, the proceedings challenging the validity of the referenda not being "election contests" within the Election Code, in view of provisions of this section and § 3291 of this title specifically designating the several classes of nominations and elections of public officers which may be contested and setting up a definite procedure to be followed in contest-

ed nominations and elections of public officers, without reference to referenda on question submitted to the voters. In re Granting Malt Beverage Licenses in Greene Tp., Franklin County, 1 A.2d 670, 331 Pa. 536, 1938.

Within limitations prescribed by § 3154 of this title, the court of common pleas, sitting judicially and as county board of election, has jurisdiction to hear petitions for a recount and recanvassing of township vote on referenda submitted at a primary election under local option provision of Liquor Code. In re Lower Tyrone Tp. Election, 20 D. & C.2d 138, 1960.

This section providing that the court of common pleas shall open the ballot box upon a petition properly alleging that fraud or error has been committed in the computation of votes cast for offices in an election district, and further providing that the court shall direct notice of the recount to be given to each candidate for the offices to be recounted, does not apply to petitions for a recount of the vote cast in a referendum on the granting of liquor or malt beverage licenses. Petition of Huston Tp. Electors, 43 D. & C. 245, 1942.

An order on a petition for a recount, directing that the ballot box be opened and a recount made of the vote on a referendum on the question of the granting of retail liquor licenses, was rescinded because such a recount was not provided for by the Election Code, § 2600 et seq., of this title, the Liquor Control Act, § 744-1 et seq., of Title 47, Liquor (repealed), nor the Beverage License Law, § 84 et seq., of Title 47, Liquor (repealed). Petition of Huston Tp. Electors, 43 D. & C. 245, 1942.

4. Absentee ballots

While this section applies only to the opening of ballot boxes, it may be used to authorize a recount of absentee ballots since such ballots are paper ballots. In Re Election in Borough of West Chester, 31 D. & C.3d 677, 1981.

5. Fraud not manifest

In the absence of palpable fraud or mistake, as required under § 13 of the act of 1874, Jan. 30, P.L. 31, as amended, repealed, to authorize correction of count by computation court, the only relief in connection with computation of vote by

recount must be had under additional remedy provided by act of 1927, April 23, P.L. 360, No. 231, § 1, repealed, by recount by other judges than those engaged in computing returns in case of showing of fraud though not manifest. In re First Congressional Dist. Election, 144 A. 735, 295 Pa. 1, 1928.

The only effect of the provision of act of 1913, July 12, P.L. 719, § 15, as amended, repealed, concerning "fraud or error not manifest upon the general return of votes," etc. is to certainly authorize a recount upon proper cause being shown though the returns are in all respects regular and consistent. Twenty-eighth Cong. Dist. Nom., 112 A. 74, 268 Pa. 313, 1920.

6. Substantial error

Under Act of 1927, April 23, P.L. 360, No. 231, § 3, repealed, authorizing election recount on making of cash deposit, to be returned on finding of fraud or "substantial error," "substantial error" and "simple error" may not be distinguished on ground that "substantial error" is committed if returns do not correctly reflect votes as they appear on ballots, while "simple error" is error apparent on face of returns, errors apparent on face of returns being properly correctable by proceeding under act of 1874, Jan. 30, P.L. 31, § 13, as amended, repealed. In re Opening Ballot Boxes and Counting Votes Cast in Second Precinct, Third Ward, Borough of Steelton, 195 A. 466, 129 Pa.Super. 302, 1938.

The term "substantial error," as used in Act of 1927, April 23, P.L. 360, No. 231, § 3, repealed, authorizing election recount on making of cash deposit, to be returned on finding of fraud or "substantial error," has no relation to ultimate result of election, and cannot be determined by fixed number of errors or proportion which errors bear to number of votes cast, but must be determined by facts as developed in each district, and, in its final analysis, must be left to reasonable discretion of trial court. In re Opening Ballot Boxes and Counting Votes Cast in Second Precinct, Third Ward, Borough of Steelton, 195 A. 466, 129 Pa.Super. 302, 1938.

Under Act of 1927, April 23, P.L. 360, No. 231, § 3, repealed, requiring return of cash deposit to petitioners in election recount proceedings on finding of

"fraud" or "substantial error," if errors are committed with an evil intent, "fraud" is committed, but motive is immaterial as respects whether "substantial error" is committed. In re Opening Ballot Boxes and Counting Votes Cast in Second Precinct, Third Ward, Borough of Steelton, 195 A. 466, 129 Pa.Super. 302, 1938.

In a recount proceeding, to determine what constitutes "substantial error" in the computation of votes cast within the meaning of this section the following factors are relevant: (a) the net error in the number of votes in each district in relation to the pre-recount margin between the contestants, (b) the percentage of net error in each district in relation to the total vote cast for the two contestants and (c) the result of the recount in relation to its cost. In re General Election Recount, 29 D. & C.3d 508, 1983.

The substantial error in the original computation of candidates' vote totals which would warrant the return of a candidate's \$50 deposit for the recounting of ballots under this section did bear a relationship to the number of votes difference between the original count and the recount; substantial error did not exist where the winning candidate's margin of victory increased from seven votes to ten votes. In re Abbott Tp. Sup'r's Election, 13 D. & C.3d 572, 1979.

7. Petition, generally

Where, with respect to general election for position of judge of court of common pleas, petition to open remaining 34 election district ballot boxes was signed and verified only by candidate, and it was not accompanied by required security and was not filed until 29 days after county board had certified its returns, candidate was not entitled to his request to reopen ballot boxes in remaining 34 election districts. In re Recount of Ballots Cast in General Election on November 6, 1973, 325 A.2d 303, 457 Pa. 279, 1974.

This section contemplates the filing of a separate recount petition for each ballot box to be opened and recounted and payment of costs for each such petition in a recount proceeding. In re General Election Recount, 29 D. & C.3d 508, 1983.

If court takes action under this section on basis of an apparently valid petition, which is later discovered to be invalid, entire proceeding is void and original re-

Note 7

turn rather than the recount stands. In re Taylor Tp. Election, 79 D. & C. 193, 1953.

8. Verification of petition

Ballot box could not be opened for purposes of a recount where petition for recount was duly verified by one qualified elector, and where this section provides for opening of ballot box only if three qualified electors of the election district shall file a petition, duly verified, alleging that they believe fraud or error was committed in the computation of the votes. *Giacobello v. Board of Elections of Borough of Mount Union, Huntingdon County*, 322 A.2d 429, 14 Pa.Cmwth. 376, 1974.

The fact that some of the signatories to a petition for a ballot recount were not verified before the notary who purported to do so is an amendable defect which does not deprive the court of jurisdiction over the recounting proceedings, especially where the opposition failed to make timely objections to the improper verification. In re *Ballot Recount in Sixteenth Representative Dist.*, 61 D. & C.2d 95, 1973.

Where petition for recount was void for want of verification, failure of a party adversely affected by recount to object to proceedings cannot confer jurisdiction on the court, since lack of the verification is a basic and not merely a formal defect. In re *Taylor Tp. Election*, 79 D. & C. 193, 1953.

A petition for opening a ballot box for a recount, and all further proceedings taken thereon, are invalid and void, where the petition was not verified when filed with the prothonotary as required by this section and § 514 of Title 12, Civil and Equitable Remedies and Procedure, but the prothonotary subsequently filled in the affidavit without having the affiant appear before him. In re *Taylor Tp. Election*, 79 D. & C. 193, 1953.

Petition must be sustained by three separate and distinct affidavits of three separate electors. *Primary Election*, 6 D. & C. 501, 1925.

9. Filing petition

Leaving petition for a recount at home of prothonotary, pursuant to prior arrangement, instead of filing it in prothonotary's office, does not invalidate petition, although the practice is not to be

encouraged. In re *Taylor Tp. Election*, 79 D. & C. 193, 1953.

10. Time of presenting petition

Election code provision authorizing opening of ballot boxes upon petition of electors alleging fraud or error would not be read to permit initial petition to open ballot box and recount votes to be filed within four months after election; such interpretation would render five-day time limit for filing initial petition to open ballot box and for recount, contained in another code provision, completely superfluous and such reading of statute contradicted rules of statutory construction which directed court to give effect to all provisions of statute. In re *General Election for Tp. Supervisor of Morris Tp., Washington County*, 620 A.2d 565, 152 Pa.Cmwth. 590, 1993.

Evidence, on issue as to timeliness of petitions to open ballot boxes, sustained finding that Board's official computation and canvass of votes had been completed more than five days prior to filing of petitions. In re *Disputed Ballots of Morann Precinct, Woodward Tp.*, 133 A.2d 824, 389 Pa. 538, 1957.

Provision of § 3456 of this title that election contests must be commenced within 20 days after day of election and this section that ballot boxes may be opened at any time within 4 months after the date of the election are not in conflict. In re *Election of Tax Collector, Horsham Tp.*, 51 A.2d 692, 356 Pa. 60, 1947.

Section 3263 of this title placing a five day limitation on the filing of any petition to open a ballot box or to recanvass the votes on a voting machine after the completion of the computation and canvassing of all the returns of the county by the county board should be invoked when petition is presented to open ballot box. *Appeal of Koch*, 46 A.2d 263, 353 Pa. 619, 1946.

The official record of recount of votes cast in school district election was competent secondary evidence which should have been admitted at the hearing before the Common Pleas Court after the Supreme Court allowed school district candidate an appeal nunc pro tunc from action of computation board in the tabulation of election returns, where the ballots had disappeared from the ballot box, notwithstanding that recount was made after the five day limitation of § 3263 on

the filing of any petition to recanvass votes after completion of computation and canvassing of returns by county board. Appeal of Koch, 46 A.2d 263, 353 Pa. 619, 1946.

Where, in an election recount, a candidate who lost by one vote filed a petition nunc pro tunc for a recount after the time limit provided by this section had expired and after the county board of elections had certified the results of the election, motion to dismiss will be sustained. Case of Kulpmont Borough Election, 40 D. & C.2d 1, 1966.

11. Jurisdiction

Jurisdiction of courts in election contests is not of common law origin but is founded entirely upon statute and, therefore, cannot be extended beyond the limits defined by statute. *Gunnert v. Trout*, 112 A.2d 333, 380 Pa. 504, 1955.

Jurisdiction in election cases is founded entirely on statute and not on common law. Case of Kulpmont Borough Election, 40 D. & C.2d 1, 1966.

12. Discretion of court

Act of 1913, July 12, P.L. 719, § 15, as amended, repealed, which provides that, "on petition and sworn affidavit of three qualified electors" of precinct, etc., common pleas court may, at any time prior to completion of computation, cause entire vote to be recounted—makes essential change in law by substituting "may" for "shall," as contained in amendment by act of 1919, July 9, P.L. 839, § 5, repealed, and vests in court discretion as to its action in any pending matter. Primary Election, 6 D. & C. 501, 1925.

13. Disqualification of judge

Judge who is candidate for election to office has interest in outcome of recount proceeding which will bar his sitting with court on recount. In re Dunmore Borough's Election, 149 A. 733, 299 Pa. 517, 1930.

14. Safe-keeping of ballot boxes

Court is given power to recount ballots, which power carries with it duty to take charge of ballot boxes and to provide for their safe-keeping. Custody of Ballot Boxes, 81 Pitts. 83, 19 D. & C. 183, 1933.

15. Hearing

A petition for a recount is mere form of pleading and where answer is filed it is

duty of court to hear testimony on pleading. Primary Elections, 6 D. & C. 501, 1925.

16. Expert assistance

Extent of handwriting expert's assistance in determining question of fraud on recount of ballots is within common pleas court's sound discretion, subject to correction by appellate court, if abused. *Edwards v. Prutzman*, 165 A. 255, 108 Pa.Super. 184, 1933.

Common pleas court was authorized to engage, and order county commissioners to pay, handwriting expert for aid in determining question of fraud on recount of ballots. *Edwards v. Prutzman*, 165 A. 255, 108 Pa.Super. 184, 1933.

17. Determination and disposition

Failure of recount board to include votes cast by six ballots found outside ballot box in separate package with unused ballots and stubs of used ballots, was error in computation which should have been corrected by court in recount proceeding. In re Democratic Primary Election of Somerset Tp., Washington County, 174 A.2d 23, 405 Pa. 169, 1961.

In recount proceeding lower court has duty to discover any fraud or error in computation or canvassing of returns and must correct and certify votes of election district justly, regardless of any fraudulent or erroneous returns made by election officers thereof. In re Democratic Primary Election of Somerset Tp., Washington County, 174 A.2d 23, 405 Pa. 169, 1961.

When County Return Board officially certified results of election for Justice of the Peace, the recount under this section became final save for a timely filed election contest. In re Ballot Boxes and Recount of Ballots Cast in General Election on November 3, 1959, of Justice of Peace and Tp. Com'r, 159 A.2d 905, 399 Pa. 77, 1960.

Where number of void ballots added to number of valid ballots counted tallied with number of names on registry list, results of election were properly determined in recount proceeding by disregarding illegal ballots and counting only legal ballots cast. In re Opening of Ballot Box East and West Election Dist. of Fishingcreek Tp., Columbia County, 19 A.2d 491, 144 Pa.Super. 277, 1941.

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The court's determination that majority of legal votes cast was in opposition to sale of liquor, malt, or brewed beverages in township was a sufficient compliance with election recount statute, and was final and complete disposition of controversy. In re Opening of Ballot Box East and West Election Dist. of Fishingcreek Tp., Columbia County, 19 A.2d 491, 144 Pa.Super. 277, 1941.

Ascertainment of question of fraud or substantial error, as required by statute providing for recount of ballots, involves exercise of judicial function by court. *Edwards v. Prutzman*, 165 A. 255, 108 Pa.Super. 184, 1933.

In proceedings for recounting ballots, court cannot pass on fraudulent conduct of election officers and others, which question can only be determined in contest proceedings. In re Luzerne County Election Returns, 151 A. 897, 301 Pa. 247, 1930.

Receipt of fraudulent ballots or improper perforations thereof did not require entire vote of district to be rejected, where request was solely to open and tabulate contents as permitted by act of 1927, April 23, P.L. 360, No. 231, § 1, repealed. In re Luzerne County Election Returns, 151 A. 897, 301 Pa. 247, 1930.

Entire vote of district should be rejected on recount unless it is possible to separate improperly marked ballots from those deposited indicating elector's choice. In re Luzerne County Election Returns, 151 A. 897, 301 Pa. 247, 1930.

Complaints that ballots should not have been counted or were incorrectly totaled are proper matters for consideration in recounting votes. *Petition of Smith*, 140 A. 854, 292 Pa. 140, 1928.

Where local option cards on which referenda questions were printed were each approximately one-half inch too long, and thus extended over an area on voting machines which encompassed five levers, instead of four, which condition remained uncorrected on one of two township voting machines, thus causing confusion and improper use of fifth lever by many voters, court rejected entire vote cast on referenda questions in township and set aside the result thereof. In re Lower Tyrone Tp. Election, 20 D. & C.2d 138, 1960.

Under this section and § 3263, providing for the opening of ballot boxes and the recounting of votes by a recount board sitting as a court and empowering such court to consider fraud or error in the computation or in the marking of ballots, and to correct and certify to the county return board the votes cast, the recount board has power to pass upon the validity of a ballot from its condition and markings and is not confined to correction of errors as to computation only; the recount board is a judicial body having all the powers, duties, and discretion of an election board. In re *Petition to Open Ballot Box*, 43 D. & C. 535, 1942.

If, in a recount proceeding an examination of the returns and of the ballots discloses errors of computation or of calculation or such honest errors of law as may be so ascertained and corrected, it is the duty of the court to correct such computation as well as honest errors of law, if any, and certify to such corrected return; but if the contents of the ballot box are in such condition that a correct computation thereof is impossible, the court must accept the return of the election board as verity and dismiss the petition for recount. In re *Hawley Borough Election*, 31 D. & C. 146, 1938.

18. Acceptance of returns

In recount proceeding, where it appears that ballots have been tampered with after the official canvass of the votes, the rule that as between the ballots and the official canvass thereof the ballots control has no application. In re *Opening of Ballot Box of Greenwood Township, East, Election District, Columbia County*, 25 A.2d 330, 344 Pa. 350, 1942.

Where it appears in recount proceeding that ballots have been fraudulently tampered with after the official canvass of the votes, court may in its discretion accept the official return for the district as conclusive in the recount proceedings, and refuse to make any count of the ballots. In re *Opening of Ballot Box of Greenwood Township, East, Election District, Columbia County*, 25 A.2d 330, 344 Pa. 350, 1942.

Ballots which it was found in recount proceeding had been fraudulently altered after official canvass of the votes were properly counted for the candidate for whom the evidence showed they must necessarily have been counted by the

election officials, notwithstanding provision of § 3063 of this title that any erasure or mutilation in the vote in any office block shall render void the vote for any candidate in such block. In re Opening of Ballot Box of Greenwood Township, East, Election District, Columbia County, 25 A.2d 330, 344 Pa. 350, 1942.

Where contents of ballot box are in such condition as to render impossible correct count due to fraud, then returns of election officers must be accepted in proceedings for recount. In re Luzerne County Election Returns, 151 A. 897, 301 Pa. 247, 1930.

Where reception of illegal votes was made evident by recount as provided by statute, court was justified in accepting returns of election officers and relegating parties injured to contest proceedings, under circumstances. In re Luzerne County Election Returns, 151 A. 897, 301 Pa. 247, 1930.

If, in a recount proceeding, an examination of the returns and of the ballots discloses errors of computation or of calculation or such honest errors of law as may be so ascertained and corrected, it is the duty of the court to correct such computation as well as honest errors of law, if any, and certify to such corrected return; but if the contents of the ballot box are in such condition that a correct computation thereof is impossible, the court must accept the return of the election board as verity and dismiss the petition for recount. In re Hawley Borough Election, 31 D. & C. 146, 1938.

19. Report of recount

The report of recount made in presence and under supervision of court was not required to set forth number of ballots issued to electors as shown by stubs, number of spoiled and canceled ballots, number of electors voting as shown by voting check list, number of ballots cast, number of blank ballots, and number of void ballots. In re Opening of Ballot Box East and West Election Dist. of Fishingcreek Tp., Columbia County, 19 A.2d 491, 144 Pa.Super. 277, 1941.

20. Second recount

Court has power to order a second recount but multiple recounts should be permitted only in face of manifest error. In re Recount of Ballots Cast in General

Election on November 6, 1973, 325 A.2d 303, 457 Pa. 279, 1974.

Second recount of ballots cast in contested election is not mandatory merely because some interested party alleges mistake in first recount; rather, trial court may order second recount if it is convinced that mistake in first recount occurred. In re Second Ward, Second Precinct of Borough of Canonsburg, Washington County, 290 A.2d 69, 447 Pa. 304, 1972.

Where trial court was satisfied that first computation of ballots by court-appointed recount board was correct and such conclusion was supported by record, summary denial of candidate's request for second recount of ballots was proper. In re Second Ward, Second Precinct of Borough of Canonsburg, Washington County, 290 A.2d 69, 447 Pa. 304, 1972.

Under the general rule that court has plenary control over its decrees, at least, during the term at which they are rendered or entered of record, the fact that court had already once certified a recount of ballots did not deprive it of power on its own motion to order a second recount, provided second recount was not in violation of paragraph (f) of this section that ballot boxes may be opened for recount at any time within four months after election at which ballots were cast. In re Opening of Ballot Box of Greenwood Township, East, Election District, Columbia County, 25 A.2d 330, 344 Pa. 350, 1942.

21. Costs

Common pleas court's order, directing county commissioners to pay bill of handwriting expert, engaged by court to assist in determining whether certain marks on ballots being impeached were fraudulent, cannot be impeached collaterally. *Edwards v. Prutzman*, 165 A. 255, 108 Pa.Super. 184, 1933.

Where court rejected petitioner's contention that two ballots should not have been counted so that no fraud or substantial error appears, the \$50 deposit will be forfeited to the appropriate county, but the costs of the proceedings are to be paid by the county. *Election of East Stroudsburg*, 80 D. & C. 317, 13 Monroe L.R. 113, 1953.

Where petitioners have paid \$50, as provided by act of 1927, April 23, P.L.

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360, No. 231, § 2, repealed, they are not liable for further costs, although recount shows no fraud. *Forest City Boro. Elec.*, 11 D. & C. 381, 1928.

22. Return of deposit

Act of 1927, April 23, P.L. 360, No. 231, repealed, providing for election recount on making of cash deposit, to be returned on finding of fraud or substantial error, is highly remedial, and should be liberally construed to secure proper computation of votes cast at an election. *In re Opening Ballot Boxes and Counting Votes Cast in Second Precinct, Third Ward, Borough of Steelton*, 195 A. 466, 129 Pa.Super. 302, 1938.

Under Act of 1927, April 23, P.L. 360, No. 231, § 3, repealed, requiring return of cash deposit to petitioners on finding of "substantial error," declaring forfeiture of deposit to county in proceedings for recount in particular precinct, for absence of "substantial error," in that recount did not change result of election, was erroneous, since question of "substantial error" must be determined by facts as developed in each election district. *In re Opening Ballot Boxes and Counting Votes Cast in Second Precinct, Third Ward, Borough of Steelton*, 195 A. 466, 129 Pa.Super. 302, 1938.

If, during a recount proceeding, "substantial error" in the computation of votes cast in an election is discovered, money deposited with the prothonotary for the opening and recounting of the ballot box must be refunded under this section. *In re General Election Recount*, 29 D. & C.3d 508, 1983.

Where petition for a recount was void for want of verification and original count stood, and a valid recount would have changed results of election, petitioners were entitled to a return of their deposit, but the total costs, including the compensation of the tellers, was deducted from the deposit. *In re Taylor Tp. Election*, 79 D. & C. 193, 1953.

Where there are substantial differences between the votes tabulated by election board for the various candidates and votes counted by recount board for same candidates, even though the errors sometimes favor the candidates of one party and sometimes that of other, so that errors would seem attributable to inefficiency and carelessness rather than intentional fraud, there has nevertheless been

substantial error committed sufficient to prevent forfeiture of a deposit made for a recount. *In re Norristown Election No. 2*, 70 D. & C. 444, 1950.

Where a candidate for burgess is given 69 more votes by election board than he was awarded by recount board, and where election board gave a total of 46 more votes to the office than there were ballots cast, substantial error has been committed sufficient to prevent forfeiture of a deposit made to obtain a recount. *In re Norristown Election No. 1*, 70 D. & C. 443, 1950.

23. Contest

No legal basis existed for a petition to vacate recount of ballots in election for Justice of the Peace after the result thereof had been certified by the Recount Board to the County Return Board before the latter Board's canvass and computation of the votes cast at the election had been completed and the recount had become merged in the final official tabulation as certified by the County Return Board, and the only procedure then for questioning the ultimate result was an election contest, and hence petition of the defeated candidate to vacate the recount should have been dismissed as *coram non iudice*, instead of disposing of the candidate's complaint on the merits. *In re Ballot Boxes and Recount of Ballots Cast in General Election on November 3, 1959, of Justice of Peace and Tp. Com'r*, 159 A.2d 905, 399 Pa. 77, 1960.

Recount, as certified by lower court, which was sitting as recount board, to the county commissioners, which were sitting as county election board, was but step toward certification by county election board to acting chief executive officer of municipality of result of vote on referendum pertaining to showing of motion pictures on Sunday in certain borough, and way to impeach final certificate of county election board was by direct contest, not by contest of county election board's certification of results of referendum. *Gunnnett v. Trout*, 112 A.2d 333, 380 Pa. 504, 1955.

A special contest court, which was convened to hear election contest, independent of statute, had power to impound the ballots and direct necessary expense to be paid by county. *In re Contest of Election of Morganroth*, 29 A.2d 502, 346 Pa. 327, 1943.

Recount proceedings, wherein certain ballots were rejected on ground that they were marked so as to be capable of identification, did not bar contest under allegation that marks were placed on ballots by election officers after ballot box was opened. Appeal of McLaughlin, 29 A.2d 45, 345 Pa. 498, 1943.

Under statute, defeated candidate has only 20 days after election within which to institute contest proceedings, even though recount proceedings are not completed within such period. In re Opening of Ballot Box of Greenwood Township, East, Election District, Columbia County, 25 A.2d 330, 344 Pa. 350, 1942.

Wherever proceedings are had under the act of 1927, April 23, P.L. 360, No. 231, § 1, repealed, if the court is satisfied the ballots in the box are not those which were cast by the electors, or that the marks thereon have been charged, so that, in either event, the vote actually cast cannot be ascertained from an examination of the contents of the box, it not only might, but should unhesitatingly, refuse "to accept the contents as verity," should treat the return made by the election officers as correct, and leave the parties to an election contest for the purpose of having their respective rights determined. Armstrong, Appeal of, 141 A. 633, 293 Pa. 1, 1928.

24. Actions

Equity has no jurisdiction to require that ballot boxes be opened to ascertain whether an election has been properly conducted where complainants had an adequate remedy at law available in the form of a recount proceeding. Pontera v. Simons, 62 D. & C. 231, 1948.

25. Review

On certiorari to review computation board's action in recounting vote, review is restricted to regularity of record, although findings of fact concerning fundamental questions may be considered. Petition of Smith, 140 A. 854, 292 Pa. 140, 1928; Appeal of Armstrong, 141 A. 633, 293 Pa. 1, 1928.

Where trial court denied unsuccessful candidate request for opening and recounting of all ballot boxes throughout the county, such denial was a final order from which candidate had but 30 days to appeal, and fact that trial court deferred its judgment on whether to reopen and

recount ballot boxes in 28 districts within the county did not affect finality of court's judgment regarding request to reopen all ballot boxes within county. Petition of Jones, 346 A.2d 260, 464 Pa. 152, 1975.

Supreme Court's scope of review of orders entered by trial court in recount proceedings initiated by petitions is broad in nature. In re Second Ward, Second Precinct of Borough of Canonsburg, Washington County, 290 A.2d 69, 447 Pa. 304, 1972.

Candidate's appeal from order entered by trial court in recount proceedings was untimely and would be quashed where it was filed more than 30 days after entry of order; candidate's petition for reargument did not toll time for filing appeal absent order staying proceedings. In re Second Ward, Second Precinct of Borough of Canonsburg, Washington County, 290 A.2d 69, 447 Pa. 304, 1972.

When original vote certification resulted in tie vote, not until court entered final order declaring one candidate the winner was issue ripe for appeal. In re Democratic Primary Election of Somerset Tp., Washington County, 174 A.2d 23, 405 Pa. 169, 1961.

Appeal from order of Court of Common Pleas in recount proceeding is before Supreme Court in broadest sense allowed in certiorari. In re Democratic Primary Election of Somerset Tp., Washington County, 174 A.2d 23, 405 Pa. 169, 1961.

Where an appeal from an order of the court below refusing to vacate a recount of ballots cast for the office in an election district of the township did not raise a justiciable question, it must be dismissed. In re Ballot Boxes and Recount of Ballots Cast in General Election on November 3, 1959, of Justice of Peace and Tp. Com'r, 159 A.2d 905, 399 Pa. 77, 1960.

Where contention that title of Election Code did not foreshadow recounts and hence violated constitution was not raised in trial court, it would not be considered on appeal. In re Recount of Ballots of Rome Tp., Crawford County, 155 A.2d 361, 397 Pa. 331, 1959.

Where on appeal and cross appeals from orders of common pleas court under this section, matter was of utmost importance since it would determine right to ten year term as judge of the court of common pleas as between two

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nominees who were almost tied in the number of votes, Supreme Court would remand case for consideration by court en banc before appeals were finally passed upon. In re Recount of Ballots of Albany Tp., 141 A.2d 389, 392 Pa. 602, 1958.

Where proceedings were brought under this section providing for recount boards upon petition to court of common pleas, there was no need to appeal to court of common pleas from order of recount board as in proceeding under § 3157 of this title relating to appeals to court of common pleas from orders or decisions of a county board of elections, and matter could be reviewed on certiorari by Supreme Court without any appeal to court of common pleas. In re Recount of Ballots of Albany Tp., 141 A.2d 389, 392 Pa. 602, 1958.

Where only the orders of trial court, directing that certain ballots found to have been tampered with after official canvass of votes should be counted for candidate for whom they were originally counted, and certifying the recount, were assigned as error, trial court's findings as to fraudulent erasures and alterations must be taken as admittedly correct. In re Opening of Ballot Box of Greenwood Township, East, Election District, Columbia County, 25 A.2d 330, 344 Pa. 350, 1942.

Upon appeal from orders entered in recount proceedings, Supreme Court would have no authority to change or correct the result from an election district, as finally certified by the court, where no appeal was taken from the order entered with respect to that particular district. In re Opening of Ballot Box of Greenwood Township, East, Election District, Columbia County, 25 A.2d 330, 344 Pa. 350, 1942.

The findings of court below are always entitled to fullest credit, especially in election recount proceedings, as lower court has opportunity to inspect and pass on validity of each of ballots, and, if palpable fraud or error in making computation appears, court may make necessary corrections. In re Opening of Ballot Box East and West Election Dist. of Fishingcreek Tp., Columbia County, 19 A.2d 491, 144 Pa.Super. 277, 1941.

Where a county board of elections corrected entries made by it in the returns of

an election district in compliance with the certificate of the common pleas court sitting in recount of the votes for such district, and an appeal was taken from the action of the county board in so correcting its return, common pleas court on such appeal was authorized to inquire only as to whether the board, either fraudulently or mistakenly, failed to correct its return in accordance with the decision of the court in the prior proceeding, and could not review matters of fraud or error already judicially passed upon in the earlier proceeding, nor matters of fraud or error in the orders or decisions of the court in such proceeding. Appeal of McCaffrey, 11 A.2d 893, 337 Pa. 552, 1940.

In election contest reviewing court may not assume, in absence of showing on record, that returns from election districts include votes cast for township as well as for state and county officers. In re Returns from Herminie Election Dist. of Sewickley Tp., Westmoreland County, 192 A. 130, 326 Pa. 321, 1937.

Reviewing court will not disturb decree which deducted 84 allegedly improper votes from each candidate having largest number of votes, thus declaring some candidates elected to office and declaring vacancies as to other offices, where evidence on which election return board based its action was not before reviewing court and there was no irregularity in record, since statute, § 1165 of Title 12, Civil and Equitable Remedies and Procedure, requiring reviewing court to consider testimony is inapplicable to mere computation proceedings. In re Returns from Herminie Election Dist. of Sewickley Tp., Westmoreland County, 192 A. 130, 326 Pa. 321, 1937.

In proceedings for recount of election ballots, record could only be reviewed as on certiorari; no right of appeal being given. In re Luzerne County Election Returns, 151 A. 897, 301 Pa. 247, 1930.

In statutory proceeding to recount ballots, appeal is but certiorari and review is restricted to regularity of record, though finding in opinion on fundamental questions may be considered. In re Hazleton City Mayoralty Election, 151 A. 586, 301 Pa. 14, 1930.

In statutory proceeding to recount ballots, court may correct erroneous, though honest, acts of election officers. In re

Hazleton City Mayoralty Election, 151 A. 586, 301 Pa. 14, 1930.

Review in recount proceeding is but certiorari, but, in passing on regularity of record, findings of fact may be considered so far as they concern fundamental questions. In re Dunmore Borough's Election, 149 A. 733, 299 Pa. 517, 1930.

Lower court's findings are entitled to fullest credit in election recount proceeding. In re Dunmore Borough's Election, 149 A. 733, 299 Pa. 517, 1930.

Act of 1927, April 23, P.L. 360, No. 231, § 1, repealed, did not allow an ap-

peal, and where an appeal was taken from the action of the board it was but a certiorari. Petition of Smith, 140 A. 854, 292 Pa. 140, 1928.

Where alleged additional votes on recount would not affect result, regularity of first count sought to be reviewed by certiorari is moot question. Petition of Smith, 140 A. 854, 292 Pa. 140, 1928.

Findings of fact of commission, appointed to make recount of ballots, are conclusive, but it may not rule upon any question of law. Clinton Tp. Election, 20 D. & C. 530, 1933.

§ 3262. Recanvassing voting machines upon petition of electors alleging fraud or error

(a) The court of common pleas, or a judge thereof, of the county in which any election district is located, shall make visible the registering counters of the voting machine or machines used in such election district at any primary or election, and without unlocking the machine against voting, shall recanvass the vote cast therein, if three qualified electors of the election district shall file a petition, duly verified by them, alleging that, upon information which they consider reliable, they believe that fraud or error, although not manifest on the general return of votes made therefrom, was committed in the canvassing of the votes cast on such machine or machines. It shall not be necessary for the petitioners to specify in their petition the particular act of fraud or error they believe to have been committed, nor to offer evidence to substantiate the allegations of their petition.

(a.1) Every petition for the recanvassing of votes cast in the voting machine, or voting machines of an election district, under the provisions of this section, shall be filed in the office of the prothonotary of the proper county accompanied by a deposit of cash in the amount of fifty (\$50) dollars, or by a bond signed by the petitioners as principals and by a corporate surety to be approved by the court in the amount of one hundred (\$100) dollars, conditioned upon the payment to the county treasurer for the use of the county of the sum of fifty (\$50) dollars, in the event that upon the recanvassing of the votes cast in a voting machine or voting machines, it does not appear that fraud or substantial error was committed in the canvassing of the votes cast on such machine or otherwise in connection with such voting machines.

(b) Before the votes cast on any voting machine are recanvassed under the provisions of this section, the court shall direct that notice

of the time and place of the proposed recanvass be given, either personally or by registered mail, to each candidate whose name appears on the ballot labels, and each such candidate may be present at such recanvass, either in person or by his attorney, or by his duly authorized representative, under such regulations as the court may prescribe.

(b.1) If, upon the recanvassing of the votes in any voting machine, it shall appear that fraud or substantial error was committed in the computation of the votes cast on the voting machine or otherwise in connection with such voting machine, it shall be the duty of the court to certify such fact to the prothonotary, and thereupon the prothonotary shall return to the petitioners the said sum of fifty (\$50) dollars, or if the petitioners shall have filed a bond, in lieu of cash, to mark said bond cancelled and notify the petitioners that he has done so.

(b.2) If, upon the recanvassing of the votes in any voting machine under the provisions of this section, it shall not appear that fraud or substantial error was committed in the computation of the votes cast in the voting machine or otherwise in connection with such voting machine, the persons upon whose petition such voting machine was recanvassed shall forfeit to the county the sum of fifty (\$50) dollars. If said petitioners shall have deposited the said sum in cash with the prothonotary at the time of filing the petition, the prothonotary, upon certification of the court that fraud or substantial error or otherwise in connection with such machine was not discovered, shall pay said sum deposited with him to the county treasurer, and if the petitioners shall have filed with their petition a bond in the sum of one hundred (\$100) dollars, it shall be the duty of the county treasurer forthwith to collect from the principals or surety on said bond the sum of fifty (\$50) dollars and costs of suit, and for this purpose he is hereby authorized to institute any necessary legal proceedings. When so collected, the said sum of fifty (\$50) dollars shall be paid over to the county treasurer.

(c) Voting machines may be recanvassed under the provisions of this section at any time within twenty days after the date of the primary or election at which they were used.

1937, June 3, P.L. 1333, art. XVII, § 1702. Amended 1959, Dec. 17, P.L. 1891, § 1.

Library References

Elections ⇨263.
WESTLAW Topic No. 144.

C.J.S. Elections § 239.
P.L.E. Elections §§ 105, 106.

Notes of Decisions

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1. In general

In recount proceeding under Election Code, validity of votes canvassed and computed was to be determined in strict accordance with established law. In re Election of Supervisor in Springfield Tp., Mercer County, 159 A.2d 901, 399 Pa. 37, 1960.

It was intended to provide recount machinery for all matters voted upon including recount of votes on a liquor referendum. In re Recount of Ballots of Rome Tp., Crawford County, 155 A.2d 361, 397 Pa. 331, 1959.

2. Petition for recanvass

Where defeated candidate failed to follow procedure of § 3154 of this title or of this section, for obtaining recanvass of votes in that he did not present petition for recanvass from each election district, each signed by three voters or by three qualified electors, election board's failure to proceed to a recanvass did not constitute a competent order appealable to Court of Common Pleas. In re General Election Luzerne County, 94 A.2d 565, 372 Pa. 486, 1953.

A petition by a qualified elector asking the court to order a recanvassing of the vote on four loan questions will be dismissed where the petition fails to conform with this section in that the question is by one qualified elector rather than by three, there is no indication that a deposit has been made as required, and where the petition is filed more than 30 days after the election and more than 10 days after the time for filing. In re Recanvassing Votes in Philadelphia, 35 D. & C.2d 384, 1965.

3. Verification

Neglect of notary public in failing to administer oath to electors who petitioned for recanvassing of votes in certain election districts was not fatal, and trial court should have accepted affiants' sworn testimony as curing the defective verification in petitions to recanvass. In re Recanvassing of Certain Voting Ma-

chines for Election of Republican Candidate for County Com'r in Nov. 1983 General Election, 475 A.2d 1325, 504 Pa. 593, 1984.

Petition for recanvassing votes was properly dismissed as to election districts with respect to which affidavits verifying petition had not been signed in presence of a notary public. In re Recanvassing of Certain Voting Machines for Election of Republican Candidate for County Com'r in Nov. 1983 General Election, 475 A.2d 1325, 504 Pa. 593, 1984.

Petition for recanvass of votes was defective where it was verified by affidavit of only one of signers instead of three as required by Voting Machine Act of 1929, April 18, P.L. 549, § 26, repealed. In re Petition for Recanvass of Vote in Thirty-Third Division, Thirty-Eighth Ward, Philadelphia, 176 A. 425, 317 Pa. 151, 1934.

4. Time of filing

Petition to recanvass votes in certain election districts, having been filed within five days after certification of results of election, was timely, though filed more than 20 days after the election. In re Recanvassing of Certain Voting Machines for Election of Republican Candidate for County Com'r in Nov. 1983 General Election, 475 A.2d 1325, 504 Pa. 593, 1984.

5. Review

Denial of petition for recanvass of votes in certain election districts was subject to broad scope of review on certiorari despite contention that statute precluded appeal. In re Recanvassing of Certain Voting Machines for Election of Republican Candidate for County Com'r in Nov. 1983 General Election, 475 A.2d 1325, 504 Pa. 593, 1984.

Where a county board of elections corrected entries made by it in the returns of an election district in compliance with the certificate of the common pleas court sitting in recount of the votes for such district, and an appeal was taken from the action of the county board in so correcting its return, common pleas court on such appeal was authorized to inquire only as to whether the board, either fraudulently or mistakenly, failed to correct its return in accordance with the decision of the court in the prior proceeding, and could not review matters of fraud or error already judicially passed

Note 5

upon in the earlier proceeding, nor matters of fraud or error in the orders or decisions of the court in such proceeding. Appeal of McCaffrey, 11 A.2d 893, 337 Pa. 552, 1940.

Where Voting Machine Act of 1929, April 18, P.L. 549, § 26, repealed, under which recanvass of votes was sought did

not provide for appeal, appeal would be considered as if it were certiorari investing Supreme Court with jurisdiction to consider alleged errors involving questions of law. In re Petition for Recanvass of Vote in Thirty-Third Division, Thirty-Eighth Ward, Philadelphia, 176 A. 425, 317 Pa. 151, 1934.

§ 3263. Correction of returns; decision not to be final; evidence for prosecution

(a)(1) Any petition to open a ballot box or to recanvass the votes on a voting machine pursuant to sections 1701 and 1702¹ shall be filed no later than five (5) days after the completion of the computational canvassing of all returns of the county by the county board. If any error or fraud is found the court shall grant the interested parties an additional five (5) days to file petitions requesting additional ballot boxes to be opened or voting machines to be recanvassed.

(2) If any petition to open a ballot box or to recanvass the votes on a voting machine shall have been presented, under the provisions of sections 1701 and 1702 of this act and the court shall discover therein any fraud or error, the court shall correct, compute and certify to the county board the votes justly, regardless of any fraudulent or erroneous entries made by the election officers thereof, and the county board shall correct accordingly any entries previously made in the returns of the county being prepared by it, or which have been prepared and not yet certified.

(b) No order or decision of the court under the provisions of sections 1701 and 1702 of this act, shall be deemed a final adjudication regarding the results of any primary or election, so as to preclude any contest thereof under the provisions of this article, and no such order or decision shall affect the official returns of any election district, unless a petition to open the ballot boxes or to recanvass the votes on a voting machine shall have been presented before the certification of the returns of the county by the county board, or unless a contest shall have been instituted in the manner provided by this article.

(c) If upon the opening of any ballot box or recanvass of any voting machine under the provisions of this article, it shall be found that fraud was committed in the computation of the votes cast on the ballots or voting machine, or in the marking of the ballots contained therein or otherwise in connection with such ballots, the county board shall take such steps as shall be appropriate to enable the ballot box and contents thereof or voting machine to be available as

evidence in any prosecution which may be begun against any person or persons alleged to be guilty of such fraud.

1937, June 3, P.L. 1333, art. XVII, § 1703. Amended 1982, May 5, P.L. 374, No. 108, § 5, imd. effective.

¹ 25 P.S. §§ 3261 and 3262.

Historical and Statutory Notes

The 1982 amendment rewrote subsec. (a) which formerly read:

"If any petition to open a ballot box or to recanvass the votes on a voting machine shall have been presented, under the provisions of sections 1701 and 1702 of this act, before the certification of all the returns of the county, and, in no event, later than five (5) days after the completion of the computation and canvassing of all the returns of the county by

the county board, and the court shall discover therein any fraud or error, the court shall correct, compute and certify to the county board the votes justly, regardless of any fraudulent or erroneous entries made by the election officers thereof, and the county board shall correct accordingly any entries previously made in the returns of the county being prepared by it, or which have been prepared and not yet certified."

Library References

Elections ⇨254, 329.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 233, 348 et seq.
P.L.E. Elections §§ 105, 106, 143.

Notes of Decisions

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the recount board is a judicial body having all the powers, duties, and discretion of an election board. In re Petition to Open Ballot Box, 43 D. & C. 535, 1942.

3. Time

Electors' initial petition to open ballot box and recount votes, filed after statutory five-day period, was properly denied by trial court, where electors failed to institute election contest. In re General Election for Tp. Supervisor of Morris Tp., Washington County, 620 A.2d 565, 152 Pa.Cmwlt. 590, 1993.

Electors' initial petition to open ballot box and recount votes with respect to office of township supervisor was properly denied, where petition was filed approximately three months after completion of canvassing of returns. In re General Election for Tp. Supervisor of Morris Tp., Washington County, 620 A.2d 565, 152 Pa.Cmwlt. 590, 1993.

Election code provision authorizing opening of ballot boxes upon petition of electors alleging fraud or error would not be read to permit initial petition to open ballot box and recount votes to be filed within four months after election; such interpretation would render five-day time limit for filing initial petition to open

1. In general

A court lacks the authority under sections 3261 and 3263 of the Election Code, to open a ballot box for a recount 3½ months after the election where no election contest is pending. In re Opening of Ballot Box of Morris Tp., 14 D. & C.4th 417, 1992, affirmed 620 A.2d 565, 152 Pa.Cmwlt. 590.

2. Recount board

Under this section and § 3261, providing for the opening of ballot boxes and the recounting of votes by a recount board sitting as a court and empowering such court to consider fraud or error in the computation or in the marking of ballots, and to correct and certify to the county return board the votes cast, the recount board has power to pass upon the validity of a ballot from its condition and markings and is not confined to correction of errors as to computation only:

ballot box and for recount, contained in another code provision, completely superfluous and such reading of statute contradicted rules of statutory construction which directed court to give effect to all provisions of statute. In re General Election for Tp. Supervisor of Morris Tp., Washington County, 620 A.2d 565, 152 Pa.Cmwth. 590, 1993.

Candidate has 20 days after date of primary or election, or five days after computation is completed, whichever period is longer, within which to file petition to recanvass. In re Recanvassing of Certain Voting Machines for Election of Republican Candidate for County Com'r in Nov. 1983 General Election, 475 A.2d 1325, 504 Pa. 593, 1984.

A candidate for school director who was allowed an appeal nunc pro tunc from action of computation board in the tabulation of election returns must be placed in the same position in respect to his rights to a recanvassing of the votes as he would have been in had his appeal been taken during the period prescribed by statute. Appeal of Koch, 46 A.2d 263, 353 Pa. 619, 1946.

This section placing a five day limitation on the filing of any petition to open a ballot box or to recanvass the votes on a voting machine after the completion of the computation and canvassing of all the returns of the county by the county board should be invoked when petition is presented to open ballot box. Appeal of Koch, 46 A.2d 263, 353 Pa. 619, 1946.

A petition presented on day on which computation of military vote was completed was not too late because it was presented more than five days after civilian vote was computed, since civilian and military votes cannot be computed and appealed from separately. Petition to Open and Recount Ballot Box of Coal Tp., Johnson City, 42 A.2d 155, 352 Pa. 63, 1945.

An appeal nunc pro tunc would be allowed candidate who having received majority of votes cast at general election for office of school director, did not learn until after statutory time limit for taking appeals had passed, that county computation board erroneously certified to county board of elections the election of another, where candidate was not guilty of laches by reason of failing to discover earlier computation board's erroneous action.

In re Twenty-Sixth Election Dist., Second Ward, Borough of Lehigh, 41 A.2d 657, 351 Pa. 544, 1945.

A petition to open a ballot box filed 26 days after completion of the computation and canvassing of all returns of the county by the county board is untimely under subsec. (1) of this section. In Matter of Stewardson Tp., Potter County, Pennsylvania General Election of Tp. Officers of November 5, 1985, 38 D. & C.3d 359, 1986.

A petition to open a ballot box under this section will be dismissed where filed more than five days after the computation has been completed and the fact of such completion orally announced, even though the certification required by § 3154(f), of this title was not executed until within the five-day period. Appeal of McCloskey, 32 D. & C. 242, 1939.

4. Hearing and determination

Where Supreme Court allowed school director candidate an appeal nunc pro tunc from action of computation board in the tabulation of election returns, no competent and relevant evidence of the fact in issue should have been rejected at the ensuing hearing before the Common Pleas Court. Appeal of Koch, 46 A.2d 263, 353 Pa. 619, 1946.

The official record or recount of votes cast in school district election was competent secondary evidence which should have been admitted at the hearing before the Common Pleas Court after the Supreme Court allowed school district candidate an appeal nunc pro tunc from action of computation board in the tabulation of election returns, where the ballots had disappeared from the ballot box, notwithstanding that recount was made after the five days limitation of this section on the filing of any petition to recanvass votes after completion of computation and canvassing of returns by county board. Appeal of Koch, 46 A.2d 263, 353 Pa. 619, 1946.

Where election contest showed election official had disregarded law, record of case was certified to district attorney as suggested in § 3231(c) of this title. In re South Union Tp. Election, 61 D. & C. 490, 1948.

5. Criminal prosecution

Subd. (c) of this section relating to preservation of evidence of fraud which

opening of ballot box in the recounting of the ballots discloses so that such evidence will be available in subsequent criminal prosecution of those allegedly responsible for the fraud was not applicable in an election recount proceeding. Appeal of Koch, 46 A.2d 263, 353 Pa. 619, 1946.

6. Review

It was legislative intent that orders and decisions of Courts of Common Pleas in proceedings involving opening of ballot boxes for purpose of correcting official returns of Board, be deemed final and conclusive; and scope of Supreme Court's review is in nature of a narrow certiorari. In re Disputed Ballots of Morann Precinct, Woodward Tp., 133 A.2d 824, 389 Pa. 538, 1957.

On appeal from orders of the Court of Common Pleas, in proceedings involving opening of ballot boxes for purpose of correcting official returns of Board, Supreme Court was limited to determining whether court below had jurisdiction, whether its proceedings were regular and whether it exercised powers in excess of

those granted or possessed by it; and validity of disputed ballots was not within scope of Supreme Court's review. In re Disputed Ballots of Morann Precinct, Woodward Tp., 133 A.2d 824, 389 Pa. 538, 1957.

Where a county board of elections corrected entries made by it in the returns of an election district in compliance with the certificate of the common pleas court sitting in recount of the votes for such district, and an appeal was taken from the action of the county board in so correcting its return, common pleas court on such appeal was authorized to inquire only as to whether the board, either fraudulently or mistakenly, failed to correct its return in accordance with the decision of the court in the prior proceeding, and could not review matters of fraud or error already judicially passed upon in the earlier proceeding, nor matters of fraud or error in the orders or decisions of the court in such proceeding. Appeal of McCaffrey, 11 A.2d 893, 337 Pa. 552, 1940.

(b) CLASSES OF NOMINATION AND ELECTION CONTESTS

Library References

P.L.E. Elections § 121 et seq.

§ 3291. Classes of nomination and election contests

The several classes of nominations at primaries and elections of public officers which may be contested in this Commonwealth are hereby distinguished and designated as follows, to wit:

Class I. Nominations and elections of the Governor and Lieutenant Governor of the Commonwealth.

Class II. Nominations and elections of electors of President and Vice-President of the United States and all officers of this Commonwealth, including Judges of the Courts (except Governor and Lieutenant Governor), who now are or hereafter shall be required to be nominated or elected by the electors of the State at large, and nominations of United States Senators.

Class III. Nominations and elections of judges of the several courts.

Class IV. Nominations and elections of Senators and Representatives in the General Assembly, and nominations of Representatives in Congress.

Class V. All other officers, whether nominated or elected by the qualified voters of counties, cities, boroughs, townships, wards, school districts, poor districts or any other division of the State. 1937, June 3, P.L. 1333, art. XVII, § 1711. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

Judiciary Act Repealer Act

Section 2(a)[1193] of the Judiciary Act Repealer Act, Act 1978, April 28, P.L. 202, No. 53 [42 P.S. § 20002(a)[1193]], provides, in part, as follows:

"When an appellate court has decided the questions involved in a nomination or election contest for the office of judge of a court, the appellate court shall thereupon proceed to decide and declare which of the candidates voted for received the greatest number of legal votes and is entitled to the nomination or office, and shall cause its decision to be certified to the Secretary of the Commonwealth, whereupon, the person who, by the decision of the appellate court, shall appear to have received the largest number of legal votes, shall be declared nominated or shall be declared entitled to the office, and be commissioned accordingly."

Historical and Statutory Notes

The 1978 amendment deleted references to the supreme and superior courts and to courts of record, the judges of which "to be learned in the law".

Cross References

Contested elections, see Const.Art. 7, § 13.

Library References

Elections ⇐ 269.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 245 et seq.
P.L.E. Elections § 121.

Notes of Decisions

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1. In general

"Election contest" proceedings are wholly statutory and jurisdiction over subject matter of election contest petition must be found in Election Code or in some other statute incorporating such Code by reference. *Reese v. County Bd. of Elections of Lancaster County*, 308 A.2d 154, 10 Pa.Cmwlth. 448, 1973.

Election contest is a method to insure honesty and validity of elections and while statutory requirements must be followed, mere technicalities should never thwart inherent and basic purpose of proceeding to test validity of an election. *In re Election of School Directors in Birmingham Tp., Chester County*, 143 A.2d 18, 393 Pa. 396, 1958.

Term "election contest" pertains only to matters concerned with election process itself, such as conduct of balloting, tabulation of results and returns, rather than eligibility or qualification of candidates. *In re Bensalem Tp. Supervisor Election Contest*, 26 D. & C.2d 433, 1963.

2. Elections

Issues which may be raised in election contest proceedings under Election Code, 25 P.S. § 2600 et seq., may be similarly raised with respect to all election matters provided for in Home Rule Charter and Optional Plan Law, 53 P.S. § 1-101 et seq., unless otherwise specifically provided. *Reese v. County Bd. of Elections of Lancaster County*, 308 A.2d 154, 10 Pa. Cmwlth. 448, 1973.

Election contest could be maintained with regard to election of members of home rule study commission for county government, notwithstanding assertion that such proceedings were restricted to five classes of public officers designated in this section. *Reese v. County Bd. of Elections of Lancaster County*, 308 A.2d 154, 10 Pa. Cmwlth. 448, 1973.

Prior to the enactment of the Election Code, the statutory provisions for election contest referred exclusively to the election of public officers. In *re Granting Malt Beverage Licenses in Greene Tp., Franklin County*, 1 A.2d 670, 331 Pa. 536, 1938.

Elections on referenda under the Beverage License Law, §§ 84 et seq., 100n, of Title 47, Liquor (repealed), and the Liquor Control Act, §§ 744-1 et seq., 744-502, of Title 47, Liquor (repealed), could not be contested under the Pennsylvania Election Code, § 2600 et seq., of this title, the proceedings challenging the validity of the referenda not being "election contests" within the Election Code, in view of provisions of this section and § 3261, of this title specifically designat-

ing the several classes of nominations and elections of public officers which may be contested and setting up a definite procedure to be followed in contested nominations and elections of public officers, without reference to referenda on question submitted to the voters. In *re Granting Malt Beverage Licenses in Greene Tp., Franklin County*, 1 A.2d 670, 331 Pa. 536, 1938.

3. Jurisdiction

Jurisdiction of a court of equity to entertain issues raised under Home Rule Charter and Optional Plans Law, 53 P.S. § 1-101 et seq., is of equal scope and subject to same limitations as relate to election matters generally. *Reese v. County Bd. of Elections of Lancaster County*, 308 A.2d 154, 10 Pa. Cmwlth. 448, 1973.

The jurisdiction of court in election contest is not a common-law origin but is founded entirely on statute and hence cannot be extended beyond the limits defined by statute. In *re Granting Malt Beverage Licenses in Greene Tp., Franklin County*, 1 A.2d 670, 331 Pa. 536, 1938.

4. Defenses

Recount proceedings, wherein certain ballots were rejected on ground that they were marked so as to be capable of identification, did not bar contest under allegation that marks were placed on ballots by election officers after ballot box was opened. *Appeal of McLaughlin*, 29 A.2d 45, 345 Pa. 498, 1943.

(C) CONTESTED NOMINATIONS AND ELECTIONS OF THE FIRST CLASS

Library References

Elections ⇄ 269.
WESTLAW Topic No. 144.

C.J.S. Elections § 245 et seq.
P.L.E. Elections § 121 et seq.

§ 3312. Committee of General Assembly to try

Contested nominations and elections of Governor and Lieutenant Governor shall be tried and determined by a committee to be selected from both houses of the General Assembly, and formed and regulated in the following manner.

1937, June 3, P.L. 1333, art. XVII, § 1712.

Library References

Elections ⇨276.
WESTLAW Topic No. 144.

C.J.S. Elections § 252.
P.L.E. Elections § 121.

§ 3313. Contest petitions; when and to whom presented

Upon the petition in writing of at least one hundred registered electors of the Commonwealth, accompanied by the affidavit, taken and subscribed by at least twenty of the petitioners, before some person having authority to administer oaths, that the facts set forth are true to the best of their knowledge and belief, and a certificate from the registration commission of the county or counties where the petitioners reside, setting forth that they are all registered electors, being presented to the presiding officer of the Senate within ten days from the organization of the General Assembly next succeeding the election complained of, he shall immediately give information thereof to both houses. Such petition after being read in each house, shall be laid on the table without any question taken thereon, until the two houses shall proceed thereon in the following manner.

1937, June 3, P.L. 1333, art. XVII, § 1713.

Library References

Elections ⇨285(1).
WESTLAW Topic No. 144.

C.J.S. Elections §§ 268, 271.
P.L.E. Elections § 123.

§ 3314. Personnel of contest committee; Senate Members

The Senate and House of Representatives shall, on a day and hour to be agreed on between them, which day shall be within five days of the reception of the petition as aforesaid, convene in the hall of the House of Representatives, where the petition shall be read by the secretary of the Senate; the names of the members of each house shall then be called over by the respective clerks, and a quorum of each house being present, a joint committee shall be formed as follows:

(a) The names of all senators present, except the President pro tempore, shall be written on distinct pieces of paper as nearly alike as may be, each of which shall be rolled up and put into a box by the clerk of the House of Representatives, and placed on the Speaker's table.

(b) The secretary of the Senate, having shaken and intermixed the said papers, shall draw them out one by one, and put them alternately into three boxes, also placed on the Speaker's table.

(c) When the whole number shall be thus distributed, the clerk of the House of Representatives shall shake and intermix the papers in

each box, and shall draw alternately from each box the papers so rolled up, until twelve papers have been so drawn, and shall deliver them singly, as drawn, to the Speaker of the House of Representatives.

(d) The Speaker of the House of Representatives shall open the said papers singly and read aloud the names on each, and then deliver the papers singly to the President of the Senate, who shall place them openly on the table.

(e) A member of each House, to be designated by the respective presiding officers, shall take down in writing the names so called, and shall each of them repeat aloud the name so written.

1937, June 3, P.L. 1333, art. XVII, § 1714.

Library References

Elections ⇨276.
WESTLAW Topic No. 144.

C.J.S. Elections § 252.
P.L.E. Elections § 121.

§ 3315. Personnel of contest committee; House Members

The like proceedings shall then be had for drawing twenty-five members of the House of Representatives for the purpose: Provided, however, That—

(a) The duties in the preceding section enjoined upon the clerk of the House of Representatives shall be performed by the secretary of the Senate.

(b) The duties therein enjoined upon the secretary of the Senate shall be performed by the clerk of the House of Representatives.

(c) The duties therein enjoined upon the Speaker of the House of Representatives shall be performed by the presiding officer of the Senate.

(d) The duties therein enjoined upon the President of the Senate shall be performed by the Speaker of the House of Representatives, whose name shall not be placed in the box.

1937, June 3, P.L. 1333, art. XVII, § 1715.

Library References

Elections ⇨276.
WESTLAW Topic No. 144.

C.J.S. Elections § 252.
P.L.E. Elections § 121.

§ 3316. Challenges

If any objection be made by either of the parties to any member so drawn by lot, such member shall be discharged, and another name be drawn to supply the place, and so on until the whole number of

twelve senators and twenty-five members of the House of Representatives shall be completed; and in all cases, the members drawn in place of those objected to, shall be in like manner liable to be set aside, and others shall be drawn in their places; but if so many be set aside by reason of objections, as aforesaid, that there shall not remain more than the number aforesaid, then no further objection shall be admitted.

1937, June 3, P.L. 1333, art. XVII, § 1716.

§ 3317. Selection of committee

When the number aforesaid shall be completed, the clerk of the House of Representatives shall draw out, one by one, the names of the remaining members of the Senate, and deliver them singly to the Speaker of the House of Representatives, who shall unfold and read them aloud; and the secretary of the Senate shall in like manner draw out the names of the remaining members of the House of Representatives, and deliver them singly to the presiding officer of the Senate, who shall unfold them and read them aloud; and if any unfairness or mistakes shall then be discovered therein, the whole proceedings shall be set aside, and the same shall be renewed in manner and form hereinbefore directed; but after the committee is sworn, no objection for such cause shall be received.

1937, June 3, P.L. 1333, art. XVII, § 1717.

§ 3318. Final selection of committee

When the proceedings aforesaid shall be concluded, a list of the twelve members of the Senate and a separate list of the twenty-five members of the House of Representatives so drawn shall be given to each of the parties, who shall immediately withdraw to some adjoining room, with a clerk or members appointed by the joint vote of members present, where they shall proceed to strike off alternately the names upon such list, until the number shall be reduced to four members of the Senate and nine of the House of Representatives, which shall constitute a select committee.

1937, June 3, P.L. 1333, art. XVII, § 1718.

§ 3319. Members to remain until final selection

On the parties withdrawing to form such select committee, the members of both houses shall continue convened and the members whose names shall have been drawn out of the boxes shall not leave the conference room without permission, until the time and place for

the meeting of the select committee shall be fixed as hereinafter provided.

1937, June 3, P.L. 1333, art. XVII, § 1719.

§ 3320. Final qualification of committee

Within one hour from the time of withdrawing as aforesaid, the parties shall deliver to the presiding officer of the Senate the names of the said four members of the Senate and nine of the House of Representatives remaining on the list, who shall then respectively take an oath or affirmation, to be administered by the presiding officer of the Senate, to try the matter of the petition and to give a true judgment thereon according to the evidence, unless the committee shall be dissolved.

1937, June 3, P.L. 1333, art. XVII, § 1720.

§ 3321. Time and place of meeting

The time and place for the meeting of the select committee so appointed shall then be directed by the joint vote of the members of both houses, which time shall be within forty-eight hours of the appointment.

1937, June 3, P.L. 1333, art. XVII, § 1721.

§ 3322. Absence from committee

If any person appointed a member of such select committee shall, at the time of such appointment, swear or affirm that he cannot without great inconvenience serve on such committee, he shall be excused, and in such case another shall be substituted.

1937, June 3, P.L. 1333, art. XVII, § 1722.

§ 3323. Meetings of committee; quorums; adjournment

The select committee shall sit from day to day, Sundays excepted, at such hours as shall not interfere with their attendance in the Legislature, but unless nine of their number be present, the committee shall adjourn to the next day, and if the number of the committee shall unavoidably be reduced to less than nine members, and shall so continue for the space of three days, Sundays excepted, the committee shall be dissolved, and there shall be another chosen in manner aforesaid. When the two houses shall stand adjourned for more than three days, the committee may adjourn to the same time.

1937, June 3, P.L. 1333, art. XVII, § 1723.

§ 3324. Presiding officer of committee

Immediately after the appointment of the select committee aforesaid, the President of the Senate shall notify the Chief Justice of the

Supreme Court, and he shall immediately attend the meetings of the committee as the presiding officer thereof. The Chief Justice of the Supreme Court shall decide questions regarding the admissibility of evidence, and he shall, upon request of the committee, pronounce his opinion upon other questions of law involved in the contest, but he shall not have a vote on the final determination of the case.

1937, June 3, P.L. 1333, art. XVII, § 1724.

§ 3325. Powers of committee

The select committee shall have power to subpoena persons and require the production of papers and records, and to compel the attendance of and examine all witnesses who may come before them, upon oath or affirmation, which the Chief Justice of the Supreme Court or clerk of the committee may administer in their presence, and to decide not only on the validity of such contested election, but also which of the candidates had the greatest number of legal votes.

1937, June 3, P.L. 1333, art. XVII, § 1725.

§ 3326. Proceeding before committee; unqualified voters; testimony; immunity

When it is proven to the satisfaction of said committee that any person, not a legally qualified voter, voted at any such contested election, it shall be lawful for said committee to compel said voter to disclose, under oath, for which of the respective candidates he voted; but when the committee examines the witness on oath as to the person or persons for whom he voted, and said witness on such examination discloses the names of the persons for whom he voted at such election, he shall not afterwards be prosecuted for having illegally voted at such election.

1937, June 3, P.L. 1333, art. XVII, § 1726.

Constitutional Provisions

Const. Art. 7, § 8, provides: "In trials of contested elections and in proceedings for the investigation of elections, no person shall be permitted to withhold his testimony upon the ground that it may

criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceedings except for perjury in giving such testimony."

Library References

Witnesses ⇨297(1).
WESTLAW Topic No. 410.

C.J.S. Witnesses § 431.
P.L.E. Witnesses § 92.

§ 3327. Conduct of committee

The doors of the room in which the select committee shall meet shall remain open during the examination of witnesses, but may be

closed at any other time. All determinations required to be made by such committee shall be by a majority of the whole number appointed. As soon as the committee shall have agreed upon the same, two reports thereof shall be made in writing, one of which shall be delivered to the presiding officer of the Senate, and the other to the Speaker of the House of Representatives, which reports shall be entered on the journals of the respective houses, and shall be final and conclusive.

1937, June 3, P.L. 1333, art. XVII, § 1727.

Library References

Elections ⇨300.
WESTLAW Topic No. 144.

C.J.S. Elections § 300.
P.L.E. Elections § 126.

§ 3328. Report of committee to be final

If the committee, or a majority thereof as aforesaid, shall report that either of the candidates had the greatest number of legal votes, and ought to receive the nomination or to be admitted to the office, as the case may be, such candidate shall thereupon be entitled to such office or nomination.

1937, June 3, P.L. 1333, art. XVII, § 1728.

§ 3329. New election if invalid; notice

If the committee, or a majority thereof, shall report that such election or return is invalid, a new election shall take place on the day of the general election ensuing, agreeably to the Constitution, of which the presiding officer of each house shall immediately give notice by their joint writ directed to the Secretary of the Commonwealth and the county boards of the respective counties; and the county boards of the respective counties shall give due notice thereof according to law. If the committee, or a majority thereof, shall report that such nomination is invalid, the vacancy in the party ticket shall be filled in the manner provided by section 979 of this act.¹

1937, June 3, P.L. 1333, art. XVII, § 1729.

¹ 25 P.S. § 2939.

Library References

Elections ⇨298(3).
WESTLAW Topic No. 144.

C.J.S. Elections § 305.
P.L.E. Elections § 126.

§ 3330. Pay of witnesses

Every witness subpoenaed attending the trial of any contested election of the first class, shall be allowed six cents for every mile of

the distance necessarily traveled by him in coming to and returning from the place of trial, and shall also be allowed the sum of two dollars and fifty cents for every day he may be detained at the place of such trial, which mileage and expense, as well as the expense of summoning such witnesses, shall be taxed by the select committee and certified by their chairman to the Speaker of the House of Representatives or the presiding officer of the Senate, or both, as the case may require. The amount thereof, after having been first approved by the house or houses to which such certificate may be made, shall be paid by the treasurer of the county or counties in which the facts complained of took place, if such facts be substantiated, or by the treasurer of the county or counties in which the petitioners shall reside, if the statements in the petition shall not be substantiated, on orders drawn by the Speaker of the House of Representatives or the presiding officer of the Senate, or both, as the case may require.

1937, June 3, P.L. 1333, art. XVII, § 1730.

Repealed in Part

This section is repealed by § 2(a)[1193] of Act 1978, April 28, P.L. 202, No. 53, effective June 27, 1978 [42 P.S. § 20002(a)[1193]], except as to the method of certification and source of funds.

Library References

Witnesses ⇨27.

WESTLAW Topic No. 410.

C.J.S. Witnesses § 41.

P.L.E. Witnesses § 9.

(d) CONTESTED NOMINATIONS AND ELECTIONS OF THE SECOND CLASS

Library References

Elections ⇨269.

WESTLAW Topic No. 144.

C.J.S. Elections § 245 et seq.

P.L.E. Elections § 121 et seq.

§ 3351. Court of common pleas of Dauphin County with two nearest president judges to have jurisdiction

Cases of the second class shall be tried and determined by the court, upon petition of at least one hundred electors as hereinafter provided.

1937, June 3, P.L. 1333, art. XVII, § 1731. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

Historical and Statutory Notes

The 1978 act repealed a reference to the court of common pleas of Dauphin County.

Library References

Elections ⇨275.
WESTLAW Topic No. 144.

C.J.S. Elections § 252.
P.L.E. Elections § 121.

§ 3352. Entry and effect of decision

After the hearing of the said case, the said judges shall, without unnecessary delay, decide which of the candidates voted for received the greatest number of legal votes, and is entitled to the nomination or office, which decision shall be entered of record to the case in the said court, and a certified copy thereof shall, within five (5) days from the rendering thereof, be delivered to the Secretary of the Commonwealth, whereupon the person who, by the decision of the court, shall appear to have received the largest number of votes, shall be entitled to the nomination or to the office, and be commissioned accordingly.

1937, June 3, P.L. 1333, art. XVII, § 1732.

Library References

Elections ⇨304.
WESTLAW Topic No. 144.

C.J.S. Elections § 306.
P.L.E. Elections § 126.

(e) CONTESTED NOMINATIONS AND ELECTIONS OF THE THIRD CLASS

Library References

Elections ⇨269.
WESTLAW Topic No. 144.

C.J.S. Elections § 245 et seq.
P.L.E. Elections § 121 et seq.

§ 3376. Common pleas court of county of residence of candidate returned as elected to have jurisdiction

Contested nominations and elections of judges of courts of any judicial district of this Commonwealth shall be tried and determined before the court of common pleas of the county where the person returned as nominated or elected shall reside, in the following manner.

1937, June 3, P.L. 1333, art. XVII, § 1736. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

Historical and Statutory Notes

The 1978 act repealed reference to courts of record, the judges of which to be "learned in the law".

Library References

Elections ⇨275.
WESTLAW Topic No. 144.

C.J.S. Elections § 252.
P.L.E. Elections § 121.

§ 3377. Procedure to contest; petition; personnel of court

Upon the petition in writing, as hereinafter provided, of at least fifty (50) registered electors of the district for which the person whose nomination or election is contested was returned as nominated or elected, presented to the Governor of the Commonwealth, complaining of an illegal primary or election or false return of any judge of a court of any judicial district of the Commonwealth the Governor shall without delay, direct the three president judges residing nearest to the courthouse of the county composing the district, or, if more than one county composes the judicial district, then those nearest the courthouse of the most populous county of the district, to convene without delay the court of common pleas of such county, and proceed to hear and determine the complaint of the said petition. 1937, June 3, P.L. 1333, art. XVII, § 1737. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

Historical and Statutory Notes

The 1978 act repealed reference to courts of record, the judge of which to be "learned in the law".

Library References

Elections ⇨285.
WESTLAW Topic No. 144.

C.J.S. Elections ⇨268.
P.L.E. Elections § 123.

Notes of Decisions**Fraudulent voting 1
Petition 2****1. Fraudulent voting**

Allegations of fraudulent voting are insufficient unless the electors involved are named and it is shown that the illegal votes accrued to the benefit of the successful candidate. In re Morganroth Election Contest, 50 D. & C. 143, 1944.

2. Petition

An allegation in a petition for an election contest that an election board marked and placed in the ballot box ballots for a large number of persons who did not attend the election is insufficient, in failing to specify the approximate number of votes cast and names of voters involved. In re Morganroth Election Contest, 50 D. & C. 143, 1944.

In a petition for an election contest, an allegation of "considerable so-called chain voting" is insufficient, in the ab-

sence of any clarification or definition of the phrase. In re Morganroth Election Contest, 50 D. & C. 143, 1944.

Allegations in a petition for an election contest that the ballot box was under the control of one party inspector and his associates, because the other party inspector left the voting precinct after signing a return of election in blank, prior to commencement of the counting of ballots, is insufficient in the absence of a further allegation that the persons so left in control changed any of the ballots. In re Morganroth Election Contest, 50 D. & C. 143, 1944.

Allegations in a petition for an election contest, as to unauthorized or illegal acts involving an unspecified number of votes and electors, are insufficient and afford no ground for declaring invalid the result of the election in the district involved, especially where the petition fails to show the effect of such acts upon the voting. In re Morganroth Election Contest, 50 D. & C. 143, 1944.

§ 3378. Repealed. 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978

Historical and Statutory Notes

The repealed section related to jurisdiction where there is more than one court of common pleas in the district and was derived from act 1937, June 3, P.L. 1333, art. XVII, § 1738.

§ 3379. Certification and effect of decision

After such hearing the said judges shall, without delay, decide which of the candidates voted for received the greatest number of legal votes, and is entitled to the nomination or office, which decision shall be entered of record to the case in said court, and a certified copy thereof shall, within five (5) days from the rendering of such decision, be transmitted to the Secretary of the Commonwealth; whereupon the person who, by the said decision, shall appear to have received the largest number of votes, shall be entitled to the nomination, or to the office, and commissioned accordingly.

1937, June 3, P.L. 1333, art. XVII, § 1739.

Library References

Elections ⇨303, 304.
WESTLAW Topic No. 144.
P.L.E. Elections § 126.

(f) CONTESTED NOMINATIONS AND ELECTIONS OF THE FOURTH CLASS

Library References

Elections ⇨269. C.J.S. Elections § 245 et seq.
WESTLAW Topic No. 144. P.L.E. Elections § 121 et seq.

§ 3401. Jurisdiction to try

Contested nominations and elections of Senators and Representatives in the General Assembly of this Commonwealth and contested nominations of Representatives in Congress shall be tried and determined by the court of common pleas of the county where the person returned as such shall reside, in the following manner:

1937, June 3, P.L. 1333, art. XVII, § 1741.

Library References

Elections ⇨275. C.J.S. Elections § 252.
WESTLAW Topic No. 144. P.L.E. Elections § 121.

Notes of Decisions

Court 1

1. Court

The term "court" as used in this section means a majority of the judges of the

Court unless the parties assent to having one judge alone hear the matter or the court designates one member to hear the testimony and make findings of fact and conclusions of law for the court en banc. In re Second Legislative Dist. Election Contest, 4 D. & C.2d 33, 1956.

§ 3402. Method of contest; petition; notice

Upon petition in writing, as hereinafter provided, of at least twenty registered electors of the senatorial district in case of a senator and of the legislative district in case of a representative in the General Assembly, complaining of an illegal primary or election or false return of any senator or representative, or upon petition in writing as hereinafter provided of at least twenty registered electors of the congressional district in case of a representative in Congress, complaining of an illegal primary or false return of any representative in Congress, the court shall immediately appoint a suitable time for the hearing in open court of such complaint; notice of which shall be given to the person returned, at least ten days before such hearing. 1937, June 3, P.L. 1333, art. XVII, § 1742. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

Historical and Statutory Notes

The 1978 act repealed provisions relating to whether the court was in session and to the president judge of the court.

Library References

Elections ⇨280, 285.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 254 et seq., 268.
P.L.E. Elections §§ 121, 123.

§ 3403. Complainants and candidate returned shall be parties

On the trial of contested nominations or elections of senators and representatives in the General Assembly and of contested nominations of representatives in Congress, the petitioners complaining of nomination or the election, and the person returned as nominated or elected, shall be the parties thereto.

1937, June 3, P.L. 1333, art. XVII, § 1743.

Library References

Elections ⇨279.
WESTLAW Topic No. 144.

C.J.S. Elections § 261 et seq.
P.L.E. Elections § 121.

§ 3404. Powers and duties of the court

The court of common pleas to which a petition shall be presented as aforesaid, contesting the right of a candidate for senator or representative in the General Assembly to the nomination or to the seat for which he may have been returned as elected, or contesting the right of a candidate for representative in Congress to the nomination, shall have authority to subpoena and to compel the attendance of any officer of the primary or election complained of, and of any person capable of testifying concerning the same, and also to compel the production of all books, papers, tally lists, ballots, ballot boxes, voting machines and all documents which may be required at such hearing, in like manner, and to the same extent as in other cases litigated before such court; to take testimony and to proceed without delay, postponing for the purpose, if necessary, all other business, to the hearing and determination of such contest.

1937, June 3, P.L. 1333, art. XVII, § 1744.

Constitutional Provisions

Const. Art. 7, § 8, provides: "In trials of contested elections and in proceedings for the investigation of elections, no person shall be permitted to withhold his testimony upon the ground that it may

criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceedings except for perjury in giving such testimony."

Library References

Elections ⇨298(1).
WESTLAW Topic No. 144.

C.J.S. Elections §§ 247, 289.
P.L.E. Elections § 121.

Notes of Decisions

Hearing 1

1. Hearing

In an election contest proceeding the respondent's application for an order that the case be heard before the court en

banc, and that the hearings and taking of testimony before one judge be discontinued will be denied where the application was not made until the conclusion of the contestant's case, since by their conduct the parties assented to the procedure adopted. In re Second Legislative Dist. Election Contest, 4 D. & C.2d 33, 1956.

§ 3405. Decision of court

After the hearing as aforesaid, the court shall, without delay, decide which of the candidates voted for received the greatest number of legal votes and is entitled to the nomination or election.

1937, June 3, P.L. 1333, art. XVII, § 1745.

Library References

Elections ⇨303.
WESTLAW Topic No. 144.
P.L.E. Elections § 126.

Notes of Decisions

In general 1

qualification of a representative elected to the General Assembly, that being a matter exclusively within the jurisdiction of that body; the court's jurisdiction in contest proceedings is limited to determining whether he received the greatest number of legal votes for the office. Election of Altshuler, 66 D. & C. 476, 1949.

1. In general

Under Const. Art. 2, § 9, and art. 8, § 17, and § 2600 et seq. of this title, courts have no jurisdiction to pass upon

§ 3406. Return of result to proper house

In the case of contested elections of senator and representative in the General Assembly, the Secretary of the Commonwealth shall, on the day of the meeting of the next General Assembly, or if in session, then immediately upon its reception, deliver to the presiding officer of the proper house the certified copy of the decision of the court aforesaid.

1937, June 3, P.L. 1333, art. XVII, § 1746.

Library References

- Elections ⇨303.
- WESTLAW Topic No. 144.
- P.L.E. Elections § 121.

Notes of Decisions

In general 1

County Board of Elections pending the contested election in the Courts of Philadelphia County, but can only certify, according to this section, "the certified copy of the decision of the Court aforesaid," "immediately upon its receipt." Salus v. Lawrence, 46 Dauph. 286, 1938, appeal dismissed 3 A.2d 417, 332 Pa. 429.

1. In general

Sections 3401 to 3409 inclusive, mean that the Secretary of the Commonwealth cannot legally certify the returns of the

§ 3407. Appeal to proper house; requirements

Any claimant to a seat in either branch of the General Assembly, who shall feel aggrieved by the decision of the court in his case, may present his petition to the proper house within ten days after the meeting of the General Assembly, or within ten days after the decision shall have been made in his case, if the General Assembly shall then be in session, setting forth his claim, which petition shall have appended thereto the affidavit of the petitioner, setting forth that he believes that he was duly elected to the seat, and that the statements set forth in his petition are just and true, to the best of his knowledge and belief.

1937, June 3, P.L. 1333, art. XVII, § 1747.

Library References

States ⇨30.
WESTLAW Topic No. 360.

C.J.S. States § 44.
P.L.E. State Government § 4.

§ 3408. Action on appeal petition

Such petition, when presented, shall be referred to a standing committee on election, which committee shall proceed to hear the claims of the contestant and respondent, and report the facts and a resolution expressing the decision of the committee, for the consideration of the house; and the vote of the proper house on the claims of the contestant and respondent shall be final.

1937, June 3, P.L. 1333, art. XVII, § 1748.

Library References

Elections ⇨34.
WESTLAW Topic No. 144.
C.J.S. Elections § 70.

§ 3409. Vote on petition

No resolution deciding such question shall be adopted, unless it shall receive the votes of a majority of all the members elected to the house considering the same.

1937, June 3, P.L. 1333, art. XVII, § 1749.

Library References

States ⇨31.
WESTLAW Topic No. 360.

C.J.S. States § 52.
P.L.E. State Government § 4.

(g) CONTESTED NOMINATIONS AND ELECTIONS OF THE FIFTH CLASS

Library References

Elections ⇨269.
WESTLAW Topic No. 144.

C.J.S. Elections § 245 et seq.
P.L.E. Elections § 121 et seq.

§ 3431. Jurisdiction

Cases of the fifth class shall be tried and determined upon petition of twenty registered electors, as hereinafter provided, by the court of common pleas of the county in which such contested election was held.

1937, June 3, P.L. 1333, art. XVII, § 1751.

Library References

Elections ⇨275, 285.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 252, 268.
P.L.E. Elections §§ 121, 123.

Notes of Decisions

In general 1

file of township supervisor which was filed almost three and one-half months after election and which was signed by only six electors. In re General Election for Tp. Supervisor of Morris Tp., Washington County, 620 A.2d 565, 152 Pa. Cmwlth. 590, 1993.

1. In general

Trial court lacked jurisdiction to consider petition for election contest for of-

(h) GENERAL PROVISIONS RELATING TO CONTESTED NOMINATIONS AND ELECTIONS

Cross References

Contested elections, see Const. Art. 7, § 13.

Library References

Elections ⇨269.
WESTLAW Topic No. 144.

C.J.S. Elections § 245 et seq.
P.L.E. Elections § 121 et seq.

§ 3456. Petition; time of filing; amendment

The commencement of proceedings in the case of contests of the second, third, fourth and fifth classes shall be by petition, which shall be made and filed, as herein required, within twenty days after the day of the primary or election, as the case may be. The petition shall concisely set forth the cause of complaint, showing wherein it is claimed that the primary or election is illegal, and after filing may be amended with leave of court, so as to include additional specifications of complaint. After any such amendment, a reasonable time shall be given to the other party to answer.

1937, June 3, P.L. 1333, art. XVII, § 1756.

Library References

Elections ⇨278, 285(1), 288.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 258, 268, 270, 271.
P.L.E. Elections §§ 121 to 124.

Notes of Decisions

- Amendment of petition 7
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home rule study commission for county government, notwithstanding assertion that such proceedings were restricted to five classes of public officers designated in § 3291 of this title. Reese v. County Bd. of Elections of Lancaster County, 308 A.2d 154, 10 Pa.Cmwlth. 448, 1973.

2. Conditions precedent

Appeal from report of computation board is not condition precedent to contest primary election, as laws regulating such elections and certification of candidates contemplate expedition, and do not encourage appeals. In re McCormick's

1. Elections

Election contest could be maintained with regard to election of members of

Contested Election, 126 A. 568, 281 Pa. 281, 1924.

3. Grounds for contest

To extent that petition to set aside referendum election favorable to creation of home rule study commission for county government and the election of members to such a commission alleged any fraud or other wrongdoing on part of election officials or others in the casting, computation or return of vote concerning election of members of commission, such issues were matters subject to an election contest. *Reese v. County Bd. of Elections of Lancaster County*, 308 A.2d 154, 10 Pa.Cmwlt. 448, 1973.

Election contest petition's allegations referring to irregularities determined in prior contest from which there was no appeal were insufficient to warrant further proceeding with investigation of election. *Pfuhl v. Coppersmith*, 253 A.2d 271, 434 Pa. 361, 1969.

Election contest petition's allegations referring to irregularities which could not affect outcome of election were insufficient to warrant proceeding with election investigation. *Pfuhl v. Coppersmith*, 253 A.2d 271, 434 Pa. 361, 1969.

Where there was no allegation in election contest petition that any voter acted illegally or that his vote was not cast according to his will, court could not allow the carelessness or even fraud of election officers to defeat election, since election can only be defeated when illegal acts are so irregular and election so infected with fraud that result cannot be ascertained. *In re Contest of Election for Office of City Treasurer from Seventh Legislative Dist. (Wilkes-Barre City) of Luzerne County*, 162 A.2d 363, 400 Pa. 507, 1960.

The difference between the number of votes shown by the return sheet as cast and the total credited to the two candidates may be prima facie justification for averment of mistake in computation by election officers. *In re Haverford Tp. Election*, 128 A. 499, 282 Pa. 504, 1925.

4. Jurisdiction

The common pleas court, sitting in equity, had jurisdiction over subject-matter of suit to declare borough referendum election on question of permitting Sunday motion picture exhibitions invalid and enjoin county board of elections from com-

puting votes cast on grounds of insufficiency and invalidity of referendum petitions, notwithstanding statutory remedy available to any one objecting to nomination petition filed for any lawful purpose. *In re Motion Picture Exhibitions on Sunday in Borough of Hellertown*, 47 A.2d 273, 354 Pa. 255, 1946.

Equity will not intervene to declare an election invalid on the ground that, because of fraud or other wrongdoing on the part of election officials or others in the casting, computation or return of the votes at an election, the will of the electorate was thwarted and the election thereby declared a nullity as such matters are peculiarly for an election contest. *McCall v. Lancaster County Bd. of Com'rs*, 64 Lanc.Rev. 7, 1973, reversed and remand 308 A.2d 154, 10 Pa.Cmwlt. 448.

5. Petition

Provisions relating to contents of petition in election contest should be construed liberally and petition should not be declared insufficient merely because it fails to include or to detail evidence supporting allegation of illegality in election. *Pfuhl v. Coppersmith*, 253 A.2d 271, 434 Pa. 361, 1969.

While provisions relating to contents of petition in election contest should be liberally construed, it is essential that such petition aver plainly and distinctly such facts which if sustained by proof would require court to set aside result. *Pfuhl v. Coppersmith*, 253 A.2d 271, 434 Pa. 361, 1969.

Election contest petition by unsuccessful candidate alleging irregularities in election by reason of illegal assistance to voters without specifying how or in what manner Election Code was violated was insufficient to meet legal requirements. *In re Contest of Election for Office of City Treasurer from Seventh Legislative Dist. (Wilkes-Barre City) of Luzerne County*, 162 A.2d 363, 400 Pa. 507, 1960.

Requirement that petition in election contest shall concisely set forth cause of complaint showing wherein the primary or election is illegal does not mean merely that illegal assistance to voters shall be alleged as cause of the election but specific acts of illegal assistance must be shown. *In re Contest of Election for Office of City Treasurer from Seventh Legislative Dist. (Wilkes-Barre City) of*

Note 5

Luzerne County, 162 A.2d 363, 400 Pa. 507, 1960.

Petition in election contest, alleging that minority inspector in one district was forcibly prevented from full performance of duties by other election officers and policemen, but failing to aver that any one was prevented from voting, or that any illegal votes were cast, is too vague and indefinite to require answer by contestee or to justify rejection of entire vote of district. In re Ayre, 134 A. 477, 287 Pa. 135, 1926.

A petition to contest primary election, need not expressly allege that returns as made did not correctly show will of qualified electors. The petition will be sufficient in this respect if its allegations are to that effect. McCormick's Contested Election, 126 A. 568, 281 Pa. 281, 1924.

Where a petition to permit an election contest stated only a belief on the part of the petitioners that if matters complained of had not occurred, their candidate would have been elected, but fraud was not alleged nor was it alleged that the presence of others than the election board at the count caused any error in the result, and no attempt was made to state definitely the number of ballots improperly marked, and it was not averred that ballots similarly marked were not rejected as to all candidates or that if so rejected, what the net result would be, the petition was insufficient as a basis of granting the contest. In re Warren Borough's Election, 118 A. 256, 274 Pa. 352, 1922.

A petition to contest an election for school director, stating the number of votes counted and returned by the election board for contestant and contestee, and the number of votes cast for contestant and not counted, showing that he had 11 votes more than contestee, followed by an averment of the number of votes cast for contestant, which the election boards in the respective districts refused to count for him, and alleging that such action of the board was the result of fraud or mistake, and that he was thereby deprived of the office of school director, to which he was duly elected, sufficiently complied with act of 1874, May 19, P.L. 208, § 18, repealed, requiring a petition to concisely set forth the cause of complaint, showing wherein the election is illegal. In re Cole's Election, 72 A. 510, 223 Pa. 271, 1909.

A petition for an election contest which alleges widespread fraud of such quantity and magnitude as to make it impossible for the court to ascertain the true will of the electorate fails to set forth a cause of action; it is not enough for a petitioner to aver facts which, if proven, might cause a change in the reported results, but rather petitioner must aver facts which, if proven, would definitely change results. In re Philadelphia Democratic Mayoralty Primary Election Contest, 11 D. & C.3d 381, 1979.

A petition for election contest which failed to contain the signatures of 20 petitioners as required by this section could not be amended under § 3456 of this title after the 20-day limitation for filing, by adding the requisite number of signatures since the number of signatures was a jurisdictional requirement. In re Philadelphia Democratic Mayoralty Primary Election Contest, 11 D. & C.3d 381, 1979.

An election contest petition which averred that one of the voting machines malfunctioned, causing it to register fewer votes for the contestant than he actually received, and that were it not for the malfunction the contestant would have been shown to be elected, was sufficient in law. In re General Election of Nov. 4, 1975, 71 D. & C.2d 68, 1975.

Where a petition to contest an election raises a valid question, as a general rule a full hearing should be afforded, and the petition not dismissed because of technical preliminary objections. In re Wallingford-Swarthmore School Dist. Election, 66 D. & C.2d 616, 1974.

A motion to quash petitions contesting a municipal election on the grounds that the petitions filed by candidates therein do not aver the number and identity of persons whose votes were alleged to be illegally cast for the opposing candidates and that the nature of the illegality has not been set forth, will be dismissed where it appears that the petitions which were filed prior to the completion of the election returns by the county board of elections concisely set forth facts sufficient to warrant an investigation and to give the respondents reasonable notice of the character of the investigation and that if successful the result of the election would be changed. In re Contested Election of Office of Register of Wills, 43 D. & C. 588, 1942.

The petition must contain allegations of fraud or other illegal acts in plain and distinct language which will give respondent sufficient information of the charges he is required to meet, and averments that the illegal votes or conduct accrued to the benefit of respondent, and it must appear on the face of the petition that the allegations of illegality if sustained will require the court to set aside the result of the election. In re Contested Election of Office of Register of Wills, 43 D. & C. 588, 1942.

If, in a contest of the election of a candidate, it is proposed to be proved that any votes were illegal, it is essential that the petition contain averments that these illegal votes accrued to the benefit of respondent. *Gunnett v. Trout*, 68 York 30, 1954, affirmed 112 A.2d 333, 380 Pa. 504.

6. Time of filing petition

Trial court lacked jurisdiction to consider petition for election contest for office of township supervisor which was filed almost three and one-half months after election and which was signed by only six electors. In re General Election for Tp. Supervisor of Morris Tp., Washington County, 620 A.2d 565, 152 Pa. Cmwlth. 590, 1993.

Losing candidate in judicial primary election was not entitled to nunc pro tunc relief, where candidate did not file petition to open ballot boxes before returns were certified, and candidate did not file timely petition to contest the election. *Appeal of Orsatti*, 598 A.2d 1341, 143 Pa.Cmwlth. 12, 1991, appeal denied 600 A.2d 956, 529 Pa. 637.

Contestant in election for township supervisor could not claim that he was misled as to the result, by the election officers, or that he was without knowledge of the discrepancy in the return of the vote in the district, where he was present at the recount of the votes and he made no application to the court for relief and in his petition he averred knowledge of the discrepancy at a time when he still could have instituted an election contest. *Petition to Open Ballot Box of Oneida Dist. in East Union Tp.*, 103 A.2d 652, 376 Pa. 456, 1954.

Where one declared the unsuccessful candidate for Office of Tax Collector in township heard rumors, one day after election, that count was irregular, but she

awaited ascertainment of results of ballot box opening, and then sought to file her appeal nunc pro tunc 25 days after the election, her right to contest the election was lost. In re Election of Tax Collector, Horsham Tp., 51 A.2d 692, 356 Pa. 60, 1947.

Provision of this section that election contests must be commenced within 20 days after day of election and § 3621 of this title that ballot boxes may be opened at any time within 4 months after the date of the election are not in conflict. In re Election of Tax Collector, Horsham Tp., 51 A.2d 692, 356 Pa. 60, 1947.

An appeal nunc pro tunc would be allowed candidate who, having received majority of votes cast at general election for office of school director, did not learn until after statutory time limit for taking appeals had passed, that county computation board erroneously certified to county board of elections the election of another, where candidate was not guilty of laches by reason of failing to discover earlier computation board's erroneous action. In re Twenty-Sixth Election Dist., Second Ward, Borough of Lehigh, 41 A.2d 657, 351 Pa. 544, 1945.

Under statute, defeated candidate has only 20 days after election within which to institute contest proceedings, even though recount proceedings are not completed within such period. In re Opening of Ballot Box of Greenwood Township, East, Election District, Columbia County, 25 A.2d 330, 344 Pa. 350, 1942.

Where a petition was filed on the last day allowed by law, it could be filed with the prothonotary at any time during the day, and the petition would not be dismissed because filed after the closing hours for the courthouse fixed by the county commissioners, particularly where, at the time of filing, the court was actually still sitting, with the prothonotary in attendance as clerk of the court. In re General Election of Nov. 4, 1975, 71 D. & C.2d 68, 1975.

A petition contesting a general election on ground that defeated candidate was not in fact the only selected candidate of his party at the primary election will be quashed, since it is too late to attempt to correct an alleged error in a primary election after the general election. *Hazle Tp. Election*, 71 D. & C. 516, 1951.

Note 6

Where official computation of votes has not been completed within the time limit for filing contest petitions, a candidate desiring to contest the election need not wait until an official return is made, for to delay filing a petition beyond the time limit fixed by the statute would foreclose the candidate's right to contest the official return if the latter were found to be unfavorable to him. In re Contested Election of Office of Register of Wills, 43 D. & C. 588, 1942.

7. Amendment of petition

Under act of 1874, May 19, P.L. 208, § 18, repealed, the allowance of amendments to the petition in an election contest is a matter for the discretion of the trial court. In re Ayre, 134 A. 477, 287 Pa. 135, 1926; Election Cases, 65 Pa. 20, 1870; see Wolverton's Election, 11 Phila. 645, 32 L.I. 59, 2 Leh.V. 285, 1882.

An amendment to cure a jurisdictional defect in the original petition will not be allowed after the expiration of the thirty days allowed for filing the petition. Election Cases, 65 Pa. 20, 1870; In re Dunmore Borough's Contested Election, 107 A. 725, 264 Pa. 231, 1919; Chest Township Election, 29 C.C. 120, 1903; Butler Township Election, 16 C.C. 279, 1895; Williams v. Johnson, 16 W.N.C. 223, 1885; Welis Case, 3 W.N.C. 165, 1875; Contested Election of Division Inspectors, 1 W.N.C. 326, 11 Phila. 380, 32 L.I. 126, 13 Lanc.Bar, 183, 1875.

Where petition to amend election contest petition was an endeavor to file election contest beyond 20-day postelection period and was not verified by electors who attempted to initiate election contest, court did not abuse its discretion in denying leave to amend. Pfuhl v. Coppersmith, 253 A.2d 271, 434 Pa. 361, 1969.

Even if petition to amend election contest petition was not fatally defective, court did not abuse its discretion in denying petition which pointed to errors found in boxes recounted during court-supervised recount and speculated that pervasive recount of unrecounted boxes would yield proportionate errors. Pfuhl v. Coppersmith, 253 A.2d 271, 434 Pa. 361, 1969.

But a contest petition under act of 1874, May 19, P.L. 208, § 18, repealed, need originally contain only the facts expressly required by such statute, and the court may allow the petition to be amend-

ed and other facts inserted, even after the thirty-day limit for initiating such a proceeding has expired. In re Snodgrass, 110 A. 293, 267 Pa. 494, 1920.

Thus a petition need not in the first instance aver the qualifications of the signers, and under act of 1874, May 19, P.L. 208, § 18, repealed, the court may allow the petition to be amended by the insertion of an averment as to the qualifications of the signers, even after the expiration of the time limit for initiating such a proceeding. In re Snodgrass, 110 A. 293, 267 Pa. 494, 1920.

A petition for election contest which failed to contain the signatures of 20 petitioners as required by § 3431 of this title could not be amended under this section after the 20-day limitation for filing, by adding the requisite number of signatures, since the number of signatures was a jurisdictional requirement. In re Philadelphia Democratic Mayoralty Primary Election Contest, 11 D. & C.3d 381, 1979.

Where the original petition for an election contest sets forth no matters constituting a cause of action, the court is without jurisdiction to entertain a contest on the basis of amendments filed after expiration of the period prescribed by this statute, since the effect would be to allow petitioners to state a new cause of action, and under such circumstances the court will not permit the amendments to be filed. In re Morganroth Election Contest, 50 D. & C. 143, 1944.

The expression of a limited type or nature of amendment to the petition in this section is an exclusion of the right in §§ 3457 and 3459 of this title, and is an exclusion of any other type or nature of amendment, except that expressly allowed. Election of School Directors in Birmingham Tp., Chester County, Pa., 8 Chest. 217, 1958, reversed on ground no amendment was necessary 143 A.2d 18, 393 Pa. 396.

Petitioners were not, after expiration of time for filing same, permitted to amend the name "Dorothy Wolter" appearing on the contest petition, affidavit, and bond to "Dorothy A. Wolter", her correct name as a registered elector, as shown by the permanent registration record. Election of School Directors in Birmingham Tp., Chester County, Pa., 8 Chest. 217, 1958, reversed on ground no amendment was necessary 143 A.2d 18, 393 Pa. 396.

8. Dismissing or quashing petition

If the ground of the motion be a denial of the qualifications of a petitioner or affiant, the court should order testimony to be taken on that point, *Bender's Case*, 5 C.C. 590, 1888; the court will prefer to look into the merits, before dismissing a petition for informality, *Tracy's Contested Election*, 5 Luz.L.T. 22, 1883; but the court may dismiss the motion to quash without hearing evidence, *Mathew's Contested Election*, 92 Pa. 138, 1879; and it is not a fatal error to proceed without disposing of a motion to quash, *Com. v. Ramsay*, 31 A. 345, 166 Pa. 642, 1895; no appeal lies from an order refusing to quash. *Moock v. Conrad*, 26 A. 700, 155 Pa. 586, 1893.

In light of fact that holding dismissing petition contesting election enhanced elective franchise and challenges associated therewith by requiring adherence to law by all contestants, petition would not be upheld on grounds of public policy and public interest. *Olshansky v. Montgomery County Election Bd.*, 412 A.2d 552, 488 Pa. 365, 1980.

The common pleas court, sitting in equity, did not abuse its discretion in dissolving temporary injunction against computation of votes cast at borough referendum election on question of permitting Sunday motion picture exhibitions, where complainant's evidence and pertinent law showed that complainant would be unable to make out case for injunction on final hearing because of his neglect to make timely objection to referendum petition, which did not meet requirements for nomination petitions under §§ 2868, 2869 of this title. *In re Motion Picture Exhibitions on Sunday in Borough of Hellertown*, 47 A.2d 273, 354 Pa. 255, 1946.

Delay in presenting a motion to quash a petition may require its denial. *In re Cole's Election*, 72 A. 510, 223 Pa. 271, 1909.

9. Presumptions

The presumption that the election officers have acted properly and in good faith, and that their return is accurate, is overcome by a showing of mistake appearing from the ballots themselves. *In*

re Haverford Tp. Election, 128 A. 499, 282 Pa. 504, 1925.

10. Evidence

In election contest proceeding where testimony was introduced without objection concerning doubt as to whether one of the petitioners was in fact a registered voter who had participated in election, trial court erred in refusing testimony showing that "Dorothy Wolter" signing petition, affidavit thereto and bond was one and the same person as "Dorothy A. Wolter" two was a registered elector of township and who had participated in election. *In re Election of School Directors in Birmingham Tp., Chester County*, 143 A.2d 18, 393 Pa. 396, 1958.

Where some of election officers testified that ballots bore no marks when taken from box and the remainder testified that they did not see any such marks although they had opportunity to do so if any marks had been made, and where inspectors and clerks testified that they placed pencil numbers on ballots as an aid to counting thereof, evidence did not authorize rejection of marked ballots, notwithstanding that inspectors and clerks were not able to identify every number. *Appeal of McLaughlin*, 29 A.2d 45, 345 Pa. 498, 1943.

In determining whether a ballot box was tampered with after election, the trial court must consider the physical condition of the ballot box when produced, or proof disclosing improper access to it after election. *In re Haverford Tp. Election*, 128 A. 499, 282 Pa. 504, 1925.

Where the apparent winner at an election received eleven votes more than the runner-up, and in a recount proceeding it developed that the straight party lever on one of the two voting machines at a polling place had not functioned, and it further appeared that the malfunction had been discovered early, and the election officials advised voters using that machine to pull individual levers rather than relying on the straight party lever, and only three witnesses testified that they had relied upon the straight party lever in question, a petition to void the election was denied. *In re Wallingford-Swarthmore School Dist. Election*, 66 D. & C.2d 616, 1974.

§ 3457. Petitioners and affidavits; requirements

In each of the aforesaid second, third, fourth and fifth classes, the petitioners shall be registered electors who voted at the primary or election so contested. In cases of the third class, each petition shall be verified by the affidavits of at least ten of the petitioners; in the second, fourth and fifth classes, by the affidavit of at least five of the petitioners. Such affidavits shall be taken and subscribed before some person authorized by law to administer oaths, and shall set forth that they believe the facts stated therein are true, that according to the best of their knowledge and belief, the primary or election was illegal and the return thereof not correct, and that the petition to contest the same is made in good faith.

1937, June 3, P.L. 1333, art. XVII, § 1757.

Library References

Elections ⇨285(1).
WESTLAW Topic No. 144.

C.J.S. Elections §§ 268, 271.
P.L.E. Elections § 123.

Notes of Decisions

Affidavit 2
Amendment of petition 3
Objections 4
Residence of petitioners 1

1. Residence of petitioners

A motion to quash a petition for leave to contest the election of a tax collector was properly allowed where the contest was commenced under act 1874, May 19, P.L. 208, § 18, repealed, and one necessary petitioner did not reside in the voting district. In re North Union Township Election, 95 A. 421, 250 Pa. 98, 1915.

2. Affidavit

In petition to contest election under act of 1874, May 19, P.L. 208, § 18, repealed, omission from supporting affidavit of clause stating election return was not correct, though that was ground relied on in petition, is fatal, as positive procedural directions of statute must be adhered to. Morrison v. Shealer, 128 A. 87, 282 Pa. 427, 1925.

3. Amendment of petition

Petitioners were not, after expiration of time for filing same, permitted to amend the name "Dorothy Wolter" appearing on the contest petition, affidavit, and bond to "Dorothy A. Wolter," her correct name as

a registered elector, as shown by the permanent registration record. Election of School Directors in Birmingham Tp., Chester County, Pa., 8 Chest. 217, 1958, reversed on ground no amendment was necessary 143 A.2d 18, 393 Pa. 396.

The expression of a limited type or nature of amendment to the petition in § 3456 of this title is an exclusion of the right in this section and § 3459 of this title, and is an exclusion of any other type or nature of amendment, except that expressly allowed. Election of School Directors in Birmingham Tp., Chester County, Pa., 8 Chest. 217, 1958, reversed on ground no amendment was necessary 143 A.2d 18, 393 Pa. 396.

4. Objections

In election contest, objection raised in complaint alleging nonqualification of the 34 signers of petition is without merit, where, though answer generally alleged nonqualification, there was no specification of the persons alleged to be improperly joined, or a statement or attempt to prove that those objected to were sufficient to reduce petitioners to less than the 25 required by act of 1874, May 19, P.L. 208, § 18, repealed. In re Haverford Tp. Election, 128 A. 499, 282 Pa. 504, 1925.

§ 3458. Presentation of petition

The petition shall be presented to the court having jurisdiction, except where otherwise provided in this article, and if it shall set out a prima facie case, it shall be filed of record in the proper court, and thereupon a time shall be fixed for hearing.

1937, June 3, P.L. 1333, art. XVII, § 1758. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

Historical and Statutory Notes

The 1978 act repealed "or law judge" preceding "having jurisdiction".

Library References

Elections ⇨285.
WESTLAW Topic No. 144.

C.J.S. Elections § 268.
P.L.E. Elections § 123.

§ 3459. Bond by petitioners

Whenever a petition to contest nomination or contest election of any class shall be presented to the General Assembly or to the court, it shall be the duty of said petitioners, within five days thereafter, to file a bond, signed by at least five of the said petitioners in such sum as the presiding officer of the Senate or said court shall designate, with two or more individual sureties of a corporate surety to be approved by the said officer or court or judge, conditioned for the payment of all costs which may accrue in said contested nomination or election proceeding, in case the said petitioners by decree shall be adjudged liable to pay said costs, and if the said bond shall not be filed, as herein provided, the said petition to contest the nomination or election shall be dismissed.

1937, June 3, P.L. 1333, art. XVII, § 1759. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978.

Historical and Statutory Notes

The 1978 act repealed "or any judge thereof during vacation" preceding "shall designate".

Library References

Elections ⇨308.
WESTLAW Topic No. 144.

C.J.S. Elections § 321.
P.L.E. Elections § 125.

Notes of Decisions

In general	2	Signing of bond	4
Amendment of bond	7	Sufficiency of bond	3
Approval by court of improper bond	5	Time of filing bond	6
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Validity of prior statute 1**1. Validity of prior statute**

Act 1899, April 28, P.L. 118, § 1, repealed, requiring a bond in election contests, is not in violation of Const. Art. 3, § 7, prohibiting the enactment of special laws regulating the affairs of counties, cities, and townships. In re Patton, 77 A. 658, 228 Pa. 446, 1910.

In so far as act of 1874, May 19, P.L. 208, § 9, as amended, repealed, provides for a bond to secure costs in a contested election it does not contravene the bill of rights, which provides that all courts shall be open and every man for an injury done him in his lands, goods, or personal reputation shall have a remedy by due course of law and right and justice administered without sale, denial or delay. In re Patton, 77 A. 658, 228 Pa. 446, 1910.

2. In general

This section was controlling over general bonding provision found in the "Statutory Construction Act of 1972." (1 Pa.C.S.A. § 1906). *Olshansky v. Montgomery County Election Bd.*, 412 A.2d 552, 488 Pa. 365, 1980.

Compliance with election contest statute must be had to effect proper use of the remedy provided, particularly with regard to proper bond. Appeal of Lord, 41 A.2d 661, 351 Pa. 469, 1945.

The filing of a bond conforming to requirements of Act of 1874, May 19, P.L. 208, § 9, as amended, repealed, and within time prescribed is condition precedent of petitioners' right to proceed with election contest and of court's jurisdiction to hear and determine contest. In re *McChesney*, 192 A. 415, 326 Pa. 438, 1937.

An election contest petition would not be dismissed for failure of the petitioner to file a bond, where the court failed to fix the amount of the bond, but a duplicate petition was filed within the time allowed for contest by statute, upon which the court fixed a bond which was promptly filed. In re *General Election of Nov. 4, 1975*, 71 D. & C.2d 68, 1975.

An election contest requires the posting of a bond and, if the court in its order fixing a hearing fails to designate the amount of the bond, the contestant must

request the court to do so; otherwise the contest must be dismissed. In re *Bristol Tp., Election Contest*, 70 D. & C.2d 275, 1975.

A court has no jurisdiction to entertain an election contest where no bond has been filed by petitioners. In re *Philadelphia Municipal Election*, 80 D. & C. 477, 1953.

Under this section, it is sufficient if a photostatic copy of a certificate by the insurance commissioner of Pennsylvania, authorizing the surety named in the bond to transact business in this Commonwealth, is filed after presentation and approval of the bond but within the five-day period. In re *Morganroth Election Contest*, 50 D. & C. 143, 1944.

3. Sufficiency of bond

Where bond was not signed by at least five petitioners, where amount of bond was not designated by court, where corporate surety was not approved by court, where bond was not conditioned for payment of all costs which might accrue in contested election proceeding, deficiencies of bond were sufficient to warrant dismissal of petition to contest election. *Olshansky v. Montgomery County Election Bd.*, 412 A.2d 552, 488 Pa. 365, 1980.

A bond given by contestants of election was sufficient though "whereas" clause referred to the election as being election of the defeated candidates, where condition of the bond was virtually in language of statute, caption left no doubt as to proceedings referred to, and identity of principals was clear from terms of bond and from signatures. Appeal of Lord, 41 A.2d 661, 351 Pa. 469, 1945.

A power of attorney attached to bond given by election contestants, conditioned for the "opening of ballot boxes," was sufficiently broad and was not invalidated by insertion of words "and" and "contested." Appeal of Lord, 41 A.2d 661, 351 Pa. 469, 1945.

An election contest cost bond which is irregular under act of 1874, May 19, P.L. 208, § 19, as amended, repealed, because signed as surety by petitioner is not valid because remaining sureties are in excess of minimum number required by law. In re *McChesney*, 192 A. 415, 326 Pa. 438, 1937.

Bond for costs of contest of election of mayor for city, reciting that it was under seal but only containing dots which were integral parts of accompanied signatures which did not bear any unusual flourish held not under seal, warranting dismissal of election contest. In re Contest of Election of Burns, 171 A. 888, 315 Pa. 23, 1934.

Seal is of essence of bond for costs in election contest, and no writing can have qualities which attach to bond without seal of parties executing it. In re Contest of Election of Burns, 171 A. 888, 315 Pa. 23, 1934.

Paper purporting to be a bond filed by petitioner in an election contest, but not under seal, did not comply with act of 1874, May 19, P.L. 208, § 9, as amended, repealed. In re Moritz, 100 A. 1033, 256 Pa. 537, 1917.

4. Signing of bond

Under act of 1874, May 19, P.L. 208, § 9, as amended, repealed, bond required in election contest must be signed by five petitioners and two sureties. Blythe Twp. Election, 10 D. & C. 810, 1928; Tax Collectors' Election, 66 Pitts. 562, 14 Del. 604, 32 York, 81, 1918; Krell's Election, 15 Sch. 27, 1918.

And bond which is signed by only two of petitioners and one surety does not meet requirements of act of 1874, May 19, P.L. 208, as amended, repealed. Battle's Case, 17 Lack. 14, 1916; In re Knoxville School District's Election, 118 A. 307, 274 Pa. 354, 1922.

Under act of 1874, May 19, P.L. 208, § 9, as amended, repealed, petitioner for election contest cannot sign bond for costs as surety. In re McChesney, 192 A. 415, 326 Pa. 438, 1937.

A petition to contest an election to office of township supervisor was properly dismissed under act of 1874, May 19, P.L. 208, § 9, as amended, repealed, where bond for costs was signed by petitioner as surety. In re McChesney, 192 A. 415, 326 Pa. 438, 1937.

Election contestant's bond, signed by two sureties on contestant's motion within ten days after court accepted and approved it without such signatures, fully complied with requirements of act of 1874, May 19, P.L. 208, § 9, as amended, repealed. In re Shaffer, 185 A. 645, 323 Pa. 320, 1936.

Petition for election contest was properly dismissed where one of two sureties named in bond had also signed petition. Appeal of Ferguson, 175 A. 406, 316 Pa. 289, 1934.

Parol evidence is inadmissible to show that two of seven signers were sureties. Blythe Township School Director's Contested Election, 10 D. & C. 810, 1928.

If bond is signed by seven petitioners without showing on its face who are sureties or that there are any sureties, bond is invalid and court has no further jurisdiction of contest. Blythe Township School Director's Contested Election, 10 D. & C. 810, 1928.

5. Approval by court of improper bond

Inadvertent approval by court of an improper bond did not alter legal effect of filing a bond not in compliance with requirement of act. Election of School Directors in Birmingham Tp., Chester County, Pa., 8 Chest. 217, 1958, reversed on ground bond complied with act 143 A.2d 18, 393 Pa. 396.

6. Time of filing bond

Thus act of 1874, May 19, P.L. 208, § 9, as amended, repealed, relating to contests of school directors provides that petitioner for contest shall, within ten days after such presentation, file bond required by court, and if this is not done, court loses its jurisdiction. Blythe Twp. Election, 10 D. & C. 810, 24 Sch. 325, 1928.

7. Amendment of bond

Defect in paper purporting to be a bond filed in election contest as required by act of 1874, May 19, P.L. 208, § 9, as amended, repealed, cannot be cured by amendment after the time for filing the bond has expired. In re Moritz, 100 A. 1033, 256 Pa. 537, 1917; Blythe Township School Director's Contested Election, 10 D. & C. 810, 1928.

Under act of 1874, May 19, P.L. 208, § 9, as amended, repealed, irregular cost bond filed in election contest cannot be amended after lapse of ten days from date of presentment to court of petition to contest. In re McChesney, 192 A. 415, 326 Pa. 438, 1937.

Thus where the paper purporting to be a bond was defective in that it was not signed by at least two sureties the defect could not be cured by amendment after

Note 7

the time for filing. In re Knoxville School District's Election, 118 A. 307, 274 Pa. 354, 1922.

The expression of a limited type or nature of amendment to the petition in § 3456 of this title is an exclusion of the right in § 3457 of this title and this section, and is an exclusion of any other type or nature of amendment, except that expressly allowed. Election of School Directors in Birmingham Tp., Chester County, Pa., 8 Chest. 217, 1958, reversed on ground no amendment was necessary 143 A. 18, 393 Pa. 396.

Petitioners were not, after expiration of time for filing same, permitted to amend the name, "Dorothy Wolter" appearing on the contest petition, affidavit, and bond to "Dorothy A. Wolter", her correct

name as a registered elector, as shown by the permanent registration record. Election of School Directors in Birmingham Tp., Chester County, Pa., 8 Chest. 217, 1958, reversed on ground no amendment was necessary 143 A. 18, 393 Pa. 396.

8. Cash deposit

The deposit of \$500 cash with the prothonotary with a petition for an election contest is not in compliance with this section nor § 561 of Title 12, Civil and Equitable Remedies and Procedure, both of which require that a bond be filed by petitioners, although § 561 of Title 12, Civil and Equitable Remedies and Procedure, permits the deposit of cash in lieu of security. In re Philadelphia Municipal Election, 80 D. & C. 477, 1953.

§ 3460. Notice of hearing

Notice of the filing of the petition, with a copy thereof, shall be served upon the person whose nomination or right of office shall be contested, together with a rule to answer at the time fixed for hearing, which notice, copy and rule shall be served such length of time before the day fixed for hearing as the said court or judge shall require, not exceeding seven days in cases of contested nominations at primaries preceding municipal elections, and not exceeding thirty days in all other cases.

1937, June 3, P.L. 1333, art. XVII, § 1760.

Library References

Elections ⇨280.
WESTLAW Topic No. 144.

C.J.S. Elections § 254 et seq.
P.L.E. Elections § 121.

Notes of Decisions**Service 1****1. Service**

Service of a notice and of a rule to show cause in an election contest may be made by one of the signers of the contest petition, notwithstanding the fact that he

is a party litigant. In re Morganroth Election Contest, 50 D. & C. 143, 1944.

A rule to show cause directed to respondent in an election contest, is not such original process as requires service by the sheriff, and may be served by any competent adult. In re Morganroth Election Contest, 50 D. & C. 143, 1944.

§ 3461. Disqualification of judge

No judge shall sit on the trial of a case in which he shall be a party.

1937, June 3, P.L. 1333, art. XVII, § 1761.

Library References

Judges ⇨45.
WESTLAW Topic No. 227.

C.J.S. Judges §§ 126, 127, 129.
P.L.E. Judges § 23.

§ 3462. Substitute judges

In any case where, by reason of incompetency or any disability to act, there shall be no law judge of the judicial district in which any contest shall arise, present and able, as well as qualified to act, the judge, learned in the law, residing nearest the courthouse of the county in which, by the provisions of this article, the trial in any such case is required to be had, except in cases otherwise provided in this article, shall preside on the contest, and shall have and exercise all the powers and authority and discharge all the duties granted to or imposed upon the regular judges of the said courts in cases wherein they are qualified and required to act by the provisions of this article. 1937, June 3, P.L. 1333, art. XVII, § 1762.

Library References

Judges ⇨15(1).
WESTLAW Topic No. 227.

C.J.S. Judges §§ 166 to 173.
P.L.E. Judges § 21.

§ 3463. Repealed. 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978

Historical and Statutory Notes

The repealed section related associate judges and was derived act 1937, June 3, P.L. 1333, art. XVII, § 1763.

§ 3464. Powers of court

All of the said courts and judges hereby required to try any contested election case shall have plenary power to make, issue and enforce all necessary orders, rules, process and decrees, for a full and proper understanding and final determination and enforcement of the decision of every such case, according to the course of practice in similar cases under the laws of this Commonwealth, or which may be necessary and proper to carry out the provisions of this article. 1937, June 3, P.L. 1333, art. XVII, § 1764.

Library References

Elections ⇨298(1).
WESTLAW Topic No. 144.

C.J.S. Elections §§ 247, 289.
P.L.E. Elections § 126.

Notes of Decisions

Declaring election invalid 2
Opening ballot boxes and recount of votes 1

1. Opening ballot boxes and recount of votes

In absence of fraud or evidence of tampering, court should have counted six ballots found outside ballot box in separate package with unused ballots and stubs of used ballots. In re Democratic Primary Election of Somerset Tp., Washington County, 174 A.2d 23, 405 Pa. 169, 1961.

Whether ballot box will be opened in election contest is within sound discretion of court. In re Election Contest for Office of Burgess of Borough of Ellwood City, 133 A. 379, 286 Pa. 257, 1926.

In election contest based on alleged unintentional mistake in computation, order directing production of ballot box and recount of ballots without a preliminary examination of the election officers as witnesses is not error, where the return sheet indicated a mistake in the total votes credited to both candidates. In re Haverford Tp. Election, 128 A. 499, 282 Pa. 504, 1925.

The court is empowered to order a recount when the necessity therefor is apparent. In re Haverford Tp. Election, 128 A. 499, 282 Pa. 504, 1925.

Where the ballots involved in an election contest have been recounted under the supervision of the appropriate court and no appeal has been taken from the results certified by it, violations of law in the course of the election do not warrant rejection of the official count. In re Morganroth Election Contest, 50 D. & C. 143, 1944.

2. Declaring election invalid

Whole communities of electors should not be disfranchised, and a minority candidate forced into office, because one or more of the judges of an election was not duly sworn, or was not duly chosen, or did not possess all qualifications requisite for the office. In re Contest of Election for Office of Tax Collector in Newport Tp., Luzerne County, 121 A.2d 141, 384 Pa. 474, 1956.

A primary election will be voided and a run-off election ordered pursuant to this section, where such glaring fraud and illegality exists so as to make it impossible to separate the lawful ballots from the unlawful ballots and where the possibility exists that the fraud may have altered the outcome of the election. In re Center Tp. Democratic Party Supervisor Primary Election, 4 D. & C.4th 555, 1989.

Where a voting machine is shown by test to be defective, after the election, and there is no evidence as to the point at which it became defective, but a substantial number of voters in excess of those shown by the machine to have voted for a particular candidate testify that they actually voted for him, and the testimony, if accepted as true, would change the result of the election, and the votes recorded on the machine for contestant's running mate were greatly in excess of those recorded for the contestant, it would be unjust to declare elected the opponent of the contestant shown prima facie to have been elected by the machine record. In re General Election of Nov. 4, 1975, 71 D. & C.2d 83, 1975.

Where the apparent winner at an election received eleven votes more than the runner-up, and in a recount proceeding it developed that the straight party lever on one of the two voting machines at a polling place had not functioned, and it further appeared that the malfunction had been discovered early, and the election officials advised voters using that machine to pull individual levers rather than relying on the straight party lever, and only three witnesses testified that they had relied upon the straight party lever in question, a petition to void the election was denied. In re Wallingford-Swarthmore School Dist. Election, 66 D. & C.2d 616, 1974.

The power of the court to void an entire election is extremely serious, and can only be exercised with the utmost care, restraint and concern; neither individual voters nor groups of voters are to be disfranchised except for the most compelling reasons, as when illegal acts are so irregular and the election so infected with fraud that the results cannot be ascertained. In re Wallingford-Swarthmore School Dist. Election, 66 D. & C.2d 616, 1974.

§ 3465. Power of court; witnesses; records

The proper court or judge shall have power to compel the attendance of any election officer or other person as a witness, and may also compel the production of all ballots, boxes, voting machines, books, papers, tally lists, returns of election, other documentary or record evidence, at discretion, for use at the trial, and may issue subpoenas and attachments for these purposes as in other proceedings in the courts of this Commonwealth, and all such books, papers, documents, ballots, boxes, voting machines and records, shall be returned to the proper custody.

1937, June 3, P.L. 1333, art. XVII, § 1765.

Rules of Civil Procedure

Under Pa.R.C.P. No. 4023(3), 42 Pa.C.S.A., this section is not deemed suspended or affected by Rules 4001 et seq., relating to depositions and discovery.

Library References

Elections ☞298(1).	C.J.S. Records §§ 34, 40.
Records ☞13.	C.J.S. Witnesses §§ 2 et seq., 25.
Witnesses ☞1, 16.	P.L.E. Elections § 126.
WESTLAW Topic Nos. 144, 326, 410.	P.L.E. Records § 8.
C.J.S. Elections §§ 247, 289.	P.L.E. Witnesses §§ 1, 4.

§ 3466. Conduct of hearings; certified records; examiners

Certified copies of all election papers, registers of voters, and records, duly authenticated by the person having custody thereof, shall be competent evidence and prima facie proof of their contents; but the party against whom the same shall be produced shall have the right to compel the attendance of the person who certified them for cross-examination. Examiners to take and report evidence may be appointed, and reasonable notice of the time and place of taking the same shall be prescribed by the court or judge and served upon the opposite party.

1937, June 3, P.L. 1333, art. XVII, § 1766.

Library References

Elections ☞300.	C.J.S. Elections § 300.
WESTLAW Topic No. 144.	P.L.E. Elections § 126.

Notes of Decisions

Evidence 2
Hearing 1

1. Hearing

Where a petition to contest an election raises a valid question, as a general rule a full hearing should be afforded, and the petition not dismissed because of technical preliminary objections. In re Wallingford-Swarthmore School Dist. Election, 66 D. & C.2d 616, 1974.

2. Evidence

In election contest proceeding where testimony was introduced without objec-

tion concerning doubt as to whether one of the petitioners was in fact a registered voter who had participated in election, trial court erred in refusing testimony showing that "Dorothy Wolter" signing petition affidavit thereto and bond was one and the same person as "Dorothy A. Wolter" who was a registered elector of township and who had participated in election. In re Election of School Directors in Birmingham Tp., Chester County, 143 A.2d 18, 393 Pa. 396, 1958.

§ 3467. Witnesses; duty to testify

In trials of contested nominations and elections, and in all proceedings for the investigation of primaries and elections, no person shall be permitted to withhold his testimony upon the ground that he may incriminate himself, or subject himself to public infamy, but such testimony shall not afterwards be used against him in any judicial proceedings, except for perjury in giving such testimony.

1937, June 3, P.L. 1333, art. XVII, § 1767.

Cross References

Witnesses in contested elections, see, Const. Art. 7, § 8.

Library References

Witnesses ⇨297(8).
WESTLAW Topic No. 410.

C.J.S. Witnesses § 437 et seq.
P.L.E. Witnesses § 92.

§ 3468. Witnesses and officers; fees

Witnesses and officers shall be paid the same fees as are now or hereafter shall be fixed by law for similar services in the county in which the trial shall be held.

1937, June 3, P.L. 1333, art. XVII, § 1768.

Library References

Elections ⇨307.
WESTLAW Topic No. 144.

C.J.S. Elections § 319 et seq.
P.L.E. Elections § 128.

§ 3469. Costs of contest if without probable cause

(a) In contested nominations or elections of all classes, if the committee or court or judge shall decide that the complaint is

without probable cause, the petitioners, and every one of them, shall be jointly and severally liable for all the costs, and the same may be collected as debts of like amount are by law collectible.

1937, June 3, P.L. 1333, art. XVII, § 1769.

Library References

Elections ⇨307.
WESTLAW Topic No. 144.

C.J.S. Elections § 319 et seq.
P.L.E. Elections § 128.

Notes of Decisions

In general 1

1. In general

A special contest court, which was convened to hear election contest, independent of statute, had power to impound the ballots and direct necessary expense to be paid by county. In re Contest of Election of Morganroth, 29 A.2d 502, 346 Pa. 327, 1943.

Stenographer's fees and expenses incident to impounding of ballots by special contest court, which was convened to hear election contest, were part of the general expense of holding courts of county and were not properly taxable as "costs" of the proceeding. In re Contest of Election of Morganroth, 29 A.2d 502, 346 Pa. 327, 1943.

The county in seeking to impose costs in election proceeding on contestants had burden of pointing out a statute authorizing such action. In re Contest of Elec-

tion of Morganroth, 29 A.2d 502, 346 Pa. 327, 1943.

Where special contest court, which was convened to hear election contest, on motion for rule to quash petition, dismissed the petition at cost of petitioners on ground that the petition did not state a sufficient cause of action, without any testimony having been taken, court did not err in failing to certify that petition was without probable cause and order costs of the contest to be paid by petitioners. In re Contest of Election of Morganroth, 29 A.2d 502, 346 Pa. 327, 1943.

Where primary election contest was filed on behalf of defeated candidate, and another petition was filed on behalf of person nominated, and court rejected votes under both petitions but declared original nominee elected, petitioners for unsuccessful candidate's contest became jointly and severally liable for costs. Petition for Contest of Election of Alderman in Twelfth Ward of City of Pittsburgh, 171 A. 896, 314 Pa. 425, 1934.

§ 3470. Costs of contest if for probable cause

(a) In contested nominations or elections of electors of President and Vice-President, and State officers whose jurisdiction extends over the Commonwealth, in which the committee, or court or judge shall decide that the complaint is not without probable cause, the Commonwealth shall be liable for all costs. The said committee or court shall certify to the Auditor General a bill of such costs, which shall be adjusted and settled in the usual manner, and paid out of moneys appropriated for that purpose.

(b) Whenever, in contested nominations or elections of judges of courts of record, and of county, city, borough, township, ward, school district or poor district officers, the contestant or contestants establish his or their right to the nomination or office, or, if they fail to establish their rights, but the court or judge shall decide that the

complaint was not without probable cause, the court or judge shall apportion all the costs among the proper districts, counties, cities, boroughs, townships, wards, school districts or poor districts, of the whole district in which contest is had, in such way as said court or judge shall think just, and shall compel by order, the payment of such amounts so apportioned to each, by the properly constituted authorities of each of the proper districts, counties, cities, boroughs, townships, wards, school districts or poor districts, as the payment of debts by the same can now be enforced.

1937, June 3, P.L. 1333, art. XVII, § 1770.

Library References

Elections ⇨ 307.
WESTLAW Topic No. 144.

C.J.S. Elections § 319 et seq.
P.L.E. Elections § 128.

Notes of Decisions

In general 1
Appeals 2

1. In general

Where special contest court, which was convened to hear election contest, on motion for rule to quash petition, dismissed the petition at cost of petitioners on ground that the petition did not state a sufficient cause of action, without any testimony having been taken, court did not err in failing to certify that petition was without probable cause and order costs of the contest to be paid by petitioners. In re Contest of Election of Morganroth, 29 A.2d 502, 346 Pa. 327, 1943.

In contest of election for office of burgess of borough, contestee was entitled to have costs of contest placed upon borough, which was not entitled to apportionment between it and county wherein borough was situated. In re Contest of Election for Office of Burgess of Borough of Braddock, Allegheny County, 174 A. 465, 316 Pa. 225, 1934.

Where court rejected petitioner's contention that two ballots should not have been counted so that no fraud or substantial error appears, the \$50 deposited will be forfeited to the appropriate county, but

the costs of the proceedings are to be paid by the county. Election of East Stroudsburg, 80 D. & C. 317, 13 Monroe L.R. 113, 1953.

Costs of an election contest based on admission of votes after closing hour should be borne by county. In re South Union Tp. Election, 61 D. & C. 490, 1948.

There being evidence that the complaint was not without probable cause, liability for costs was imposed upon the school district. Election of School Directors in Birmingham Tp., Chester County, Pa., 8 Chest. 217, 1958, reversed on other grounds 143 A.2d 18, 393 Pa. 396.

2. Appeals

Supreme Court order, affirming order of trial court in election contest and ordering that costs be paid as ordered by trial court, which had assigned costs to municipality because plaintiff's complaint was not without probable cause, had, as its intention, that trial court, by supplemental order, charge appeal costs to municipality in same manner as it had done with trial costs. In re Contest of Election for Office of Tax Collector in Newport Tp., Luzerne County, 131 A.2d 82, 388 Pa.Super. 297, 1957.

§ 3471. Court or committee may limit time for taking testimony

In all contested nomination and election cases, the committee or court may, in its discretion, limit the time to be consumed in taking

testimony, dividing said time equitably among all parties concerned, with a view therein to the circumstances of the matter and the proximity of the next succeeding election.

1937, June 3, P.L. 1333, art. XVII, § 1771.

Library References

Elections ⇨300.
WESTLAW Topic No. 144.

C.J.S. Elections § 300.
P.L.E. Elections § 126.

§ 3472. Nominations or elections declared invalid; filing of vacancies

Whenever in any contested nomination or election, the tribunal trying the case shall decide that the ballots or ballot labels used in one or more election districts, by reason of the omission, addition, misplacing, misspelling or misstatement of one or more titles of office, or names of candidates, or parties or bodies represented by them, were so defective as to the office in contest as to be calculated to mislead the voters in regard to any of the candidates nominated or seeking nomination for said office, and that the defective condition of the said ballots or ballot labels may have affected the result of the entire primary or election for said office, the said tribunal shall declare the primary or election to be invalid as regards the said office, and in the case of elections shall report their decision, in cases where vacancies in such offices are filled by appointment, to the proper officer or officers who are by law authorized to fill vacancies occurring in such office, who, upon receipt of such notice, shall, without delay, proceed to appoint a suitable person or persons to fill the vacancies thus created, and the person or persons so appointed shall continue in office until the next election succeeding his appointment at which such office is by law required to be filled. All other vacancies so created shall be filled in such manner as now or hereafter may be provided by law, and all vacancies in nominations so created shall be filled in the manner provided by section 979 of this act.¹

1937, June 3, P.L. 1333, art. XVII, § 1772.

¹ 25 P.S. § 2939.

Library References

Elections ⇨298(3).
WESTLAW Topic No. 144.

C.J.S. Elections § 305.
P.L.E. Elections § 121.

Notes of Decisions

In general 2**Misstatement of candidate's name 3****Power of court 1****1. Power of court**

The power of the court to void an entire election is extremely serious, and can only be exercised with the utmost care, restraint and concern; neither individual voters nor groups of voters are to be disfranchised except for the most compelling reasons, as when illegal acts are so irregular and the election so infected with fraud that the results cannot be ascertained. In re Wallingford-Swarthmore School Dist. Election, 66 D. & C.2d 616, 1974.

2. In general

A primary election will be declared invalid under this section, and a special election will be held where the ballot for councilman was "calculated to mislead" and had that effect with at least one voter as a result of the crossing out of the only name qualified to be printed on the ballot book and the insertion of another name. In re Contest of the Republican Primary and Nomination for Councilman in the First Ward in the Borough of Spring City, 3 D. & C.4th 609, 1989.

Where the apparent winner at an election received eleven votes more than the runner-up, and in a recount proceeding it developed that the straight party lever on one of the two voting machines at a polling place had not functioned, and it further appeared that the malfunction had been discovered early, and the election officials advised voters using that machine to pull individual levers rather than relying on the straight party lever, and only three witnesses testified that they had relied upon the straight party lever in question, a petition to void the election was denied. In re Wallingford-Swarthmore School Dist. Election, 66 D. & C.2d 616, 1974.

A petition to declare invalid the election of a director-at-large in a school district because the names of candidates were omitted from the ballot in one voting district will be denied in the absence of fraud where the error could have been discovered and remedied prior to the election by the parties having an interest in the outcome but was not, since voiding

the election would disenfranchise voters who cast ballots in the other districts, especially where serious doubt exists that the result of the election would have been affected had the names not been omitted. In re Upper Adams School Dist. Election Contest, 49 D. & C.2d 121, 1969.

In an election contest, an election for the office of school director to represent a region of a school district is invalid and a vacancy in the office will be declared pursuant to this section where absentee ballots printed and distributed for three of the nine election precincts of the region erroneously carried the names of candidates for election of school director in another region of the school district, and where the closeness of the result of the undisputed votes cast is such that the erroneously printed ballots may have affected the outcome of the entire election. In re Neshaminy School Dist. Election Contest, 45 D. & C.2d 105, 18 Bucks 114, 1968.

Where alleged irregularities in an election could not reasonably have misled voters and did not result in presentation to them of candidates in an unintelligible manner, election cannot be judicially overturned merely because petitioners complain that a purported advantage fell to the lot of another, rather than to the candidate of their choice. In re Petition to Set Aside Special Election in Thirty-second Senatorial Dist., 15 D. & C.2d 271, 1959.

3. Misstatement of candidate's name

Transposition of the name of candidate for judge of the court of common pleas with the name of candidate for the Superior Court on 24 out of 66 voting machines, which was corrected early during the course of Democratic primary election, did not affect the result of the election, and, thus, the election was not invalid. McCabe v. Lehrer, 439 A.2d 1147, 497 Pa. 218, 1981.

Where through an error on the part of township election officials, votes cast at a primary election for one "Harmon Beamers" are erroneously returned as having been cast for "Herman Benner", and the error is not discovered until after the ballots for the general election have been printed and cast, the misstatement of the candidate's name thereon renders the ballots so defective that the election must

PENALTIES

be declared invalid as regards the office Election of Straban Township School Directors, 30 D. & C. 651, 1938.

§ 3473. Specific findings by trial court

It is hereby made the duty of the judges in the court of common pleas trying an election contest to, first, find separately and explicitly the facts deemed by them material to the decision, and also such other facts as any party to the contest may request them in writing to ascertain; and second, to answer such points of law as may be submitted to them.

1937, June 3, P.L. 1333, art. XVII, § 1773.

Library References

Elections ⇨300.
WESTLAW Topic No. 144.

C.J.S. Elections § 300.
P.L.E. Elections § 126.

§ 3474. Certified copy of order of court to be forwarded to Secretary of the Commonwealth and county boards

Immediately upon the entry of any order or decree of court deciding any contested nomination or election, it shall be the duty of the prothonotary of said court to transmit immediately to the Secretary of the Commonwealth and to the proper county board a certified copy of said order or decree.

1937, June 3, P.L. 1333, art. XVII, § 1774.

Library References

Elections ⇨303.
WESTLAW Topic No. 144.
P.L.E. Elections § 126.

§§ 3475 to 3477. Repealed. 1978, April 28, P.L. 202, No. 53, § 2(a)[1193], effective June 27, 1978

Historical and Statutory Notes

The repealed sections related to appeals to the Supreme Court in cases of judicial elections involving constitutional questions and were derived from act 1937, June 3, P.L. 1333, art. XVII, §§ 1775 to 1777.

For subject matter of repealed section, see, now, 42 Pa.C.S.A. §§ 1722(a)(1), 5105(a)(1).

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Library References

Elections ⇨323, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 353, 355.
P.L.E. Elections § 141 et seq.

§ 3501. Disobeying lawful instructions

Any person who wilfully disobeys any lawful instruction or order of any county board of elections, or who refuses to obey their subpoena duly issued and served under the provisions of this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred (\$500) dollars, or to undergo an imprisonment not exceeding one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1801.

Library References

Elections ⇨323, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 353, 355.
P.L.E. Elections §§ 141, 143.

§ 3502. Perjury

Any wilful false statement made under oath or affirmation or in writing, stating that it is so made, although such oath or affirmation may not have actually been made, by any person regarding any material matter or thing relating to any subject being investigated, heard, determined or acted upon by any county board of elections, or member thereof, or by any court or judge thereof, judge of election, inspector of election, or overseer, in accordance with the terms of this act, shall be perjury, and any person upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred (\$500) dollars, or to undergo an imprisonment of not less than three (3) months nor more than two (2) years, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1802.

Library References

Perjury ⇨5, 41.
WESTLAW Topic No. 297.

C.J.S. Perjury §§ 21, 22, 24, 52, 61.
P.L.E. Perjury §§ 2, 12.

Notes of Decisions**In general** 1**1. In general**

Crime of perjury committed in exercise of one's franchise privilege must be prosecuted under specific penalty measures of Election Code, and not under Crimes Code. *Com. v. Bidner*, 422 A.2d 847, 282 Pa.Super. 100, 1980.

Crimes Code provision (18 Pa.C.S.A. § 4902) as to perjury was not meant to prevail over specific penalty measures of Election Code perjury prohibition, nor was this section repealed by implication on enactment of Crimes Code provision. *Com. v. Bidner*, 422 A.2d 847, 282 Pa.Super. 100, 1980.

§ 3502.1. False affidavits of candidates

Any candidate for State, county, city, borough, incorporated town, township or school district office or for the office of United States Senator or Representative in Congress or any other elective public office who knowingly makes a false statement regarding his eligibility or qualifications for such office in his candidate's affidavit shall, in litigation which results in the removal of the candidate from the ballot, be liable for court costs, including filing fees, attorney fees, investigation fees and similar costs, in an amount up to ten thousand (\$10,000) dollars.

1937, June 3, P.L. 1333, No. 320, § 1802.1, added 1987, Dec. 22, P.L. 423, No. 91, § 1, eff. Jan. 1, 1988.

§ 3503. Refusal to permit inspection of papers; destruction or removal; Secretary of the Commonwealth

Any Secretary of the Commonwealth, deputy, or employe of his office, who shall refuse to permit the public inspection or copying as authorized, except when in use in his office, by this act, of any return, nomination petition, certificate or paper, other petition, account, contract, report or any other document or record in his custody which, under the provisions of this act, is required to be open to public inspection; or who shall destroy or alter, or permit to be destroyed or altered, any such document or record during the period for which the same is required to be kept in his office; or who shall remove any such document or record from his office during said period, or permit the same to be removed, except pursuant to the direction of any competent court or any committee required to determine any contested primary or election, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not less than one (1) month nor more than two (2) years, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1803.

Library References

Elections ⇨ 314, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 327, 353.
P.L.E. Elections §§ 141, 143.

§ 3504. Refusal to permit inspection of papers; destruction or removal; county boards of elections

Any member, chief clerk or other employe of any county board of elections, who shall refuse to permit the public inspection or copying, as authorized by this act, of any general or duplicate return sheet, tally paper, affidavit, nomination petition, certificate or paper, other

petition, witness list, account, contract, report or any other document or record in the custody of such county board which, under the provisions of this act, is required to be open to public inspection; or who shall destroy or alter, or permit to be destroyed or altered, any such document or record during the period for which the same is required to be kept in the office of such county board; or who shall remove any such document or record from the office of such county board during said period, or permit the same to be removed, except pursuant to the direction of any competent court or any committee required to determine any contested primary or election, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not less than one (1) month nor more than two (2) years, or both, in the discretion of the court. 1937, June 3, P.L. 1333, art. XVIII, § 1804.

Library References

Elections ⇨314, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 327, 353.
P.L.E. Elections §§ 141, 143.

§ 3505. Insertion and alteration of entries in documents; removal; refusal to deliver

Any member, chief clerk or employe of any county board of elections or judge, inspector or clerk of election, machine inspector, overseer, or other person, who knowingly inserts or knowingly permits to be inserted any fictitious name, false figure or other fraudulent entry on or in any registration card, district register, voter's certificate, list of voters, affidavit, tally paper, general or duplicate return sheet, statement, certificate, oath, voucher, account, ballot or other record or document authorized or required to be made, used, signed, returned or preserved for any public purpose in connection with any primary or election; or who materially alters or intentionally destroys any entry which has been lawfully made therein, except by order of the county board of elections or court of competent jurisdiction, or who takes or removes any such book, affidavit, return, account, ballot or other document or record from the custody of any person having lawful charge thereof, in order to prevent the same from being used or inspected or copied as required or permitted by this act, or who neglects or refuses, within the time and in the manner required by this act, to deliver the same into the custody of the officers who are required by this act to use or keep the same, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not less than one (1)

month or more than two (2) years, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1805.

Library References

Elections ⇨314, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 327, 353.
P.L.E. Elections §§ 141, 143.

Notes of Decisions

Jury instructions 1

1. Jury instructions

Where an entire election board is jointly tried on indictments charging all members with certain violations of the election code and part of the board with other violations of the code, court must, even without request, instruct the jury explicitly as to the respective duties of each of the members, and point out that their duties are not identical but vary under

the statutes. *Com. v. Padden*, 50 A.2d 722, 160 Pa.Super. 269, 1947.

In prosecution of judges of election, inspector, and clerks for certain alleged violations of election code by all defendants and for certain violations of the code by some of the defendants, court erred in merely referring sketchily to the duties of election officers and in failing to differentiate the distinctive duties expressly imposed on some of them and not on others by the code. *Com. v. Padden*, 50 A.2d 722, 160 Pa.Super. 269, 1947.

§ 3506. Refusal to permit overseers, watchers, attorneys or candidates to act

Any member of a county board of elections, judge of election or inspector of election who shall refuse to permit any overseer or watcher, attorney or candidate to be present, as authorized by this act, at any session of a county board, computation and canvassing of returns of any primary or election, recount of ballots or recanvass of voting machines, as authorized by this act, or at any polling place during the time the polls are open at any primary or election, and after the close of the polls during the time the ballots are counted or voting machine canvassed and until the returns of such primary or election have been made up and signed, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment not exceeding one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1806.

Library References

Elections ⇨314, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 327, 353.
P.L.E. Elections §§ 141, 143.

Notes of Decisions

Presence of candidates 1

1. Presence of candidates

A candidate is not entitled to be present in a polling place during the time polls are open except for the purpose of casting his own ballot, and county boards of elec-

tions are within their legal authority when they instruct election officers to such effect, notwithstanding this section and § 3507 of this title, since presence of candidates in polling places is not affirmatively authorized by Election Code. In re General Election to Be Held in City and County of Philadelphia, 75 A.2d 812, 366 Pa. 6, 1950.

§ 3507. Driving away watchers, attorneys, candidates or overseers

Any person who by violence or intimidation shall threaten or drive away any watcher, attorney, candidate or overseer, or representative of the county board of elections, or of the Secretary of the Commonwealth, required or permitted to be present at any polling place, or who shall in any manner prevent any overseer, or representative of the county board of elections or of the Secretary of the Commonwealth from performing his duty under this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not less than one (1) month nor more than two (2) years, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1807.

Library References

Elections ⇨ 314, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 327, 353.
P.L.E. Elections §§ 141, 143.

§ 3508. Refusal to permit election officers, clerks and machine inspectors to act; driving away said persons

Any person, including any election officer, who shall refuse to permit any election officer, clerk or machine inspector, duly elected or appointed and authorized to act, to perform the duties imposed on him or to act as permitted by this act; or who shall by violence or intimidation threaten or drive away, any such election officer, clerk or machine inspector or who shall, in any manner, prevent any such election officer, clerk or machine inspector from performing his rights and duties under this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not less than one (1) month or more than two (2) years, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1808.

Library References

Elections ⇨309, 314, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 324, 327, 334, 353.
P.L.E. Elections §§ 141, 143.

Notes of Decisions

Elements of offense 1

1. Elements of offense

A hasty threat, called forth by an illegal action on the part of an election officer, is not an offense under act of 1839, July 2, P.L. 519, § 110, repealed. *Respublica v. Gibbs*, 3 Y. 420, 4 Dall. 253, 1802.

To constitute the offense penalized by act of 1839, July 2, P.L. 519, § 112, repealed, there must be a preconceived intention to intimidate the officers, or interrupt the election. *Respublica v. Gibbs*, 3 Y. 420, 4 Dall. 253, 1802.

§ 3509. Refusal to administer oath; acting without being sworn

If any judge of election or minority inspector of election refuses or fails to administer the oath to the officers of election, in the manner required by this act, or if any judge of election, inspector of election, clerk of election, or machine inspector, shall act without being first duly sworn, or if any such person shall sign the written form of oath without being duly sworn, or if any judge of election or minority inspector of election or any other person authorized to administer oaths shall certify that any such person was sworn when he was not, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one hundred (\$100) dollars, or to undergo an imprisonment not exceeding six (6) months, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1809.

Library References

Elections ⇨319, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 330, 353.
P.L.E. Elections §§ 141, 143.

§ 3510. Violation of oath of office by election officers

Any judge of election, inspector of election, clerk of election, or machine inspector who shall wilfully violate any of the provisions of his oath of office, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment not exceeding one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1810.

Library References

Elections ⇨314, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 327, 353.
P.L.E. Elections §§ 141, 143.

§ 3511. Peace officers; failure to render assistance; hindering or delaying county board members and others

Any sheriff, deputy sheriff, constable, deputy constable, police or other peace officer, who shall fail upon demand of any member of a county board of elections, judge or inspector of election, or overseer to render such aid and assistance to him as he shall request in the maintenance of peace and in the making of arrests, as herein provided, or who shall wilfully hinder or delay or attempt to hinder or delay any member of a county board, judge or inspector of election, or overseer in the performance of any duty under this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred (\$500) dollars, or to undergo an imprisonment of not less than three (3) months nor more than two (2) years, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1811.

Library References

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| Municipal Corporations ☞190. | P.L.E. Municipal Corporations § 192. |
| Sheriffs and Constables ☞153. | P.L.E. Sheriffs and Constables §§ 14, |
| WESTLAW Topic Nos. 268, 353. | 25. |
| C.J.S. Municipal Corporations § 549. | |
| C.J.S. Sheriffs and Constables §§ 209, | |
| 210. | |

§ 3512. Nomination petitions and papers; offenses by signers

If any person shall knowingly and wilfully sign any nomination petition or nomination paper, without having the qualifications prescribed by this act, or if any person shall set opposite a signature on a nomination petition or paper, a date other than the actual date such signature was affixed thereto, or if any person shall set opposite the signature on a nomination petition or nomination paper, a false statement of the signer's place of residence or occupation, or if any person shall sign more nomination petitions or nomination papers than permitted by the provisions of this act, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one hundred (\$100) dollars, or to undergo an imprisonment of not less than three (3) months nor more than two (2) years, or both, at the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1812.

Library References

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| Elections ☞309, 332. | C.J.S. Elections §§ 324, 334, 353. |
| WESTLAW Topic No. 144. | P.L.E. Elections §§ 141, 143. |

§ 3513. False signatures and statements in nomination petitions and papers

If any person shall knowingly make a false statement in any affidavit required by the provisions of this act, to be appended to or to accompany a nomination petition or a nomination paper, or if any person shall fraudulently sign any name not his own to any nomination petition or nomination paper, or if any person shall fraudulently alter any nomination petition or nomination paper without the consent of the signers, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred (\$500) dollars, or to undergo imprisonment of not more than one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1813.

Library References

Elections ⇨ 318, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 331, 353.
P.L.E. Elections §§ 141, 143.

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1. In general

Signers of nomination papers who in addition to signing their own names, affixed other names to the papers, were entitled to have their own signatures counted as valid, absent conviction under § 3513 of this title for the fraudulent signing of a name to a nomination paper. Appeal of Riley, 466 A.2d 236, 77 Pa. Cmwlth. 191, 1983.

Where defendants were charged with false swearing to an affidavit required to be attached to a nominating paper which was an offense prohibited by this section, defendants were required to be prosecuted under Election Code and conviction under § 4322 of Title 18, Crimes and Offenses, dealing with perjury generally could not be sustained. *Com. v. Brown*, 29 A.2d 793, 346 Pa. 192, 1943.

Under § 5101 of Title 18, Crimes and Offenses, providing that offenses not specifically provided for by Penal Code

should continue to be an offense punishable as previously provided, this section providing punishment for false statements in affidavits required to be appended to a nomination paper continued in force. *Com. v. Brown*, 29 A.2d 793, 346 Pa. 192, 1943.

In prosecution for false swearing to an affidavit this section, is exclusive legal authority for such prosecution. *Com. v. Brown*, 29 A.2d 793, 346 Pa. 192, 1943.

False swearing to an affidavit required to be attached to a nominating paper under this section, and perjury under § 4322 of Title 18, Crimes and Offenses, based on same acts, are not distinct offenses for which an accused may be charged in separate indictments, and accused may only be convicted and sentenced under the statute dealing particularly with the acts alleged to constitute the offense. *Com. v. Brown*, 29 A.2d 793, 346 Pa. 192, 1943.

The making of a false statement in affidavit required to be appended to nomination petition or paper is not indictable unless it was knowingly made. *Com. v. Brown*, 28 A.2d 259, 149 Pa.Super. 130, 1942, reversed on other grounds 29 A.2d 793, 346 Pa. 192.

The word "false" does not merely mean incorrect or untrue, but connotes an untruth knowingly stated to be true, thus

Note 1

adding to the basic idea of untruth a color of deceit. *Com. v. Rubin*, 33 Berks 261, 1941, affirmed in part and reversed in part on other grounds 28 A.2d 259, 149 Pa.Super. 130, reversed on other ground 29 A.2d 793, 346 Pa. 192.

2. Perjury

This section does not constitute the same offense as that created by § 4101 et seq. of Title 18, Crimes and Offenses, defining the felony of perjury as the corrupt, false and wilful swearing under oath in a judicial proceeding, or before a legislative committee or under any oath required by Pennsylvania law; and a single false swearing may constitute a violation of both statutes. *Com. v. Brown*, 33 Berks 269, affirmed 28 A.2d 259, 149 Pa.Super. 130, 1941.

3. Indictment

In order to secure conviction under this section it must be charged in the indictment that the false statement was knowingly made, and sufficient evidence must be produced at the trial from which jury could reasonably infer that the alleged statement was false and was made knowingly. *Com. v. Brown*, 28 A.2d 259, 149 Pa.Super. 130, 1942, reversed on other grounds 29 A.2d 793, 346 Pa. 192.

An indictment charging that accused made false statement in affidavit required by § 2911(d) of this title, which was appended to and accompanied a nomination paper, was fatally defective for omitting to charge that the false statement was knowingly made by accused. *Com. v. Brown*, 28 A.2d 259, 149 Pa.Super. 130, 1942, reversed on other grounds 29 A.2d 793, 346 Pa. 192.

The signing of another's name to nomination paper or alteration of nomination paper without consent of signers, in order to be indictable, must be done fraudulently and the indictment must charge the offense as having been done fraudulently. *Com. v. Brown*, 28 A.2d 259, 149 Pa.Super. 130, 1942, reversed on other grounds 29 A.2d 793, 346 Pa. 192.

Under this section and § 2911(d) of this title, requiring an affidavit to be appended to each sheet of a nomination paper and making it a misdemeanor knowingly to make a false statement in any affidavit required to be appended to or to accompany a nomination petition or paper, the willful and corrupt making of

a false oath or affirmation to the affidavit is "perjury", and hence charges of making a false affidavit on a nomination paper and of willful and corrupt perjury in taking a statutory oath or affirmation, even though the latter is a felony, may be joined as separate counts in one indictment, provided that in case of conviction, only one sentence is pronounced. *Com. v. Antico*, 22 A.2d 204, 146 Pa.Super. 293, 1941.

4. Trial

A joint indictment charging numerous defendants with conspiracy to violate election laws by fraudulently getting names of Communist candidates on ballots for general election by means of false swearing to affidavits to nomination papers and securing signatures by false representations and several indictments charging those defendants with perjury in making affidavits and with making false statements in affidavits were properly consolidated and tried before the same jury, since proof of the specific charges against each defendant was competent and was essential to establish the conspiracy. *Com. v. Antico*, 22 A.2d 204, 146 Pa.Super. 293, 1941.

The joint trial of numerous defendants on several indictments charging perjury and obtaining signatures to nomination papers by false pretenses, and on a joint indictment charging conspiracy to violate the election laws, was not prejudicial where record indicated an orderly presentation of the commonwealth's evidence and showed that the jury was informed in advance of the particular substantive charge to which the testimony was to be applied, and it was limited to the single defendant involved. *Com. v. Antico*, 22 A.2d 204, 146 Pa.Super. 293, 1941.

5. Defenses

In prosecution for perjury in making affidavits to nomination papers required under § 2911 of this title, and making false statements in affidavits, it was not a valid defense that common prudence was not used in avoiding imposition or that signers to papers deceived by defendants' representations did not read the papers before signing them. *Com. v. Antico*, 22 A.2d 204, 146 Pa.Super. 293, 1941.

Persons charged with perjury in making affidavits to nomination papers required under § 2911 of this title were not

relieved of charge because notary public instead of swearing them in words of affidavit may have stated, "You swear that the facts set forth in this affidavit are true to the best of your knowledge and belief", since affidavits were required to be made by someone familiar with facts connected with obtaining signatures to papers and able to swear that signer signed with full knowledge of contents. *Com. v. Antico*, 22 A.2d 204, 146 Pa.Super. 293, 1941.

6. Evidence

In order to secure conviction under this section it must be charged in the indictment that the false statement was knowingly made, and sufficient evidence must be produced at the trial from which jury could reasonably infer that the alleged statement was false and was made knowingly. *Com. v. Brown*, 28 A.2d 259, 149 Pa.Super. 130, 1942, reversed on other grounds 29 A.2d 793, 346 Pa. 192.

In prosecutions involving procuring signatures to a nominating paper by false statements, where accuseds claimed that prosecutions were brought about by newspapers, and police officers who intimidated the witnesses, evidence that police officers had approached persons signing nomination papers to determine whether petitions had been read and the contents thereof fully explained and whether signers desired to support a move to overthrow the United States government was properly excluded where none of the proffered witnesses gave the circumstances attending the signing by others, nor would they testify that commonwealth's witnesses had been intimidated. *Com. v. Weiner*, 25 A.2d 844, 148 Pa.Super. 577, 1942, certiorari denied 63 S.Ct. 56, 317 U.S. 631, 87 L.Ed. 509.

In prosecution for perjury in making affidavits to nomination papers required under the election laws, admission in evi-

dence of affidavits themselves with notaries' certificates, testimony of notaries who were able to identify individual defendants as affiants, and proof by handwriting experts of signatures of such affiants as notaries were unable or unwilling to identify personally, in addition to proof that affidavits were signed by persons bearing the names of the respective defendants, were sufficient proofs of the act of swearing to go to the jury as to all defendants. *Com. v. Antico*, 22 A.2d 204, 146 Pa.Super. 293, 1941.

7. Findings

In prosecution for perjury in making affidavits to nomination papers required under § 2911 of this title, evidence justified inference that affidavits were intentionally made by persons who had no knowledge of how signatures were obtained and whether signers were truthfully informed of contents of papers. *Com. v. Antico*, 22 A.2d 204, 146 Pa.Super. 293, 1941.

Evidence was sufficient for jury to find defendants guilty of a criminal conspiracy to violate the provisions of the election laws by fraudulently getting the names of Communist candidates on the ballot for the general election by means of false swearing to affidavits, to nomination papers and the securing of signatures of qualified electors to those papers by false representations concerning their contents. *Com. v. Antico*, 22 A.2d 204, 146 Pa.Super. 293, 1941.

8. Sentence

Under this section the sentence of a convicted defendant who was sentenced to two years' imprisonment would be reduced on one year's imprisonment to run concurrently with sentence imposed on him on a conspiracy indictment. *Com. v. Antico*, 22 A.2d 204, 146 Pa.Super. 293, 1941.

§ 3514. Nomination petitions; certificates and papers; destruction; fraudulent filing; suppression

Any person who shall falsely make any nomination certificate or who shall wilfully deface or destroy any nomination petition, nomination certificate or nomination paper, or any part thereof, or any letter of withdrawal, or who shall file any nomination petition, nomination certificate or nomination paper or letter of withdrawal knowing the

same, or any part thereof, to be falsely made, or who shall suppress any nomination petition, nomination certificate or nomination paper, or any part thereof, which has been duly filed, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not more than one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1814.

Library References

Elections ☞309, 318, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 324, 331, 334, 353.
P.L.E. Elections §§ 141, 143.

§ 3515. Offenses by printers of ballots

Any printer employed by any county board of elections to print any official ballots, or any person engaged in printing the same who shall appropriate to himself or give or deliver or knowingly permit to be taken any of said ballots by any other person than such county board of election or their duly authorized agent, or who shall wilfully print or cause to be printed any official ballot in any form other than that prescribed by such county board or with any other names or printing, or with the names spelled otherwise than as directed by them or the names or printing thereon arranged in any other way than that authorized and directed by this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding on thousand (\$1,000) dollars, or to undergo an imprisonment of not less than six (6) months nor more than five (5) years, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1815.

Library References

Elections ☞309, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 324, 334, 353.
P.L.E. Election §§ 141, 143.

§ 3516. Unlawful possession of ballots: counterfeiting ballots

Any person other than an officer charged by law with the care of ballots, or a person entrusted by any such officer with the care of the same for a purpose required by law, who shall have in his possession outside the polling place any official ballot, or any person who shall make or have in his possession any counterfeit of an official ballot, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not less than three (3)

months nor more than one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1816.

Library References

Elections ☞309, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 324, 334, 353.
P.L.E. Elections §§ 141, 143.

§ 3517. Forging and destroying ballots

Any person who shall forge or falsely make the official endorsement on any ballot or wilfully destroy or deface any ballot or wilfully delay the delivery of any ballots, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not less than three (3) months nor more than two (2) years, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1817.

Library References

Elections ☞319, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 330, 353.
P.L.E. Elections §§ 141, 143.

§ 3518. Tampering with voting machines

Any election officer or other person who shall unlawfully open or who shall tamper with or injure or attempt to injure any voting machine to be used or being used at any primary or election, or who shall prevent or attempt to prevent the correct operation of such machine, or any unauthorized person who shall make or have in his possession a key to a voting machine to be used or being used in any primary or election, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not less than six (6) months nor more than one year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1818.

Library References

Elections ☞319, 332.
WESTLAW Topic No. 144.
C.J.S. Elections §§ 330, 353.

§ 3519. Destroying, defacing or removing notices, et cetera

Any person who shall, prior to any primary or election, wilfully deface, remove or destroy any notice or list of candidates posted in

accordance with the provisions of this act, or who, during any primary or election, shall wilfully deface, tear down, remove or destroy and card of instructions, notice of penalties, specimen ballot or diagram printed or posted for the instruction of electors, or who shall, during any primary or election, wilfully remove or destroy any of the supplies or conveniences furnished by the county board of elections to any polling place in order to enable electors to vote, or the election officers to perform their duties, or who shall wilfully hinder the voting of others, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one hundred (\$100) dollars, or to undergo an imprisonment of not more than three (3) months, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1819.

Library References

Elections ⇨309, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 324, 334, 353.
P.L.E. Elections §§ 141, 143.

§ 3520. Police officers at polling places

Any police officer in commission, whether in uniform or in citizen's clothes, who shall be within one hundred (100) feet of a polling place during the conduct of any primary or election, except in the exercise of his privilege of voting or for the purpose of serving warrants, or in accordance with the provisions of the exception set forth in section 1207 of this act¹ where the police station or headquarters is located in the same building or on the premises where the polling place is located or unless called upon to preserve the peace, as provided by this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred (\$500) dollars, or to undergo an imprisonment of not more than one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1820. Amended 1976, July 1, P.L. 523, No. 124, § 5, imd. effective.

¹ 25 P.S. § 3047.

Historical and Statutory Notes

The 1976 amendment, following "serving warrants", inserted "or in accordance with the provisions of the exception set forth in section 1207 of this act where the

police station or headquarters is located in the same building or on the premises where the polling place is located".

Library References

Municipal Corporations ⇨190.
WESTLAW Topic No. 268.

C.J.S. Municipal Corporations § 549.
P.L.E. Municipal Corporations § 192.

§ 3521. Peace officer; failure to quell disturbances at polls; hindering or delaying election officers and others

Any mayor, chief burgess, sheriff, deputy sheriff, constable, deputy constable, police officer or other peace officer who shall neglect or refuse to clear an avenue to the door of any polling place which is obstructed in such a way as to prevent electors from approaching, or who shall neglect or refuse to maintain order and quell any disturbance if such arises at any polling place upon the day of any primary or election, when called upon so to do by any election officer or any three qualified electors of the election district, or who shall wilfully hinder or delay, or attempt to hinder or delay, any judge, inspector or clerk of election, machine inspector or overseer in the performance of of any duty under this act, shall be guilty of a misdemeanor in office, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not more than one (1) year, or both, in the direction of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1821.

Library References

Municipal Corporations ☞174, 190.	P.L.E. Municipal Corporations §§ 129,
Sheriffs and Constables ☞153.	192.
WESTLAW Topic Nos. 268, 353.	P.L.E. Sheriffs and Constables §§ 14,
C.J.S. Municipal Corporations § 549.	25.
C.J.S. Sheriffs and Constables §§ 209,	
210.	

§ 3522. Constables; failure to perform duties

Any constable who shall neglect or refuse to perform the duties herein required of him shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred (\$500) dollars, or to undergo an imprisonment of not less than one (1) month nor more than one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1822.

§ 3523. Election officers permitting unregistered electors to vote; challenges; refusing to permit qualified electors to vote

Any judge or inspector of election who permits any person to vote at any primary or election who is not registered in accordance with law, except a person in actual military service or a person as to whom a court of competent jurisdiction has ordered that he shall be permitted to vote, or who permits any registered elector to vote knowing that such registered elector is not qualified to vote, whether

or not such person has been challenged, or who permits any person who has been lawfully challenged to vote at any primary or election without requiring the proof of the right of such person to vote which is required by law, or who refuses to permit any duly registered and qualified elector to vote at any primary or election, with the knowledge that such elector is entitled to vote, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, and to undergo an imprisonment of not less than three (3) months nor more than five (5) years, or both.

1937, June 3, P.L. 1333, art. XVIII, § 1823.

Library References

Elections ☞ 314, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 327, 353.
P.L.E. Elections §§ 141 to 143.

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1. Refusal to permit qualified elector to vote

An inspector who rejects the vote of a qualified elector, as to whose identity, registration, residence and qualifications there is no doubt, on the ground that others have voted on his name, commits an offense under act of 1839, July 2, P.L. 519, § 103, repealed. *Com. v. Scull*, 20 Dist. 259, 38 C.C. 529, 1911; and it is immaterial that the inspector may have acted in good faith, after deliberation, and consultation with others, and in the exercise of what he deemed his best judgment. *Com. v. Weiserth*, 47 Pa.Super. 592, 1911; *Com. v. Burton*, 47 Pa.Super. 600, 1911.

But an election officer cannot be convicted under act of 1839, July 2, P.L. 519, § 103, repealed, because of the rejection of votes if he did not knowingly reject the vote of a qualified citizen. *Com. v. Sheriff*, 1 Brewst. 183, 1868; *Com. v. Lee*, 1 Brewst. 273, 1869. See *Application of Election Officers*, 1 Brewst. 182, 1868.

A judge of an election cannot be convicted under act of 1839, July 2, P.L. 519, § 103, repealed, on an indictment charging him with having "unlawfully, willful-

ly, and knowingly" rejected the vote of a qualified citizen, if the proof shows that the vote was rejected by two inspectors who did not disagree; and it is immaterial that the judge may have agreed with the inspectors and expressed his assent openly. A judge of an election has no power to reject a vote, except when the inspectors disagree. The official act of rejection is the act of the inspectors, and not of the judge. *Com. v. Scull*, 47 Pa.Super. 600, 1911, reversing 20 Dist. 259, 38 C.C. 529; see *Com. v. Youlls*, 5 Kulp, 231, 1885.

2. Permitting unqualified elector to vote

Minority inspector at primary election violated oath by admitting certain persons to vote who, she had every reason to believe, were not entitled to vote at such primary. *Com. v. Grear*, 76 A.2d 491, 168 Pa.Super. 32, 1950.

3. Indictment, requisites

Where an indictment charges that defendants received votes at a primary election without receiving certain affidavits, it is fatally defective if it does not set forth the nature or purpose of the primary election to which it refers, and if it does not allege that a primary election was held in pursuance of law. *Com. v. Degnan*, 50 Pa.Super. 354, 1912.

An indictment against three persons for violating the primary law in that they were guilty of a breach of official duty in permitting certain persons to vote recit-

ing that they were judges of election and two inspectors, is fatally defective, where it does not allege which one of the defendants was the judge and what two of the three were inspectors. *Com. v. Degnan*, 50 Pa.Super. 354, 1912.

An indictment under act of 1839, July 2, P.L. 519, § 103, repealed, for rejecting of votes, which charges that the defendants "knowingly" rejected the vote of a qualified citizen is sufficient and the insertion of the words "unlawfully" and "wilfully" will be treated as mere surplusage and stricken out. *Com. v. Scull*, 20 Dist. 259, 38 C.C. 529, 1911.

4. Jury instructions

Where an entire election board is jointly tried on indictments charging all members with certain violations of the election code and part of the board with other violations of the code, court must, even without request, instruct the jury explicitly as to the respective duties of each of the members, and point out that their

duties are not identical but vary under the statutes. *Com. v. Padden*, 50 A.2d 722, 160 Pa.Super. 269, 1947.

In prosecution of judges of election, inspector, and clerks for certain alleged violations of election code by all defendants and for certain violations of the code by some of the defendants, court erred in merely referring sketchily to the duties of election officers and in failing to differentiate the distinctive duties expressly imposed on some of them and not on others by the code. *Com. v. Padden*, 50 A.2d 722, 160 Pa.Super. 269, 1947.

5. Evidence

A failure to return vouchers to the prothonotary is not of itself alone sufficient proof of a neglect to require them, in a prosecution for such neglect under § 10 of the act of 1874, Jan. 30, P.L. 31, as amended by act of 1899, May 6, P.L. 254, repealed. *Com. v. Brangan*, 10 Dist. 760, 1901.

§ 3524. Election officers refusing to permit elector to vote in proper party at primaries

Any judge, inspector or clerk of election who refuses to permit an elector at any primary at which ballots are used to receive the ballot of the party with which he is enrolled, or who gives to any such elector the ballot of any party in which he is not enrolled, or any judge, or inspector of election, or machine inspector who, at any primary at which voting machines are used, adjusts any voting machine about to be used by an elector so as not to permit him to vote for the candidates of the party in which he is enrolled, or so as to permit him to vote for the candidates of any party in which he is not enrolled, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not less than one (1) month nor more than two (2) years, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1824.

§ 3525. Frauds by election officers

Any judge, inspector or clerk of election or machine inspector who shall be guilty of any wilful fraud in the conduct of his duties at a primary or election, and any person who shall make a false return of the votes case at any primary or election, or who shall deposit fraudulent ballots in the ballot box or certify as correct a return of

ballots in the ballot box which he knows to be fraudulent, or who shall register fraudulent votes upon any voting machine or certify as correct a return of votes cast upon any voting machine which he knows to be fraudulently registered thereon, or who shall make any false entries in the district register, or who shall fail to insert in the voting check list the voter's certificate of any elector actually voting at any primary or election, or who shall fail to record voting information as required herein, or who shall fail to insert in the numbered lists of voters the name of any person actually voting, or who shall wilfully destroy or alter any ballot, voter's certificate, or registration card contained in any district register, or who shall wilfully tamper with any voting machine, or who shall prepare or insert in the voting check list any false voter's certificates not prepared by or for an elector actually voting at such primary or election, for the purpose of concealing the destruction or removal of any voter's certificate, or for the purpose of concealing the deposit of fraudulent ballots in the ballot box, or the registering or fraudulent votes upon any voting machine or of aiding in the perpetration of any such fraud, or who shall fail to return to the county board of election following any primary or election any keys of a voting machine, ballot box, general or duplicate, return sheet, tally paper, oaths of election officers, affidavits of electors and others, record of assisted voters, numbered list of voters, district register, voting check list, unused, spoiled and cancelled ballots, ballots deposited, written or affixed in or upon a voting machine, or any certificate, or any other paper or record required to be returned under the provisions of this act; or who shall conspire with others to commit any of the offenses herein mentioned, or in any manner to prevent a free and fair primary or election, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not less than six (6) months nor more than five (5) years, or both, in the discretion of the court. 1937, June 3, P.L. 1333, art. XVIII, § 1825.

Library References

Elections 318, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 331, 353.
P.L.E. Elections §§ 141, 143.

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1. Common law liability to prosecution for fraud in conducting election

Offenses against the purity and fairness of public elections are crimes at common law and indictable as such. *Com. v. McHale*, 97 Pa. 397, 1881.

Where, before the closing of the polls, the judge, inspectors of election, and clerks all join in stuffing the ballot box and adding to the list of voters the names of electors who had not voted, they are conducting themselves in a manner entirely outside of the duties imposed by the law upon the several officers respectively, and they can all be jointly indicted at common law for willful fraud in the conduct of an election. *Com. v. Sylvanus*, 77 Pa.Super. 410, 1921.

2. Acts punishable in general

Willful fraud in conduct of his duties by election officer, willful neglect or refusal to perform his duties, and violation of any provisions of the Election Code, are misdemeanors punishable by fine or imprisonment or both as provided in this section and §§ 2678, 3050, 3548, 3550, of this title. *Com. v. Grear*, 76 A.2d 491, 168 Pa.Super. 32, 1950.

Minority inspector at primary election violated oath by admitting certain persons to vote who, she had every reason to believe, were not entitled to vote at such primary, and by joining in making false return of votes cast. *Com. v. Grear*, 76 A.2d 491, 168 Pa.Super. 32, 1950.

An indictment will lie for forging the returns of a regular township election. *Com. v. Trimmer*, 84 Pa. 65, 1877, reversing 6 Luz. 6, 24 Pitts. 90.

An officer at a primary election indicted for fraudulently counting and returning ballots, cannot set up as a defense his own neglect to cause the ballots to be numbered as required by the rules of the party, when it appears that every person who had any interest to object accepted the ballots as voted at the time, and that the ballots were taken into account by the proper authorities of the party in determining who were nominated for the various offices voted for at the primary election. *Com. v. Tucker*, 23 Pa.Super. 632, 1903.

They may also be indicted for conspiring to destroy ballots, to add ballots not voted, to stuff the ballot-box, and to issue a false certificate of election. *Com. v. Boyle*, 14 C.C. 561, 1894.

3. False returns

In prosecution for unlawfully making false return of votes cast at primary election, evidence which included admissions by minority inspector at primary election that she signed certificate of votes cast on return sheet, knowing it to be false, and that she knew that majority inspector had signed number of voters' certificates required by code to be signed by voters, and that she admitted unqualified persons to vote, sustained conviction. *Com. v. Grear*, 76 A.2d 491, 168 Pa.Super. 32, 1950.

When the votes at a primary election have been properly cast and counted, but the returns have been altered after they were certified by the election officers, the judge of the election may be convicted of making a false return by giving effect to the alteration by handing the returns to the county chairman, although he may not himself have made the alteration. *Com. v. Hafer*, 22 Pa.Super. 107, 1903.

4. Intent

A defendant when charged with conspiracy to commit an offense may show that he had no intention to violate the law, that there was no corrupt motive. *Com. v. Gormley*, 77 Pa.Super. 298, 1921, reversing 16 Sch. 194.

And where, on the trial of an indictment for conspiracy to make false election returns, and making such false returns, in violation of act of 1913, July 12, P.L. 719, § 14, as amended, repealed, an offer was made to prove by a witness, one of the defendants, that, although false returns were made, no intention existed to commit a crime, the court erroneously excluded the testimony on the ground that the defendant, having violated the plain provisions of the statute, could not be allowed to give his reasons why he did so. *Com. v. Gormley*, 77 Pa.Super. 298, 1921, reversing 16 Sch. 194.

5. Conspiracy to violate election laws

Apparent inconsistency of verdicts in that two election officials were convicted of violating Election Laws and of conspiring to prevent a free and fair election while three other election officers and

Note 5

codefendants were acquitted did not warrant reversal of convictions. *Com. v. Albert*, 30 A.2d 184, 151 Pa.Super. 184, 1943.

Election officers may be indicted as individuals for a conspiracy to defraud as election officers, either by not counting the votes properly, or by adding names to the voters' list, or by making a false return. *Com. v. Hettig*, 46 Pa.Super. 395, 1911.

A clerk of elections may be convicted with the other election officers of conspiracy to violate the election laws, where it appears that he was present during the whole election day, saw without protest numerous illegal acts committed by the election officers, took part in the count, and signed the election return. *Com. v. Williams*, 31 Pa.Super. 372, 1906.

6. Betting on elections

A primary election held under the act of 1881, June 29, P.L. 128, § 2, repealed, is not within the purview of act of 1839, July 2, P.L. 544, § 115, making penal the act of betting or offering to bet on the result of an election. *Com. v. Wells*, 1 A. 310, 110 Pa. 463, 1885.

7. Indictment

All unnecessary words in an indictment may be rejected as surplusage if the indictment will be good after they are stricken out. *Com. v. Havrilla*, 38 Pa.Super. 292, 1909.

An indictment of an election officer for making false returns which charges that defendant was judge of the election need not state specifically that he had been sworn as such officer. *Com. v. Hafer*, 22 Pa.Super. 107, 1903.

An indictment drawn under act of 1881, June 29, P.L. 128, § 2, repealed, should aver that the election was "held for the purpose of nominating candidates for state, city, and county offices (as the case may be) within the commonwealth of Pennsylvania." *Com. v. Young*, 15 C.C. 349, 1894.

A commitment upon an affidavit charging the defendant with conspiring with persons named to cheat and defraud at a specified election, and in pursuance of said conspiracy, making a false and fraudulent return of said election, and conspiring together to procure the casting of illegal votes, and preventing quali-

fied electors from exercising their rights of suffrage, will not support an indictment which charges a conspiracy with unknown persons "to prevent divers persons, whose names are unknown, from voting." * * * "they the said divers persons, being then and there qualified to vote." *Com. v. Hunter*, 13 C.C. 573, 1893.

8. Joinder of parties

The election officers may be indicted jointly, when the offense charged is joint. *Com. v. Fry*, 5 Lanc. 75, 1888; *Com. v. Shaub*, 5 Lanc. 121, 1888; *Com. v. Boyle*, 14 C.C. 561, 1894; but not when their offenses are separate and distinct. *Com. v. Boyle*, 14 C.C. 561, 1894.

Election officers may be indicted jointly for conspiracy, *Com. v. Mouat*, 12 Lanc. Bar, 19, 1880; *Com. v. Fry*, 5 Lanc. 75, 1888; *Com. v. Boyle*, 14 C.C. 561, 1894; and where the act is in fact joint. *Com. v. Casey*, 14 C.C. 389, 3 Dist. 413, 7 Kulp 265, 1894.

However, under the election law of 1839, act of 1839, July 2, P.L. 519, repealed, judges, inspectors and clerks, each have different and distinct functions to perform. In the first place, the duties of the inspectors are different from those of the judge and the clerks. The inspectors receive the votes, and decide upon the qualifications of the electors who tender their votes, and it is only when the inspectors differ in opinion in any particular case that the judge is called upon to act. Hence, an entire election may pass off without he who is stationed there as the judge being called upon to perform any official act as to the reception of votes. The clerks have nothing to say about the reception or rejection of a vote. It is their duty simply to record the names of those who their superiors determine are legal voters, when the tickets are received. The clerks never receive a ticket, nor can they put one in the ballot-box, or count them when told off. Their duties are purely clerical. They should not be charged in the same indictment for acts, the nature of which is such, that some of the defendants could not have participated in doing them, nor have prevented them, had they attempted to do so, as where the two inspectors might have committed most of the acts charged in the indictment, and the judge and clerks have been entirely innocent of any part in the transaction. *Com. v. Miller*, 2 Pars.

480, 1849; Bright.Elect.Cas. 711, 1843; Com. v. Youlls, 5 Kulp 231, 1885; Com. v. Ziert, 4 C.C. 394, 1888; Com. v. Boyle, 14 C.C. 561, 1894.

The judge, inspectors and clerks of election can be joined in one indictment, under act of 1839, July 2, P.L. 519, § 102, repealed, charging willful fraud in making a false and corrupt count and computation of votes cast, and in making a false return of the votes cast. Com. v. Sylvanus, 77 Pa.Super. 410, 1921.

Under these statutory provisions a record is first made of the number of the last ballot cast and the whole number of names on the voting check list is announced, after which the ballot box is opened, the ballots counted, and the whole number of ballots cast is announced. The purpose of ascertaining whether the number of the last ballot, the number of names checked on the voters' check-list and the total number of ballots correspond is to promptly detect whether ballots have been surreptitiously introduced into the ballot box. In the ascertainment of this fact all the officers, including clerks and overseers, if any, necessarily join. The judge is required to read the names of candidates voted for in such a way that all present can see the marks. These provisions make it clearly manifest that it was the legislative intention that all should participate in the count. And when, in view of the provisions in the statutes to guard against a false count, the election officers all join in an alleged count of the votes and a return based thereon showing a number of votes far in excess of the number of ballots in the box, as is alleged to have been the fact in the present case, there must have been joint action by the persons charged with the duty of making an honest count and a true return, and they may be jointly indicted. Com. v. Sylvanus, 77 Pa.Super. 410, 1921.

And election officers cannot be indicted jointly for failure to take the oath prescribed by act of 1881, June 29, P.L. 128, § 1, repealed. Com. v. Boyle, 14 C.C. 561, 1894.

The judge and inspectors of election may be jointly indicted for false counting and false returns under act of 1881, June 29, P.L. 128, repealed. Com. v. Boyle, 14 C.C. 561, 1894.

Where more than one join in the commission of an offense, all, or any number of them, may be indicted jointly for it, or, since each is severally amenable to justice for the consequence, each of them may be indicted separately. It follows that where several are indicted jointly, a *nolle pros.* may be entered as to all but one, thus leaving the case as if he had been indicted separately. Com. v. Casey, 14 C.C. 389, 1894.

9. Joinder of counts or of offenses in same count

And an indictment under act of 1881, June 29, P.L. 128, § 2, repealed, which charges that the defendant as the judge of a primary election did "then and there unlawfully, willfully and fraudulently make false returns, and was then and there concerned in the making of false returns of the number of duly qualified electors, and the number of votes east," is not bad for duplicity. Com. v. Hafer, 22 Pa.Super. 107, 1903.

10. Instructions

Where an entire election board is jointly tried on indictments charging all members with certain violations of the election code and part of the board with other violations of the code, court must, even without request, instruct the jury explicitly as to the respective duties of each of the members, and point out that their duties are not identical but vary under the statutes. Com. v. Padden, 50 A.2d 722, 160 Pa.Super. 269, 1947.

In prosecution of judges of election, inspector, and clerks for certain alleged violations of election code by all defendants and for certain violations of the code by some of the defendants, court erred in merely referring sketchily to the duties of election officers and in failing to differentiate the distinctive duties expressly imposed on some of them and not on others by the code. Com. v. Padden, 50 A.2d 722, 160 Pa.Super. 269, 1947.

In prosecution of judge of election for unlawfully inserting names in voters' certificates and for making false return of votes, wherein jury was carefully instructed in detail as to applicable requirements of Election Code and as to duties of election officers, trial judge did not err in failing to define offense charged, since offense was self-explanatory and self-defining. Commonwealth v. McDermott, 31 A.2d 601, 152 Pa.Super. 208, 1943.

Note 10

In prosecution of election officers for false return of votes, in view of act of 1913, July 12, P.L. 719, § 14, as amended, repealed, declaring duties of such officers, instruction that law provided that none of them should have pencil in possession during count or reading of ballots, and designating officers and their offices by name, was inadequate to enable jury to determine parties guilty of irregularity in returns. *Com. v. Cover*, 126 A. 786, 281 Pa. 429, 1924.

In prosecution of election clerk for false return of votes, jury should be instructed that if accused faithfully performed duties prescribed by act of 1913, July 12, P.L. 719, § 14, as amended, repealed, and tallied votes accurately as called by judge or inspector, and did not participate in any fraud, to acquit, and charge should further contain full instructions as to duties of respective election officers under statutes. *Com. v. Cover*, 126 A. 786, 281 Pa. 429, 1924.

The duty of handling the ballots is by the act [1919, July 9, P.L. 839, § 4, repealed] just referred to imposed upon the judge and inspectors, while the clerks are required to keep the tally sheets. The latter are without means of knowing whether ballots are correctly read and called, nor would it be possible in all cases for the former to personally see that the clerks entered the proper tally. Consequently, in this case it was of the utmost importance that the jury should be informed and understand that the duties of defendants were not identical and in what respect they differed, as such information was of the greatest significance in passing on the guilt or innocence of the respective defendants. The charge was wholly inadequate for this purpose. *Com. v. Cover*, 126 A. 786, 281 Pa. 429, 1924.

In trial of a joint indictment, against an entire election board, it is reversible error to fail to instruct properly as to respective duties of clerks, inspectors, and judge of elections where requested. *Com. v. Cover*, 83 Pa.Super. 402, 1924.

11. Evidence

In prosecution of election board for violation of election laws, whether signatures of certain exhibits were the same as admitted signatures of defendants on voters' certificates was for jury, and it was not error to admit such exhibits. *Com. v.*

Burton, 63 A.2d 508, 164 Pa.Super. 158, 1949.

On the trial of an indictment of election assessors for the illegal registration of persons not resident in the district and not qualified voters therein, the commonwealth may, after having established by competent evidence the offense charged in the indictment, show that the defendants also procured to be placed upon the list of voters a large number of persons who were not naturalized, and therefore not qualified to vote. For the purpose of throwing light upon the motives and intentions of the defendants, it is competent for the commonwealth to prove all that the latter did at the time of the offense charged in the indictment, in dealing with the same subject-matter, and which contributed to the same specific purpose. *Com. v. Valverdi*, 32 Pa.Super. 241, 1905.

Where in a prosecution for conspiracy to violate the election laws, it appears that certain of the defendants made a violent attempt to seize a window book, and that one of the defendants asked the watcher whether he intended to put it out of sight, such book may be offered in evidence against the defendants. *Com. v. Hartman*, 31 Pa.Super. 364, 1906.

On the trial of an indictment for a conspiracy against election laws, a ballot box, when properly identified, may be opened, and for this purpose a commissioner may be appointed to open the box in the presence of the district attorney and counsel for defendants so as to sort and arrange the contents of the box in such order that they could more rapidly and conveniently be inspected by the jury. *Com. v. Hartman*, 31 Pa.Super. 364, 1906.

12. Findings

Evidence sustained conviction of judge of election for conspiracy with other members of election board to violate election laws. *Com. v. McDermott*, 31 A.2d 601, 152 Pa.Super. 208, 1943.

Evidence sustained conviction of judge of election for fraudulently registering votes on voting machines and for unlawfully certifying a return of votes at a municipal election. *Com. v. McDermott*, 31 A.2d 601, 152 Pa.Super. 208, 1943.

Evidence sustained conviction of judge of election for unlawfully inserting names in voters' certificates and for making false return of votes. *Com. v. McDermott*, 31 A.2d 601, 152 Pa.Super. 208, 1943.

In prosecution of election clerk for making false return of votes, return sheet referring to person with name of accused as clerk of election, not objected to by accused as failing to identify him as person whose signature appeared as clerk therein, was sufficient evidence of identity to go to jury, in absence of denial that accused was election clerk. *Com. v. Cover*, 83 Pa.Super. 402, 1924, modified on other grounds 126 A. 786, 281 Pa. 429.

Where election officers were jointly indicted and tried for the violation of election laws, the fact that their duties were not identical but varied under the statute, might be of importance in passing on the guilt or innocence of each of them, and was not to be lost sight of in considering the propriety of conviction under the evidence. *Com. v. Cover*, 83 Pa.Super. 402, 1924, modified on other grounds 126 A. 786, 281 Pa. 429.

§ 3526. Prying into ballots

Any judge, inspector or clerk of election, or other person, who, before any ballot is deposited in the ballot box as provided by this act, shall unfold, open or pry into any such ballot, with the intent to discover the manner in which the same has been marked, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred (\$500) dollars, or to undergo an imprisonment of not more than one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1826.

Library References

Elections ☞319, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 330, 353.
P.L.E. Elections §§ 141, 143.

§ 3527. Interference with primaries and elections; frauds; conspiracy

If any person shall prevent or attempt to prevent any election officers from holding any primary or election, under the provisions of this act, or shall use or threaten any violence to any such officer; or shall interrupt or improperly interfere with him in the execution of

13. **New trial**

When the evidence, on an indictment for making a false return, shows that a considerably larger vote had been cast for a certain candidate than had been returned for him, a new trial will not be granted on the theory that the evidence is insufficient to convict, because the votes cast but not counted might have been incorrectly marked, *Com. v. Casey*, 14 C.C. 389, 3 Dist. 413, 7 Kulp, 265, 1894; but when the evidence shows that after purging a return of the alleged fraud, the candidate returned as elected still has a fair majority, there is no sufficient proof of motive for the alleged fraud, and a new trial should be granted. *Com. v. Young*, 15 C.C. 349, 1894.

14. Former jeopardy

In a prosecution for forging the election returns of one township the defendant cannot avail himself of a plea of *autrefois acquit*, based on an acquittal in an indictment charging the forgery of the returns of an election held in another township, but part of the same general election. *Com. v. Trimmer*, 84 Pa. 65, 1877, reversing 6 Luz. 6, 24 Pitts. 90.

his duty; or shall block up or attempt to block up the avenue to the door of any polling place; or shall use or practice any intimidation, threats, force or violence with design to influence unduly or overawe any elector, or to prevent him from voting or restrain his freedom of choice; or shall prepare or present to any election officer a fraudulent voter's certificate not signed in the polling place by the elector whose certificate it purports to be; or shall deposit fraudulent ballots in the ballot box; or shall register fraudulent votes upon any voting machine; or shall tamper with any district register, voting check list, numbered lists of voters, ballot box or voting machine; or shall conspire with others to commit any of the offenses herein mentioned, or in any manner to prevent a free and fair primary or election, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not less than six (6) months nor more than five (5) years, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1827.

Law Review Commentaries

An excursion into the uncharted waters of the Seventeenth Amendment. Laura E. Little, 64 Temp.L.Rev. 629 (1991).

Library References

Conspiracy ⇨23, 51.
Elections ⇨318 to 320, 332.
WESTLAW Topic Nos. 91, 144.
C.J.S. Conspiracy §§ 34, 35, 96.

C.J.S. Elections §§ 330, 331, 333, 353.
P.L.E. Conspiracy §§ 2, 11 to 13, 51.
P.L.E. Elections §§ 141, 143.

Notes of Decisions

Evidence 2
Findings 4
Indictment 1
Jury instructions 3

1. Indictment

The validity of indictment for false pretense in obtaining signatures to paper nominating political party candidates, with intent to prevent free and pure election, is not to be determined by subsequent effect obtained by signatures, but by criminal intent in process of obtaining them. *Com. v. Slome*, 24 A.2d 88, 147 Pa.Super. 449, 1942.

2. Evidence

In prosecution for false pretense in obtaining signature to Communist party

nomination paper by false representations that defendant wanted to procure certain number of signatures in order to help a friend secure work, with intent to prevent freedom and purity of general election, testimony of persons who signed other nomination papers at defendant's request at about same time that she represented that purpose of petition was to help the unemployed was admissible to show general design, purpose or plan for securing signatures and defendant's full knowledge and understanding that her statements as to purpose of papers were untrue. *Com. v. Slome*, 24 A.2d 88, 147 Pa.Super. 449, 1942.

In prosecution for false pretense in obtaining signature to Communist party nomination paper by false representations, with intent to prevent freedom and

purity of general election, evidence that defendant induced named persons and others to sign nomination paper by representing that she wanted to procure certain number of signatures in order to help a friend secure work was sufficient to take to jury question of defendant's intent to prevent free and pure election, so as to constitute election crime at common law, though defendant was not expressly charged with violating Election Code. *Com. v. Slome*, 24 A.2d 88, 147 Pa.Super. 449, 1942.

3. Jury instructions

Where an entire election board is jointly tried on indictments charging all members with certain violations of the election code and part of the board with other violations of the code, court must, even without request, instruct the jury explicitly as to the respective duties of each of the members, and point out that their duties are not identical but vary under the statutes. *Com. v. Padden*, 50 A.2d 722, 160 Pa.Super. 269, 1947.

In prosecution of judges of election, inspector, and clerks for certain alleged violations of election code by all defendants and for certain violations of the code by some of the defendants, court erred in merely referring sketchily to the duties of election officers and in failing to differentiate the distinctive duties expressly imposed on some of them and not on others by the code. *Com. v. Padden*, 50 A.2d 722, 160 Pa.Super. 269, 1947.

In prosecution for false pretense in obtaining signatures to Communist party nomination paper by false representations with intent to prevent freedom and purity of general election, trial judge's charge to jury that they must find that

defendant made false statement of existing fact, with knowledge of its falsity, and that signers knew and understood what they were signing, before defendant could be convicted, was adequate, though court failed to state that Commonwealth must prove beyond reasonable doubt that defendant intended to prevent free and pure election and gave no instructions that there was evidence that signers knew of nature of nomination paper. *Com. v. Slome*, 24 A.2d 88, 147 Pa.Super. 449, 1942.

4. Findings

In prosecution for false pretense in obtaining signature to Communist party nomination paper by false representations with intent to prevent freedom and purity of general election, evidence that defendant intended to place names of Communist party candidates on official general election ballot by fraudulent and unlawful means was sufficient to warrant conviction as against contention that Commonwealth failed to prove expressly or circumstantially that defendant had specific intent to or did prevent free and pure election. *Com. v. Slome*, 24 A.2d 88, 147 Pa.Super. 449, 1942.

Opponent's causing a letter to be printed under heading of "Democratic Committee for Better Candidate for Public Office", urging defendant's election and containing fictitious names as members of committee, was not a violation of this section prohibiting use of any fraud, force or intimidation that would prevent a free and fair election, particularly where defendant had not circulated letter. *Com. v. Martin*, 12 D. & C.2d 164, 72 Montg. 42, 1959.

§ 3528. Persons interfering in other districts

Any person who shall on the day of any primary or election visit any polling place at which he is not entitled to vote and at which he is not entitled to be present under any provision of this act, and shall use any intimidation or violence for the purpose of preventing any election officer from performing the duties required of him by this act, or for the purpose of preventing any qualified elector from exercising his right to vote or from exercising his right to challenge any person offering to vote, or for the purpose of influencing the vote of any elector, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one

thousand (\$1,000) dollars, or to undergo an imprisonment of not more than five (5) years, or both, in the discretion of the court. 1937, June 3, P.L. 1333, art. XVIII, § 1828.

Library References

Elections ⇨309, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 324, 334, 353.
P.L.E. Elections §§ 141, 143.

Notes of Decisions

In general 1
Influences prohibited 2

1. In general

Where defendant was indicted under § 18 of the General Election Law of 1799, Feb. 15, 3 Sm.L. 340, repealed, for that he being an alien did appear at an election for the purpose of issuing tickets and of influencing citizens qualified to vote, it was held that it was not necessary, to complete the offense, that defen-

dant should have succeeded in his endeavors to induce others to vote. *Respublica v. Ray*, 3 Y. 65, 1802.

2. Influences prohibited

The existence of campaign headquarters in the vicinity of the polling booth may exercise an influence upon the elector within the meaning of act of 1839, July 2, P.L. 519, § 121, repealed. *Eighth Ward Election, Easton*, 18 C.C. 518, 5 North. 289, 6 Del. 458, 1896.

§ 3529. Assault and battery at polls

Any person who shall unlawfully strike, wound or commit an assault and battery upon the person of any elector at or near the polling place during the time of any primary or election, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not less than three (3) months nor more than two (2) years, or both, in the discretion of the court. 1937, June 3, P.L. 1333, art. XVIII, § 1829.

Library References

Assault and Battery ⇨48, 100.
WESTLAW Topic No. 37.

C.J.S. Assault and Battery §§ 2, 3, 62 to 66, 81, 130.
P.L.E. Assault and Battery §§ 1, 38.

Notes of Decisions

At or near polling place 1

1. At or near polling place

The words "or near" in act of 1870, April 6, P.L. 53, § 9, repealed, show an

intention on the part of the Legislature to remove from the immediate vicinity of the polls all causes that may tend to restrain or unduly influence the elector. *Eighth Ward Election, Easton*, 18 C.C. 518, 5 North. 289, 6 Del. 458, 1896.

§ 3530. Unlawful assistance in voting

Any elector at any primary or election who shall allow his ballot or the face of the voting machine voted by him to be seen by any person

with the apparent intention of letting it be known how he is about to vote; or in districts in which ballots are used, shall cast or attempt to cast any other than the official ballot which has been given to him by the proper election officer; or who, without having made the declaration under oath or affirmation required by section 1218 of this act,¹ or when the disability which he declared before any registration commission no longer exists, shall permit another to accompany him into the voting compartment or voting machine booth, or to mark his ballot or prepare the voting machine for voting by him; or who shall mark his ballot or prepare the voting machine for voting while another is unlawfully present in the voting machine compartment or voting machine booth with him; or who shall state falsely to any election officer that because of illiteracy he is unable to read the names on the ballot or ballot labels or that by reason of physical disability he cannot see or mark the ballot or enter the voting compartment without assistance or that he cannot see or operate the voting machine or enter the voting machine booth without assistance; or who shall state, as his reason for requiring assistance, a disability from which he does not suffer; or any person who shall go into the voting compartment or voting machine booth with another while voting or be present therein while another is voting, or mark the ballot of another or prepare the voting machine for voting with another, except in strict accordance with the provisions of this act; or any person who shall interfere with any elector when inside the enclosed space or when marking his ballot, or preparing the voting machine for voting, or who shall endeavor to induce any elector before depositing his ballot to show how he marks or has marked his ballot; or any person giving assistance who shall attempt to influence the vote of the elector whom he is assisting or who shall mark a ballot or prepare a voting machine for voting in any other way than that requested by the voter whom he is assisting, or who shall disclose to anyone the contents of any ballot which has been marked or any voting machine which has been prepared for voting with his assistance, except when required to do so in any legal proceeding, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not more than one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1830.

¹ 25 P.S. § 3058.

Library References

Elections ☞ 319, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 330, 353.
P.L.E. Elections §§ 141, 143.

Notes of Decisions

Assisting voter 1
 Intent 2
 Interference with voter 3

fense of illegally assisting voters. *Com. v. Fine*, 70 A.2d 677, 166 Pa.Super. 109, 1950.

1. Assisting voter

Although act of 1893, June 10, P.L. 419, § 30, as amended, repealed, makes it a misdemeanor to assist voter without affidavit by him that he requires assistance, entire vote of district will not be thrown out because voters have had assistance without such affidavits being made. *McCormick's Contested Election*, 13 West. 103; *In re McCormick's Contested Election*, 126 A. 568, 281 Pa. 281, 1924.

Section 2601 et seq., making it misdemeanors for an election officer to assist a voter without the voter's prior oath that he requires assistance, and for another to be in a voting booth with a voter or for a voter to allow another to see the face of his voting machine, are mandatory and no guilty intent is required, so that where such violations are established the votes cast will be declared invalid. *In re Second Legislative Dist. Election Contest*, 4 D. & C.2d 93, 45 Luz.L.Reg. 33, 1956.

2. Intent

A legislative intent not to require guilty knowledge as a necessary ingredient of offense of illegally assisting voters may be inferred from omission of the requirement in this section, whereas §§ 3533, 3534 require guilty knowledge. *Com. v. Fine*, 70 A.2d 677, 166 Pa.Super. 109, 1950.

Guilty knowledge that assisted voters were not qualified for assistance was not a necessary ingredient of statutory of-

3. Interference with voter

Where elector testified that as she entered voting machine defendant reached his arm into same as curtain was being pulled and pulled a party lever, whether a vote was cast or not was immaterial to defendant's conviction for interference with an elector while within the enclosed space, since by defendant's act elector was led to believe that she could not or should not vote. *Com. v. Williams*, 165 A.2d 132, 193 Pa.Super. 600, 1960.

§ 3531. Election officers permitting unlawful assistance

Any election officer who shall permit a voter to be accompanied by another into the voting compartment or voting machine booth when the registration card of such person contains no declaration that such person requires assistance, or when such person has not made, under oath or affirmation, the statement required by section 1218 of this act,¹ or when such election officer knows that the disability which the elector declared before any registration commission no longer exists, or who shall permit any person to accompany an elector into the voting compartment or voting machine booth, except as provided by this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not more than one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1831.

¹ 25 P.S. § 3058.

Library References

Elections ☞ 319, 332.
 WESTLAW Topic No. 144.

C.J.S. Elections §§ 330, 353.
 P.L.E. Elections §§ 141, 143.

Notes of Decisions

Contest petition 1
Indictment 2

1. Contest petition

Election contest petition by unsuccessful candidate alleging irregularities in election by reason of illegal assistance to voters without specifying how or in what manner Election Code was violated was insufficient to meet legal requirements. In re Contest of Election for Office of City Treasurer from Seventh Legislative Dist. (Wilkes-Barre City) of Luzerne County, 162 A.2d 363, 400 Pa. 507, 1960.

2. Indictment

A count in an indictment for permitting the improper assistance of a voter where he has declared his desire for assistance by reason of a disability, without stating its nature and without any disability be-

ing apparent, is insufficient. Com. v. Gallagher, 19 Dist. 149, 1910.

An indictment under act of 1893, June 10, P.L. 419, § 33, repealed, for permitting an unlawful assistance of a qualified voter, in violation of § 26 of the act, repealed, will be quashed where there is no averment that the assisted voter did not indicate the existence of his disability or the nature thereof or that the same was not apparent. Com. v. Gallagher, 19 Dist. 149, 1910.

A count in an indictment for permitting voters to be assisted and allowing their ballot to be seen by others with the intention of letting it be known how they were about to vote and how they did vote is insufficient where it is not distinctly connected with an averment of fact showing the connection of the defendant with the violation of the law. Com. v. Gallagher, 19 Dist. 149, 1910.

§ 3531.1. Children in polling places and voting compartments or voting machine booths

Notwithstanding any other provision of this act, an elector may permit his or her minor child or children to accompany him or her into the polling place and may permit one such minor child to accompany him or her into the voting compartment or voting machine booth.

1937, June 3, P.L. 1333, No. 320, § 1831.1, added 1990, Dec. 17, P.L. 681, No. 169, § 8, effective in 60 days.

§ 3532. Failure to keep and return record of assisted voters

Any judge of election who shall fail to record, as required by section 1218(c) of this act,¹ the name of each elector who received assistance or who is accompanied by another into the voting compartment or voting machine booth; or who shall insert in the record of assisted voters the name of any elector who does not receive assistance or is not accompanied by another into the voting compartment or voting machine booth; or who shall fail to record the exact disability of any assisted elector which makes the assistance necessary, or shall record in respect of any assisted elector a disability, other than that stated by the elector; or who shall fail to record the name of each person rendering assistance to an elector as prescribed by this act; or who shall knowingly record as the name of such person giving assistance a name which is not the name of such person; or who shall fail or neglect to return the record of assisted

voters to the county board of elections as required by this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not less than two (2) months nor more than two (2) years, or both, in the discretion of the court. 1937, June 3, P.L. 1333, art. XVIII, § 1832.

¹ 25 P.S. § 3058.

Library References

Elections ⇨319, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 330, 353.
P.L.E. Elections §§ 141, 143.

Notes of Decisions

Jury Instructions 1

1. Jury Instructions

Where an entire election board is jointly tried on indictments charging all members with certain violations of the election code and part of the board with other violations of the code, court must, even without request, instruct the jury explicitly as to the respective duties of each of the members, and point out that their duties are not identical but vary under

the statutes. *Com. v. Padden*, 50 A.2d 722, 160 Pa.Super. 269, 1947.

In prosecution of judges of election, inspector, and clerks for certain alleged violations of election code by all defendants and for certain violations of the code by some of the defendants, court erred in merely referring sketchily to the duties of election officers and in failing to differentiate the distinctive duties expressly imposed on some of them and not on others by the code. *Com. v. Padden*, 50 A.2d 722, 160 Pa.Super. 269, 1947.

§ 3533. Unlawful voting

Any person who votes or attempts to vote at any primary or election, knowing that he does not possess all the qualifications of an elector at such primary or election, as set forth in this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not more than one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1833.

Library References

Elections ⇨313, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 325, 353.
P.L.E. Elections §§ 141, 143.

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1. In general

Giving false address on voter's certificate in attempt to vote constitutes illegal voting, and should have been charged under Election Code rather than as unsworn falsification to authorities. *Com. v. Bidner*, 422 A.2d 847, 282 Pa.Super. 100, 1980.

2. Primary elections, voting at by disqualified person

One who is aware that he is disqualified to vote at a general election is guilty of a misdemeanor, if he votes at a primary election. *Com. v. Polluck*, 6 Dist. 559, 1897.

3. Intent

A legislative intent not to require guilty knowledge as a necessary ingredient of offense of illegally assisting voters may be inferred from omission of the requirement in § 3530 of this title whereas this section and § 3534 of this title require guilty knowledge. *Com. v. Fine*, 70 A.2d 677, 166 Pa.Super. 109, 1950.

4. Constable's return

A constable's return will sustain an indictment under act of 1839, July 2, P.L. 519, § 119, repealed. *Com. v. Warner*, 17 C.C. 556, 1896.

5. Contest petition

Election contest petition by unsuccessful candidate alleging irregularities in election by reason of illegal assistance to voters without specifying how or in what manner Election Code was violated was insufficient to meet legal requirements. In re Contest of Election for office of City

Treasurer from Seventh Legislative Dist. (Wilkes-Barre City) of Luzerne County, 162 A.2d 363, 400 Pa. 507, 1960.

6. Indictment

An indictment for illegal voting, which does not charge the offense to have been committed "knowingly," but that the defendant, not being by law qualified, did unlawfully and "fraudulently" vote, is sufficient. *Com. v. Warner*, 17 C.C. 556, 1896.

7. Instructions

In prosecution of accused for voting in a primary election knowing that he did not possess all the qualifications of an elector, charge that duty devolves upon every citizen to use ordinary care in ascertaining his right to exercise the elective franchise, and, if one without qualification and careless whether he has the right to vote or not does vote, his lack of knowledge will furnish no excuse, was erroneous since knowledge is essential part of the offense. *Com. v. Bobbino*, 18 A.2d 458, 144 Pa.Super. 93, 1941.

Where accused registered as a qualified elector giving as his address the address of his parents in an election district notwithstanding that he was employed by Commonwealth in another city and rarely came home and parents moved to another election district and accused voted at primary election in district in which he was registered and certified as his address the place vacated by parents in prosecution for voting in a primary election knowing that he did not possess all qualifications of an elector, charge which reduced issue to whether accused knew he was voting was erroneous, since change of residence of parents did not ipso facto change accused's residence, but it was a question whether accused had voluntarily abandoned former residence and established new one. *Com. v. Bobbino*, 18 A.2d 458, 144 Pa.Super. 93, 1941.

§ 3534. Elector voting ballot of wrong party at primary

Any elector who shall wilfully vote at any primary the ballot of a party in which he is not enrolled, in violation of the provisions of this act, shall be guilty of a misdemeanor, and, upon conviction thereof,

shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not more than one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1834.

Library References

Elections ⇨313, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 325, 353.
P.L.E. Elections §§ 141, 143.

Notes of Decisions

Intent 1

1. Intent

A legislative intent not to require guilty knowledge as a necessary ingredient of

offense of illegally assisting voters may be inferred from omission of the requirement in § 2530 of this title, whereas this section and § 3533 of this title require guilty knowledge. *Com. v. Fine*, 70 A.2d 677, 166 Pa.Super. 109, 1950.

§ 3535. Repeat voting at elections

If any person shall vote in more than one election district, or otherwise fraudulently vote more than once at the same primary or election, or shall vote a ballot other than the ballot issued to him by the election officers, or shall advise or procure another so to do, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not less than three (3) months nor more than five (5) years, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1835. Amended 1959, Sept. 9, P.L. 851, § 2.

Library References

Elections ⇨313, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 325, 353.
P.L.E. Elections §§ 141, 143.

§ 3536. Removing ballots

Any person removing any ballot from any book of official ballots, except in the manner provided by this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not more than one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1836.

Library References

Elections ⇨309, 332.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 324, 334, 353.
P.L.E. Elections §§ 141, 143.

§ 3537. Commissioners to take soldiers' votes

Any commissioner appointed by or under the provisions of Article XIII of this act¹ who shall knowingly violate his duty or knowingly omit or fail to do his duty thereunder or violate any part of his oath, shall be guilty of perjury, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not more than one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1837.

¹ 25 P.S. §§ 3091 to 3120 (repealed).

Library References

Perjury ☞ 5, 41.
WESTLAW Topic No. 297.

C.J.S. Perjury §§ 21, 22, 24, 52, 61.
P.L.E. Perjury §§ 2, 12.

§ 3538. Fraudulent voting by soldiers

Any person who shall vote or attempt to vote at any election by electors in military service under the provisions of Article XIII of this act,¹ not being qualified to vote at such election, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not more than one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1838.

¹ 25 P.S. §§ 3091 to 3120 (repealed).

Library References

Elections ☞ 313, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 325, 353.
P.L.E. Elections §§ 141, 143.

§ 3539. Bribery at elections

Any person who shall, directly or indirectly, give or promise or offer to give any gift or reward in money, goods or other valuable thing to any person, with intent to induce him to vote or refrain from voting for any particular candidate or candidates or for or against any constitutional amendment or other question at any primary or election; or who shall, directly or indirectly, procure for or offer or promise to procure for such person any such gift or reward with the intent aforesaid; or, who with the intent to influence or intimidate such person to give his vote or to refrain from giving his vote for any

particular candidate or candidates or for or against any constitutional amendment or other question at any primary or election, shall give to or obtain for or assist in obtaining for or offer or promise to give to or obtain for or assist in obtaining for such person any office, place, appointment or employment, public or private, or threaten such person with dismissal or discharge from any office, place, appointment or employment, public or private, then held by him, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred (\$500) dollars, or to undergo an imprisonment of not more than three (3) years, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1839.

Constitutional Provisions

Const. Art. 7, § 7, provides: "Any person who shall give, or promise or offer to give, to an elector, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, or who shall give or promise to give such consideration to any other person or party for such elector's vote or for the withholding thereof, and any elector who shall receive or agree to receive, for

himself or for another, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, shall thereby forfeit the right to vote at such election, and any elector whose right to vote shall be challenged for such cause before the election officers, shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received."

Library References

Elections ⇨ 316, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 332, 353.
P.L.E. Elections §§ 141, 143.

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in the nomination of candidates to be voted for at a subsequent election, and it did not apply to an election of officers of a party organization by direct vote of the qualified electors of the party. *Com. v. Gouger*, 21 Pa.Super. 217, 1902.

1. In general

Whether the accused succeeded in procuring votes was immaterial. *Respublica v. Ray*, 3 Y. 65, 1890.

2. Party organization officers

But an indictment could not be sustained under act of 1881, June 8, P.L. 70, § 1, relating to bribery at delegate elections which alleged that at a nominating or delegate election, commonly known as a primary election, the defendant offered bribes to different electors to vote for him for the office of county chairman. The purpose of the act was to prevent bribery

3. Pre-election pledge

Under act of 1860, March 31, P.L. 382, § 51, no ground or consideration from a candidate could support a pre-election pledge; and a party rule requiring such a pledge was invalid and void. *Com. v. Havard*, 9 Dist. 493, 17 Lanc. 249, 1900.

4. Indictment

An indictment could be sustained under act of 1881, June 8, P.L. 70, § 6, which charged that the defendant offered money to a member of the election board at a primary election to influence him to have the vote of the ward cast and counted in

favor of a certain person for the office of county chairman. *Com. v. Gouger*, 21 Pa.Super. 217, 1902.

5. Jury instructions

Judge in charging jury in attempted bribery prosecution should use exact words allegedly used by defendant. *Com. v. O'Brien*, 164 A. 360, 107 Pa.Super. 569, 1933, reversed on other grounds 163 A. 244, 312 Pa. 543.

6. Verdict

Form of verdict of guilty of attempt to bribe under indictment charging defendant offered secretary of commonwealth \$20,000 to obtain contract for purchase of voting machines held harmless, though verdict should have read "guilty in manner and form as he stands indicted." *Com. v. O'Brien*, 164 A. 360, 107 Pa.Super. 569, 1933, reversed on other grounds 163 A. 244, 312 Pa. 543.

§ 3540. Receipts and disbursements of primary and election expenses by persons other than candidates and treasurers

Any member of a political committee who shall receive or disburse any money or incur any liability for primary or election expenses, except through the treasurer of such political committee, and any person not a candidate or member of a political committee who shall receive or disburse any money or incur any liability for primary or election expenses, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not less than one (1) month nor more than two (2) years, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1840.

Library References

Elections ☞ 317, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 329, 356.
P.L.E. Elections §§ 142, 143.

§ 3541. Receipts of primary and election expenses by unauthorized persons

Any person or any political committee who receives money on behalf of any candidate without being authorized to do so under the provisions of section 1623,¹ shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five thousand dollars (\$5,000), or to undergo an imprisonment of not less than one (1) month nor more than two (2) years, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1841. Amended 1978, Oct. 4, P.L. 893, No. 171, § 3, effective Jan. 1, 1979.

¹ 25 P.S. § 3243.

Historical and Statutory Notes

The 1978 amendment rewrote the section, which formerly read:

"Any treasurer or other member of any political committee who receives or disburses money or incurs any liability for the primary or election expenses of any candidate without being authorized to do so under the provisions of section 1603 of this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be

sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not less than one (1) month nor more than two (2) years, or both, in the discretion of the court."

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be applicable to campaign financing for all elections thereafter."

Library References

Elections ⇐317, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 329, 353.
P.L.E. Elections §§ 142, 143.

§ 3542. Repealed. 1978, Oct. 4, P.L. 893, No. 171, § 4, effective Jan. 1, 1979

Historical and Statutory Notes

Former § 3542, which was added by Act 1937, June 3, P.L. 1333, art. XVIII, § 1842, related to contributions and dis-

bursements made in an unauthorized manner.

§ 3543. Contributions by corporations or unincorporated associations

Any corporation or unincorporated association, which shall pay, give or lend or agree to pay, give or lend any money belonging to such corporation or unincorporated association or in its custody or control, in violation of the provisions of section 1633,¹ shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000). Any director, officer, agent or employe of any corporation or unincorporated association who shall on behalf of such corporation or unincorporated association pay, give or lend or authorize to be paid, given or lent any money belonging to such corporation or unincorporated association or in its custody or control in violation of the provisions of section 1633 shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding ten thousand dollars (\$10,000), or to undergo an imprisonment of not less than one (1) month nor more than two (2) years, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1843. Amended 1943, June 3, P.L. 851, § 1; 1978, Oct. 4, P.L. 893, No. 171, § 5, effective Jan. 1, 1979; 1978, Nov. 26, P.L. 1313, No. 318, § 3, effective in 60 days.

¹ 25 P.S. § 3253.

Historical and Statutory Notes

Act 1978, No. 171, rewrote the section, which formerly read:

"Any corporation or unincorporated association which shall pay, give or lend or agree to pay, give or lend any money belonging to such corporation or unincorporated association or in its custody or control, in violation of the provisions of section 1605 of this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than five hundred (\$500) dollars nor more than five thousand (\$5000) dollars. Any director, officer, agent or employe of any corporation or unincorporated association who shall on behalf of such corporation or unincorporated association pay, give or lend or authorize to be paid, given or lent any money belonging to such corporation or unincorporat-

ed association or in its custody or control in violation of the provisions of section 1605 of this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1000) dollars, or to undergo an imprisonment of not less than one (1) month nor more than two (2) years, or both, in the discretion of the court."

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take effect on January 1, 1979 and "shall be applicable to campaign financing for all elections thereafter."

Act 1978, No. 318, substituted "unincorporated association" for "labor organization" throughout the section.

Library References

Elections ⇨ 317, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 329, 353.
P.L.E. Elections §§ 142, 143.

United States Supreme Court

First amendment, restrictions on corporate election expenditures, see *Federal Election Commission v. Massachusetts*

Citizens for Life, Inc., 1986, 107 S.Ct. 616, 479 U.S. 238, 93 L.Ed.2d 539.

§ 3544. Repealed. 1978, Oct. 4, P.L. 893, No. 171, § 6, effective Jan. 1, 1979

Historical and Statutory Notes

Former § 3544, which was added by Act 1937, June 3, P.L. 1333, art. XVIII,

§ 1844, related to unlawful primary and election expenses.

§ 3545. Failure to file expense account

Any candidate or treasurer of a political committee or person acting as such treasurer who shall fail to file an account of primary or election expenses, as required by this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five thousand dollars (\$5,000), or to undergo an imprisonment of not less than one (1) month nor more than two (2) years, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1845. Amended 1978, Oct. 4, P.L. 893, No. 171, § 7, effective Jan. 1, 1979.

Historical and Statutory Notes

The 1978 amendment, preceding "this act", deleted "section 1607 of", and increased the maximum fine from \$1000 to \$5000.

Section 9 of Act 1978, Oct. 4, P.L. 893, No. 171 provides that said Act shall take

effect on January 1, 1979 and "shall be applicable to campaign financing for all elections thereafter."

Library References

Elections ⇨ 317, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 329, 353.
P.L.E. Elections §§ 142, 143.

§ 3546. Repealed. 1978, Oct. 4, P.L. 893, No. 171, § 8, effective Jan. 1, 1979

Historical and Statutory Notes

Former § 3546, which was added by Act 1937, June 3, P.L. 1333, art. XVIII,

§ 1846, related to anonymous injurious publication and libel.

§ 3547. Prohibiting duress and intimidation of voters and interference with the free exercise of the elective franchise

Any person or corporation who, directly or indirectly—(a) uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation or coercion upon or against any person, in order to induce or compel such person to vote or refrain from voting at any election, or to vote or refrain from voting for or against any particular person, or for or against any question submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed his name upon a register of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons or for or against any question submitted to voters at such election, or having registered or refrained from registering as a voter; or (b) by abduction, duress or coercion, or any forcible or fraudulent device or contrivance, whatever, impedes, prevents, or otherwise interferes with the free exercise of the elective franchise by any voter, or compels, induces, or prevails upon any voter to give or refrain from giving his vote for or against any particular person at any election; or (c) being an employer, pays his employes the salary or wages due in "pay envelopes" upon which or in which there is written or printed any political motto, device, statement or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employes, or within ninety days of any election or primary puts or otherwise exhibits in the establishment or place where his employes

are engaged in labor, any handbill or placard containing any threat, notice, or information that if any particular ticket or candidate is elected or defeated work in his place or establishment will cease, in whole or in part, his establishment be closed up, or the wages of his employes reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his employes, shall be guilty of a misdemeanor. Any person or corporation, convicted of a violation of any of the provisions of this section, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or such person or the officers, directors or agents of such corporation responsible for the violation of this section, shall be sentenced to undergo an imprisonment of not more than one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1847.

Library References

Elections ☞ 319, 320, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 330, 333, 353.
P.L.E. Elections §§ 141, 143.

§ 3548. Failure to perform duty

Any Secretary of the Commonwealth, member of a county board of elections, chief clerk, employe, overseer, judge of election, inspector of election, clerk of election, machine inspector or custodian or deputy custodian of voting machines on whom a duty is laid by this act who shall wilfully neglect or refuse to perform his duty, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not more than two (2) years, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1848.

Library References

Elections ☞ 314, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 327, 353.
P.L.E. Elections §§ 141, 143.

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provisions of the Election Code, are misdemeanors punishable by fine or imprisonment or both as provided in this section and §§ 2678, 3050, 3525, 3550 of this title. *Com. v. Gear*, 76 A.2d 491, 168 Pa.Super. 32, 1950.

1. In general

Wilful fraud in conduct of his duties by election officer, wilful neglect or refusal to perform his duties, and violation of any

2. Indictment

Where an officer is indicted for wilful fraud in not delivering the returns to the prothonotary, and found guilty of neglect

25 P.S. § 3548

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of duty in not so delivering, the words "wilful fraud" may be stricken out as not applicable to an indictment under act of 1893, June 10, P.L. 419, § 33, repealed, and act of 1874, Jan. 30, P.L. 31, § 19, repealed, and the indictment will be valid under the latter section. *Com. v. Havrilla*, 38 Pa.Super. 292, 1909.

3. Presumptions and burden of proof

Relation of judge of elections to particular fraudulent acts charged need not be shown in prosecution for conducting fraudulent election. *Com. v. Kazman*, 92 Pa.Super. 175, 1927.

The judge of the election is presumed to have general oversight of the manner in which it is conducted by the board, and a jury must determine under the evidence whether the defendant, as such officer, was ignorant of all the fraudulent acts perpetrated by those conducting the election. *Com. v. Kazman*, 92 Pa.Super. 175, 1927.

Under act of 1874, July 30, P.L. 31, § 19, repealed, the legal or reasonable cause which excuses an election officer from the performance of his duty is a matter of defense which he must adduce evidence to show. *Com. v. Scott*, 38 Pa.Super. 303, 306, 1909.

On a finding of guilt, the presumption is that there was no evidence to sustain such defense. *Com. v. Scott*, 38 Pa.Super. 303, 306, 1909.

§ 3549. Hindering or delaying performance of duty

Any person who intentionally interferes with, hinders or delays or attempts to interfere with, hinder or delay any other person in the performance of any act or duty authorized or imposed by this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred (\$500) dollars, or to undergo an imprisonment of not more than one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1849.

4. Findings

Minority inspector at primary election violated oath by admitting certain persons to vote who, she had every reason to believe, were not entitled to vote at such primary, and by joining in making false return of votes cast. *Com. v. Grear*, 76 A.2d 491, 168 Pa.Super. 32, 1950.

5. Sufficiency of evidence

In prosecution for unlawfully making false return of votes cast at primary election, evidence which included admissions by minority inspector at primary election that she signed certificate of votes cast on return sheet, knowing it to be false, and that she knew that majority inspector had signed number of voters' certificates required by code to be signed by voters, and that she admitted unqualified persons to vote, sustained conviction. *Com. v. Grear*, 76 A.2d 491, 168 Pa.Super. 32, 1950.

A conviction for neglect of duty in not delivering election returns to the prothonotary will be sustained. Where the evidence shows that the returns brought in by the defendant were not on file, that he had delivered them to a man in the city hall who said he was a clerk in the prothonotary's office but that he made no inquiry as to the alleged clerk's name and no effort was made to show that the person to whom the returns were delivered was employed in any way in the prothonotary's office. *Com. v. Kloss*, 38 Pa.Super. 307, 1909.

Library References

Elections ⇄ 309, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 324, 334, 353.
P.L.E. Elections §§ 141, 143.

§ 3550. Violation of any provision of act

Any person who shall violate any of the provisions of this act, for which a penalty is not herein specifically provided, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not more than one (1) year, or both, in the discretion of the court.

1937, June 3, P.L. 1333, art. XVIII, § 1850.

Constitutional Provisions

Const. Art. 7, § 7, provides: "Any person who shall give, or promise or offer to give, to an elector, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, or who shall give or promise to give such consideration to any other person or party for such elector's vote or for the withholding thereof, and any elector who shall receive or agree to receive, for

himself or for another, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, shall thereby forfeit the right to vote at such election, and any elector whose right to vote shall be challenged for such cause before the election officers, shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received."

Library References

Elections ☞ 332.
WESTLAW Topic No. 144.

C.J.S. Elections § 353.
P.L.E. Elections § 143.

Notes of Decisions**In general 1****1. In general**

Wilful fraud in conduct of his duties by election officer, wilful neglect or refusal to perform his duties, and violation of any provisions of the Election Code, are misdemeanors punishable by fine or imprisonment or both as provided in this section and §§ 2678, 3050, 3525, 3548 of this title. *Com. v. Grear*, 76 A.2d 491, 168 Pa.Super. 32, 1950.

The penal provisions of the Election Code should be strictly construed and its remedial provisions should be liberally construed. *In re Laub*, 21 A.2d 575, 145 Pa.Super. 513, 1941.

The Legislature did not contemplate that every passive act or omission should automatically visit upon candidates the drastic penalties of criminal prosecution and quo warranto proceedings but contemplated such penalties only upon a showing of fraud or corruption. *In re Laub*, 21 A.2d 575, 145 Pa.Super. 513, 1941.

The court quashed a transcript charging defendant candidate with violating The Election Code in having printed a candidacy recommendation letter containing fictitious names, since the code covered only situations dealing with actual voting, particularly where there was no evidence of distribution of the letters. *Com. v. Martin*, 12 D. & C.2d 164, 72 Montg. 42, 1956.

§ 3551. Candidate violating act disqualified from holding office

Any person who shall, while a candidate for office, be guilty of bribery, fraud or willful violation of any provision of this act, shall be forever disqualified from holding said office or any other office of trust or profit in this Commonwealth.

1937, June 3, P.L. 1333, art. XVIII, § 1851.

Constitutional Provisions

Const. Art. 7, § 7, provides: "Any person who shall give, or promise or offer to give, to an elector, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, or who shall give or promise to give such consideration to any other person or party for such elector's vote or for the withholding thereof, and any elector who shall receive or agree to receive, for

himself or for another, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, shall thereby forfeit the right to vote at such election, and any elector whose right to vote shall be challenged for such cause before the election officers, shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received."

Library References

Officers and Public Employees ⇨31.
WESTLAW Topic No. 283.
C.J.S. Officers and Public Employees § 22.

P.L.E. Elections § 141.
P.L.E. Public Officers § 22.

Notes of Decisions

Mandamus 1

1. Mandamus .

In view of remedy afforded by audit procedure of Election Code to determine whether violation of any provisions of the Code have occurred, election challenger, who alleged Code violations regarding

campaign contributions to judge's campaign, was not entitled to have writ of mandamus issued to force Secretary of Commonwealth to recall certificate of election on basis that this section of the Code, requiring that any person guilty of willful violation of any provision of the Code be disqualified from holding office, had been violated. Brunwasser v. Fields, 409 A.2d 352, 487 Pa. 283, 1979.

§ 3552. Persons convicted of violating act to be disfranchised for four years

Any person convicted of the willful violation of any provision of this act shall, in addition to any of the penalties herein provided for, be deprived of the right of suffrage absolutely for a term of four years from the date of his conviction, and it shall be the duty of the proper registration commission to cause one of its members at the request of the trial judge to produce in court at the time of sentence the district register containing the registration card of such convicted person, which registration card shall thereupon be forthwith cancelled in open court in the presence of the convicted person by a member of the registration commission, who shall promptly also cancel the registration card of such convicted person in the general register. 1937, June 3, P.L. 1333, art. XVIII, § 1852.

Constitutional Provisions

Const. Art. 7, § 7, provides: "Any person who shall give, or promise or offer to give, to an elector, any money, reward or other valuable consideration for his vote at an election, or for withholding the

same, or who shall give or promise to give such consideration to any other person or party for such elector's vote or for the withholding thereof, and any elector

who shall receive or agree to receive, for himself or for another, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, shall thereby forfeit the right to vote at such election, and any elector

whose right to vote shall be challenged for such cause before the election officers, shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received."

Library References

Elections ⇨332.
WESTLAW Topic No. 144.

C.J.S. Elections § 353.
P.L.E. Elections § 143.

Notes of Decisions

In general 1
Guilty plea 2

1. In general

Lower court did not err in first imposing what it referred to as sentence for election irregularities and then ordering cancellation of defendant's registration card without formally "sentencing" him to disfranchisement, contrary to defendant's claim that sentencing court must formally characterize order of disfranchisement as part of the sentence. *Com. v. Petrillo*, 386 A.2d 590, 255 Pa.Super. 225, 1978.

Court's disfranchising defendant who pleaded guilty to election irregularities did not usurp functions that belonged to legislature. *Com. v. Petrillo*, 386 A.2d 590, 255 Pa.Super. 225, 1978.

Upon conviction of an election officer of willful violation of the election code, the court must make part of the sentence,

disfranchisement for the term of four years and to have his registration cancelled. *Com. v. Durnell*, 32 Del. 169, 1944.

2. Guilty plea

Inasmuch as defendant pleaded guilty to charges of election irregularities, imposition of disfranchisement was not unwarranted despite defendant's contention that court had no evidence that any of defendant's violations were "willful" as required by this section. *Com. v. Petrillo*, 386 A.2d 590, 255 Pa.Super. 225, 1978.

Defendant who contended that he did not know that, by pleading guilty to charge of election irregularities, he would be disfranchised, must seek to withdraw the guilty plea below and he was not entitled to have the Superior Court lift the penalty which it found had been lawfully imposed. *Com. v. Petrillo*, 386 A.2d 590, 255 Pa.Super. 225, 1978.

§ 3553. Violations of provisions relating to absentee electors ballots

If any person shall sign an application for absentee ballot or declaration of elector on the forms prescribed knowing any matter declared therein to be false, or shall vote any ballot other than one properly issued to him, or vote or attempt to vote more than once in any election for which an absentee ballot shall have been issued to him, or shall violate any other provisions of Article XIII of this act, he shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), or be imprisoned for a term not exceeding one year, or both, at the discretion of the court.

If any chief clerk or member of a board of elections, member of a return board or member of a board of registration commissioners, shall neglect or refuse to perform any of the duties prescribed by

Article XIII of this act, or shall reveal or divulge any of the details of any ballot cast in accordance with the provisions of Article XIII of this act, or shall count an absentee ballot knowing the same to be contrary to Article XIII or shall reject an absentee ballot without reason to believe that the same is contrary to Article XIII, or shall permit an elector to cast his ballot at a polling place knowing that there has been issued to the elector an absentee ballot, he shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or be imprisoned for a term of one year, or both, at the discretion of the court. 1937, June 3, P.L. 1333, Art. XVIII, § 1853, added 1960, Jan. 8, P.L. (1959) 2135, § 3. Amended 1963, Aug. 13, P.L. 707, § 25, effective Jan. 1, 1964.

Library References

Elections ☞ 313, 318, 332.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 325, 331, 353.
P.L.E. Elections §§ 141, 143.

§ 3554. Violation of provisions relating to absentee voting

Any person who shall violate any of the provisions of this act relating to absentee voting shall, unless otherwise provided, be subject to the penalties provided for in section 1850 of this act.¹

1937, June 3, P.L. 1333, art. XIII, § 1331, added 1968, Dec. 11, P.L. 1183, No. 375, § 9.

¹ 25 P.S. § 3550.

ARTICLE XVIII-A. CONGRESSIONAL DISTRICTS

§ 3571. Districts

For the purpose of electing representatives of the people of Pennsylvania to serve in the House of Representatives in the Congress of the United States, this Commonwealth shall be divided into 23 districts which shall have one Congressman each, as follows:

The First District shall consist of Wards 1, 2, 5, 7, 13, 14, 15, 18, 19, 20, 25, 26, 27 and 30 (Divisions 4, 5, 10, 11, 12, 13, 14, 16, 17 and 18), 31, 36, 37, 39 and 42 (Divisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24), 43, 47, 48 and 49 of the City of Philadelphia of Philadelphia County.

The Second District shall consist of Wards 3, 4, 6, 8 and 9 (Divisions 1, 2, 3, 14 and 15), 11, 12, 16, 17, 22, 24, 28, 29 and 30 (Divisions 1, 2, 3, 6, 7, 8, 9, 15, 19, 20 and 21), 32 and 34 (Divisions 1, 2, 3, 4, 5, 6, 7, 9, 10, 36, 38 and 43), 38 and 40 (Division 2), 44, 46, 50, 51, 52, 59 and 60 of the City of Philadelphia of Philadelphia County.

The Third District shall consist of Wards 10, 23, 33, 35, 41 and 42 (Division 25), 45, 53, 54, 55, 56, 57, 58, 61, 62, 63, 64, 65 and 66 of the City of Philadelphia of Philadelphia County.

The Fourth District shall consist of the Townships of Bethel, Burrell, Cadogan, East Franklin, Gilpin, Kittanning, Madison, North Buffalo, Parks, Plumcreek, South Bend, South Buffalo, Sugarcreek, Washington and West Franklin, and the Boroughs of Applewold, Elderton, Freeport, Kittanning, Leechburg, West Kittanning and Worthington of Armstrong County; the City of Beaver Falls, the Townships of Brighton, Chippewa, Darlington, Daugherty, Franklin, Greene, Harmony, Marion, New Sewickley, North Sewickley, Patterson, Pulaski, South Beaver, Vanport and White, and the Boroughs of Aliquippa, Baden, Beaver, Big Beaver, Bridgewater, Conway, Darlington, Eastvale, Economy, Ellwood City (Beaver County Portion), Fallston, Georgetown, Glasgow, Homewood, Hookstown, Koppel, New Brighton, New Galilee, Ohioville, Patterson Heights and West Mayfield of Beaver County; Butler County; Indiana County; the City of New Castle, the Townships of Little Beaver, Mahoning, North Beaver, Perry, Plain Grove, Pulaski, Shenango, Taylor, Union, Wayne and Wilmington, and the Boroughs of Bessemer, Ellport, Ellwood City (Lawrence County Portion), Enon Valley, New Beaver, Snj, South New Castle, Volent and Wampum of Lawrence County; and the Townships of Fairfield, Ligonier, and the Boroughs of Bolivar and Ligonier of Westmoreland County.

The Fifth District shall consist of the City of Coatesville, the Townships of Birmingham, Caln, Charlestown, East Bradford, East Brandywine, East Caln, East Fallowfield, East Goshen, East Marlborough, East Pikeland, East Whiteland, Easttown, Franklin, Kennett, London Britain, London Grove, New Garden, Newlin, Pennsbury, Pocopson, Schuylkill, Thornbury, Tredyffrin, Uwchlan, Valley, West Bradford, West Brandywine, West Goshen, West Marlborough, West Pikeland, West Whiteland, Westtown and Willistown, and the Boroughs of Avondale, Downingtown, Kennett Square, Malvern, Modena, Phoenixville, South Coatesville, West Chester and West Grove of Chester County; the City of Chester, the Townships of Bethel, Birmingham, Chester, Concord, Lower Chichester, Thornbury and Upper Chichester, and the Boroughs of Marcus Hook and Trainer of Delaware County; the Townships of Douglass, East Norriton, Franconia, Hatfield, Limerick, Lower Frederick, Lower Pottsgrove, Lower Providence, Marlborough, New Hanover, Perkiomen, Salford, Skipack, Upper Frederick, Upper Hanover, Upper Pottsgrove, Upper Providence, Upper Salford, West Norriton and West Pottsgrove, and the Boroughs of Collegeville, East Greenville, Green Lane, Hatfield, Pennsburg, Pottstown, Red Hill, Royersford, Schwenksville, Souder-

ton, Telford (Montgomery County Portion) and Trappe of Montgomery County.

The Sixth District shall consist of Berks County; the Townships of Banks and Packer, and the Boroughs of Beaver Meadows, Lansford, Nesquehoning and Summit Hill of Carbon County; the Townships of Caernarvon, East Earl, Brecknock, East Cocalico, and West Cocalico, and the Boroughs of Adamstown, Denver and Terre Hill of Lancaster County; and Schuylkill County.

The Seventh District shall consist of the Townships of Aston, Darby, Edgemont, Haverford, Marple, Middletown, Nether, Providence, Newtown, Radnor, Ridley, Springfield, Tinicum, Upper Darby and Upper Providence, and the Boroughs of Aldan, Brookhaven, Chester Heights, Clifton Heights, Collingdale, Colwyn, Darby, East Lansdowne, Eddystone, Folcroft, Glenolden, Lansdowne, Media, Millbourne, Morton, Norwood, Parkside, Prospect Park, Ridley Park, Rose Valley, Rutledge, Sharon Hill, Swarthmore, Upland and Yeadon of Delaware County; Ward 40 (Divisions 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55 and 56) of the City of Philadelphia of Philadelphia County.

The Eighth District shall consist of Bucks County; the Townships of Lower Moreland and Districts 1, 2 (Division 1), 3, 4, 5, 6 and 7 of Upper Moreland, and the Borough of Bryn Athyn of Montgomery County.

The Ninth District shall consist of Bedford County; Blair County; the Townships of Chest, Clearfield, Dean, Elder, Reade, Susquehanna and White, and the Boroughs of Hastings and Patton of Cambria County; the Townships of Beccaria, Bell, Bigler, Bloom, Boggs, Brady, Burnside, Chest, Cooper, Decatur, Ferguson, Greenwood, Gulich, Jordan, Knox, Morris, Penn, Pike and Woodward, and the Boroughs of Brisbin, Burnside, Chester Hill, Coalport, Curwensville, Glenhope, Grampian, Houtzdale, Irvona, Lumber City, Mahaffey, New Washington, Newburg, Osceola, Ramey, Troutville, Wallaceton and Westover of Clearfield County; the Townships of Cooke, Dickinson, Hopewell, Lower Frankford, Lower Mifflin, Monroe, North Newton, Penn, Shippensburg, South Middleton, South Newton, Southampton, Upper Frankford and Upper Mifflin, and the Boroughs of Mt. Holly Springs, Newburg, Newville and Shippensburg (Cumberland County Portion) of Cumberland County; Franklin County; Fulton County; Huntingdon County; Juniata County; and Mifflin County.

The Tenth District shall consist of Bradford County; the Townships of Chapman, Colebrook, Gallagher, Grugan, Leidy, Noyes and Wood-

ward, and the Boroughs of Renovo and South Renovo of Clinton County; Lackawanna County; the Townships of Jackson, Middle Smithfield, Paradise, Pocono, Price, Smithfield and Stroud, and the Boroughs of Delaware Water Gap, East Stroudsburg and Stroudsburg of Monroe County; Pike County; Potter County; Susquehanna County; Tioga County; Wayne County; and Wyoming County.

The Eleventh District shall consist of the Townships of East Penn, Franklin, Kidder, Lausanne, Lehigh, Lower Towamensing, Mahoning, Penn Forest and Towamensing, and the Boroughs of Bowmantown, East Side, Jim Thorpe, Lehigh, Palmerton, Parryville, Weatherly and Weissport of Carbon County, Columbia County; Luzerne County; the Townships of Barrett, Coolbaugh and Tobyhanna, and the Borough of Mt. Pocono of Monroe County; Montour County; the City of Shamokin, the Townships of Coal, East Cameron and Mt. Carmel, and the Boroughs of Kulpmont, Marion Heights and Mt. Carmel of Northumberland County; and Sullivan County.

The Twelfth District shall consist of the Township of Kiskiminetas, and the Boroughs of Apollo and North Apollo of Armstrong County; the City of Johnstown, the Townships of Adams, Allegheny, Barr, Blacklick, Cambria, Conemaugh, Cresson, Croyle, East Carroll, East Taylor, Gallitzin, Jackson, Lower Yoder, Middle Taylor, Munster, Portage, Richland, Stonycreek, Summerhill, Upper Yoder, Washington, West Carroll and West Taylor, and the Boroughs of Ashville, Barnesboro, Brownstown, Carrolltown, Cassandra, Chest Springs, Cresson, Daisytown, Dale, East Conemaugh, Ebensburg, Ehrenfeld, Ferndale, Franklin, Gallitzin, Geistown, Lilly, Lorain, Loretto, Nanty Glo, Portage, Sankertown, Scalp Level, South Fork, Southmont, Spangler, Summerhill, Tunnelhill (Cambria County Portion), Vintondale, Westmont and Wilmore of Cambria County; Somerset County; the Cities of Greensburg and Jeannette, the Townships of Bell, Cook, Derry, Donegal, Hempfield, Loyalhanna, Mt. Pleasant, North Huntingdon, Penn, Salem, St. Clair, Unity and Washington, and the Boroughs of Adamsburg, Arona, Avonmore, Delmont, Derby, Donegal, Export, Hunker, Irwin, Latrobe, Madison, Manor, Murrysville, New Alexandria, New Florence, New Stanton, North Irwin, Penn, Seward, South Greensburg, Southwest Greensburg, Youngstown and Youngwood of Westmoreland County.

The Thirteenth District shall consist of the Townships of Abington, Cheltenham, Horsham, Lower Gwynedd, Lower Merion, Lower Salford, Montgomery, Plymouth, Springfield, Towamencin, Upper Dublin, Upper Gwynedd, Upper Merion, District 2 (Division 2) of Upper Moreland, Whitmarsh, Whitpain and Worcester, and the Boroughs of Ambler, Bridgeport, Conshohocken, Hatboro, Jenkintown, Lansdale, Narberth, Norristown, North Wales, Rockledge and West Con-

shohocken of Montgomery County; Wards 9 (Divisions 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 16 and 17), 21 and 34 (Divisions 8, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37, 39, 40, 41 and 42) of the City of Philadelphia of Philadelphia County.

The Fourteenth District shall consist of the City of Pittsburgh, the Townships of Baldwin, Kennedy, Neville, Reserve and Stowe, and the Boroughs of Castle, Shannon, Coraopolis, Ingram, McKees Rocks, Millvale, Mt. Oliver, Sharpsburg and Wilkesburg of Allegheny County.

The Fifteenth District shall consist of Lehigh County; Northampton County; and the Townships of Chestnuthill, Eldred, Hamilton, Polk, Ross and Tunkhannock of Monroe County.

The Sixteenth District shall consist of the Townships of East Nottingham, East Coventry, East Nantmeal, East Vincent, Elk, Highland, Honeybrook, Londonderry, Lower Oxford, New London, North Coventry, Penn, Sadsbury, South Coventry, Upper Oxford, Upper Owchlan, Wallace, Warwick, West Caln, West Fallowfield, West Nantmeal, West Nottingham, West Sadsbury and West Vincent, and the Boroughs of Atglen, Elverson, Honey Brook, Oxford, Parkesburg and Spring City of Chester County; the City of Lancaster, the Townships of Bart, Clay, Colerain, Conestoga, Conoy, Drumore, Earl, East Donegal, East Drumore, East Hampfield, East Lampeter, Eden, Elizabeth, Ephrata, Fulton, Lancaster, Leacock, Little Britain, Manheim, Manor, Martic, Mt. Joy, Paradise, Penn, Pequea, Providence, Rapho, Sadsbury, Salisbury, Strasburg, Upper Leacock, Warwick, West Donegal, West Earl, West Hempfield and West Lampeter, and the Boroughs of Akron, Christiana, Columbia, East Petersburg, Elizabethtown, Ephrata, Lititz, Manheim, Marietta, Millersville, Mountville, Mt. Joy, New Holland, Quarryville and Strasburg of Lancaster County; and Lebanon County.

The Seventeenth District shall consist of Dauphin County; Lycoming County; the City of Sunbury, the Townships of Delaware, East Chillisquaque, Jackson, Jordan, Lewis, Little Mahanoy, Lower Augusta, Lower Mahanoy, Point, Ralpho, Rockefeller, Rush, Shamokin, Turbot, Upper Augusta, Upper Mahanoy, Washington, West Cameron, West Chillisquaque and Zerbe, and the Boroughs of Herndon, McEwensville, Milton, Northumberland, Riverside, Snyderstown, Turbotville and Watsonstown of Northumberland County; Perry County; Snyder County; and Union County.

The Eighteenth District shall consist of the Townships of Aleppo, Crescent, Findlay, Hampton, Kilbuck, Leet, Marshall, McCandless, Moon, Mt. Lebanon, North Fayette, O'Hara, Ohio, Penn Hills, Pine, Richland, Robinson, Ross, Scott, Shaler, South Park and Upper St.

Clair, and the Boroughs of Aspinwall, Avalon, Bell Acres, Bellevue, Ben Avon, Ben Avon Heights, Bethel Park, Blannox, Braddock Hills, Bradford Woods, Carnegie, Churchill, Crafton, Dormont, Edgewood, Edgeworth, Emsworth, Etna, Forest Hills, Fox Chapel, Franklin Park, Glenfield, Green Tree, Haysville, Jefferson, Osborne, Pennsbury Village, Pleasant Hills, Rosslyn Farms, Sewickley, Sewickley Heights, Sewickley Hills, Thornburg, West Elizabeth, West View and Whitehall of Allegheny County.

The Nineteenth District shall consist of Adams County; the Townships of East Pennsboro, Hampden, Lower Allen, Middlesex, North Middleton, Silver Spring, Upper Allen and West Pennsboro, and the Boroughs of Camp Hill, Carlisle, Lemoyne, Mechanicsburg, New Cumberland, Shiremanstown, West Fairview and Wormleysburg of Cumberland County; and York County.

The Twentieth District shall consist of the Cities of Clairton, Duquesne and McKeesport, the Townships of East Deer, Elizabeth, Fawn, Forward, Frazer, Harmar, Harrison, Indiana, North Versailles, South Versailles, Springdale, West Deer and Wilkins, and the Boroughs of Baldwin, Brackenridge, Braddock, Brentwood, Chalfant, Cheswick, Dravosburg, East McKeesport, East Pittsburgh, Elizabeth, Glassport, Homestead, Liberty, Lincoln, Monroeville, Munhall, North Braddock, Oakmont, Pitcairn, Plum, Port Vue, Rankin, Springdale, Swissvale, Tarentum, Trafford (Allegheny County Portion), Turtle Creek, Verona, Versailles, Wall, West Homestead, West Mifflin, Whitaker, White Oak and Wilmerding of Allegheny County; the Cities of Arnold, Lower Burrell, Monessen and New Kensington, the Townships of Allegheny, East Huntingdon, Rostrayer, Sewickley, South Huntingdon and Upper Burrell, and the Boroughs of East Vandergrift, Hyde Park, Mt. Pleasant, North Belle Vernon, Oklahoma, Scottdale, Smithton, Sutersville, Trafford (Westmoreland County Portion), Vandergrift, West Leechburg and West Newton of Westmoreland County.

The Twenty-first District shall consist of Crawford County; Erie County; the Townships of Hickory, Neshannock, Scott, Slippery Rock and Washington, and the Borough of New Wilmington of Lawrence County; and Mercer County.

The Twenty-second District shall consist of the Townships of Collier and South Fayette, and the Boroughs of Bridgeville, Heidelberg, Leetsdale, McDonald (Allegheny County Portion) and Oakdale of Allegheny County; the Townships of Center, Hanover, Hopewell, Independence, Potter, Raccoon and Rochester, and the Boroughs of Ambridge, East Rochester, Frankfort Springs, Freedom, Industry, Midland, Monaca, Rochester, Shippingport and South Heights of

Beaver County; Fayette County; Greene County; and Washington County.

The Twenty-third District shall consist of the Townships of Boggs, Bradys Bend, Cowanshannock, Hovey, Mahoning, Manor, Perry, Pine, Rayburn, Redbank, Valley and Wayne, and the Boroughs of Atwood, Dayton, Ford City, Ford Cliff, Manorville, Parker City, Rural Valley and South Bethlehem of Armstrong County; Cameron County; Centre County; Clarion County; the City of Dubois, the Townships of Bradford, Covington, Girard, Goshen, Graham, Huston, Karthaus, Lawrence, Pine, Sandy and Union, and the Boroughs of Clearfield and Falls Creek (Clearfield County Portion) of Clearfield County; the City of Lock Haven, the Townships of Allison, Bald Eagle, Beech Creek, Castanea, Crawford, Dunnstable, East Keating, Greene, Lamar, Logan, Pine Creek, Porter, Wayne and West Keating, and the Boroughs of Avis, Beech Creek, Flemington, Loganton and Mill Hall of Clinton County; Elk County; Forest County; Jefferson County; McKean County; Warren County; and Venango County.

1937, June 3, P.L. 1333, art. XVIII-A, § 1801-A, added 1982, March 3, P.L. 127, No. 42, § 2, imd. effective.

Historical and Statutory Notes

Section 4 of Act 1982, March 3, P.L. 127, No. 42, provides as follows:

"This act shall take effect immediately and shall supersede any other congres-

sional redistricting plan which may be or has been adopted by any Commonwealth or United States court having jurisdiction over the Commonwealth."

Library References

United States ☞10.
WESTLAW Topic No. 393.
C.J.S. United States § 12.

§ 3572. Elections; vacancies

The first election under this article shall be held at the primary election in the year 1982.

The members of Congress now in office shall continue in such office until the expiration of their respective terms.

Vacancies now existing or happening after the passage of this article and before the commencement of the terms of the members elected at the election of 1982 shall be filled for the unexpired terms from the districts provided by the act of January 25, 1972 (P.L. 7, No. 3), entitled "An act to apportion the Commonwealth of Pennsylvania into congressional districts in conformity with constitutional require-

ments; and providing for the nomination and election of Congressmen." ¹

1937, June 3, P.L. 1333, art. XVIII-A, § 1802-A, added 1982, March 3, P.L. 127, No. 42, § 2, imd. effective.

¹ 25 P.S. § 2199.21 et seq.

Historical and Statutory Notes

Section 4 of Act 1982, March 3, P.L. 127, No. 42, provides as follows:

"This act shall take effect immediately and shall supersede any other congress-

sional redistricting plan which may be or has been adopted by any Commonwealth or United States court having jurisdiction over the Commonwealth."

Library References

United States ⇨11.
WESTLAW Topic No. 393.
C.J.S. United States §§ 11, 13 to 15.

§ 3573. Omissions

In the event any political subdivision or part thereof should be omitted in the description of the congressional districts, such political subdivision or part thereof shall be included as a part of the congressional district which completely surrounds it. Should any omitted political subdivision or part thereof be not completely surrounded by one congressional district, it shall become a part of that congressional district to which it is contiguous, or if there are two or more such contiguous districts, it shall become a part of that congressional district contiguous thereto which has the least population. 1937, June 3, P.L. 1333, art. XVIII-A, § 1803-A, added 1982, March 3, P.L. 127, No. 42, § 2, imd. effective.

Historical and Statutory Notes

Section 4 of Act 1982, March 3, P.L. 127, No. 42, provides as follows:

"This act shall take effect immediately and shall supersede any other congress-

sional redistricting plan which may be or has been adopted by any Commonwealth or United States court having jurisdiction over the Commonwealth."

Library References

United States ⇨11.
WESTLAW Topic No. 393.
C.J.S. United States §§ 11, 13 to 15.

ARTICLE XIX. REPEALS

§ 3591. Repeal

The following acts and parts of acts of Assembly are hereby repealed as particularly set forth:

* * * * *

All other acts of Assembly and parts of acts, general, special and local, in conflict or inconsistent with this act, or any part hereof, are hereby repealed, in so far as they are in conflict or inconsistent herewith.

1937, June 3, P.L. 1333, art. XIX, § 1901.

Historical and Statutory Notes

Repealed absolutely:

- | | |
|---|--|
| 1717, Aug. 24, III Stat. at L. 138. | 1864, May 5, P.L. 258. |
| 1752, March 11, V Stat. at L. 159. | 1864, Aug. 24, P.L. 1014. |
| 1788, Oct. 4, XIII Stat. at L. 140. | 1864, Aug. 25, P.L. 990. |
| 1791, Sept. 29, 3 Sm.L. 45. | 1866, March 30, P.L. 92. |
| 1793, March 6, 3 Sm.L. 91. | 1866, April 17, P.L. 107. |
| 1802, April 2, P.L. 145. | 1866, June 4, P.L. 1107. |
| 1808, March 21, P.L. 86. | 1867, Jan. 11, P.L. 18. |
| 1812, March 20, P.L. 177. | 1867, April 15, P.L. 86. |
| 1815, March 8, P.L. 93. | 1869, April 17, P.L. 49, §§ 1, 2, 3, 4, 5, |
| 1817, March 24, P.L. 204. | 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, |
| 1818, March 23, P.L. 258. | 17, 18, 19, 38. |
| 1822, March 25, P.L. 74. | 1870, April 6, P.L. 53, §§ 1, 2, 3, 5, 6, |
| 1824, Jan. 12, P.L. 5. | 7, 8, 9, 10. |
| 1824, March 19, P.L. 53. | 1871, May 6, P.L. 252. |
| 1826, April 10, P.L. 398. | 1871, May 11, P.L. 259. |
| 1829, April 20, P.L. 212. | 1872, Feb. 21, P.L. 17. |
| 1836, June 16, P.L. 794. | 1872, March 13, P.L. 24. |
| 1836, Dec. 30, P.L. 1-1836-37. | 1872, March 19, P.L. 32. |
| 1839, June 21, P.L. 376, § 2. | 1873, April 28, P.L. 79. |
| 1839, July 2, P.L. 519. | 1874, Jan. 30, P.L. 31. |
| 1839, July 2, P.L. 559, §§ 2, 3, 4, 5, 7. | 1874, Feb. 13, P.L. 44. |
| 1840, March 7, P.L. 72, §§ 1, 27, 28, | 1874, April 9, P.L. 54. |
| 29. | 1874, April 18, P.L. 64. |
| 1840, April 16, P.L. 410, § 4. | 1874, May 19, P.L. 208. |
| 1840, April 16 (June 13), P.L. 683, | 1875, March 18, P.L. 29. |
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| 14, 15. | 1876, May 8, P.L. 148. |
| 1840, June 13, P.L. 689, §§ 3, 4. | 1876, May 18, P.L. 178. |
| 1842, March 4, P.L. 43, § 84. | 1878, May 10, P.L. 51, § 3. |
| 1843, March 25, P.L. 115. | 1878, June 12, P.L. 204. |
| 1843, April 14, P.L. 247. | 1879, May 9, P.L. 51. |
| 1848, April 11, P.L. 512, §§ 2, 3, 4. | 1881, June 8, P.L. 70. |
| 1850, May 15, P.L. 777. | 1881, June 29, P.L. 128. |
| 1851, April 15, P.L. 648, § 9. | 1883, June 13, P.L. 92. |
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| 1862, April 10, P.L. 405. | 1893, May 10, P.L. 36. |
| 1864, March 16, P.L. 10. | 1893, May 18, P.L. 101. |
| | 1893, May 18, P.L. 106. |

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1934, Jan. 17, P.L. 236, 1933-34.
1935, April 25, P.L. 74.
1935, April 25, P.L. 83.
1935, May 7, P.L. 131.
1935, May 29, P.L. 246.
1935, June 5, P.L. 277.
1935, June 14, P.L. 337.
- In so far as it relates to fees to be charged and received by constables for attending elections.
- 1917, July 20, P.L. 1158.
- Section 1901 of act of 1937, cited to the text, contained a further provision reading "The Secretary of the Commonwealth is authorized and empowered to prepare

and print an index of this act. The index, if prepared, shall be attached to the advance sheets of the pamphlet laws, and shall also be printed in the pamphlet laws."

Library References

Statutes §152.
WESTLAW Topic No. 361.
C.J.S. Statutes § 282.

Notes of Decisions

In general 1

1. In general

A charge contained in petition of district attorney requesting that grand jury be convened, referring to charges of making and unlawful collection by commonwealth officials from legitimate business-

men and architects who had dealings with commonwealth, was insufficient to warrant calling of grand jury, where no allegation of any fact concerning charges was presented and no crime was charged in view of repeal, by this section, of act of 1883, June 13, P.L. 96, on which the charges were based. In re investigation by Dauphin County Grand Jury, June, 1938, 2 A.2d 783, 332 Pa. 289.

CHAPTER 15

ELECTION DISTRICT ALTERATION AND DATA REPORTING ACT

Section

- 3601. Short title.
- 3602. Definitions.
- 3603. Restrictions on alteration.
- 3604. Alterations after period of restriction.
- 3605. Reports.
- 3606. Election results; registration.
- 3607. Regulations.

§ 3601. Short title

This act shall be known and may be cited as the Election District Alteration and Data Reporting Act.

1989, Dec. 22, P.L. 732, No. 101, § 1, imd. effective.

Historical and Statutory Notes

Title of Act:

An Act providing for the alteration of election districts; and conferring powers and duties upon county boards of elec-

tions and the Bureau of Commissions, Elections and Legislation. 1989, Dec. 22, P.L. 732, No. 101.

§ 3602. Definitions

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Bureau.” The Bureau of Commissions, Elections and Legislation of the Department of State.

“Secretary.” The Secretary of the Commonwealth.

1989, Dec. 22, P.L. 732, No. 101, § 2, imd. effective.

§ 3603. Restrictions on alteration

(a) **General rule.**—Except as provided in subsection (b), an election district may not be established, abolished, divided or consolidated during the period from January 1, 1990, through March 29, 1992.

(b) **Exception.**—During the period from January 1, 1990, through March 29, 1992, an election district may be divided or election districts may be combined if the following are met:

(1) In the case of the division of an election district, the boundary of each resulting district is composed entirely of clearly visible

physical features conforming with the census block lines or portions of the original boundary of the election district which was divided.

(2) In the case of the combination of election districts, the boundary of each resulting district is composed entirely of portions of the original boundaries of the election districts which were combined.

(c) Procedure.—If an alteration of an election district under subsection (b) is sought, the following shall apply:

(1) The county board of elections shall notify the bureau, in writing, of the proposed alteration. The notice shall include a map and a description of the proposed boundary of any new district or districts.

(2) Before a county board of elections may petition the court for a change in the boundary of an election district under the act of June 3, 1937 (P.L. 1333, No. 320), known as the Pennsylvania Election Code,¹ the secretary must make a determination that the board has complied with subsection (b). Any of the following constitute evidence of the determination under this paragraph:

(i) A certification by the secretary that the determination has been made.

(ii) A certification by the board that notice under this paragraph has been given to the bureau and that the secretary has not acted within 45 days of the notice.

1989, Dec. 22, P.L. 732, No. 101, § 3, imd. effective.

¹ 25 P.S. § 2600 et seq.

§ 3604. Alterations after period of restriction

(a) General rule.—After March 29, 1992, an election district may be established, abolished, divided or consolidated if the boundary of each resulting district is composed entirely of clearly visible physical features conforming with census block lines from the most recently completed Federal decennial census.

(b) Report.—Within 30 days of an alteration under subsection (a), the county board of elections shall submit to the bureau a report, including a map and a verbal description, of the boundaries of each resulting district.

1989, Dec. 22, P.L. 732, No. 101, § 4, imd. effective.

§ 3605. Reports

(a) Initial report of existing districts.—Within six months of the effective date of this act, each county board of elections shall submit

to the bureau a report, including maps and verbal descriptions, of the boundaries of every election district within the county. All reports filed under section 3 or 4 shall be filed as amendments to this initial report.

(b) Retention of reports.—The bureau shall retain at all times the reports of the current boundaries of all election districts, including maps and verbal descriptions. Copies of such reports shall be made available to the General Assembly, on request, and to the public for a fee, as established by the department.

1989, Dec. 22, P.L. 732, No. 101, § 5, imd. effective.

§ 3606. Election results; registration

(a) Election results.—In addition to any other reports, returns or certifications required by any other law, within 30 days after a primary, municipal, special or general election, the county board of elections shall submit to the bureau a report stating the total number of votes cast in each voting district for each candidate for the following offices:

- (1) A Statewide office.
- (2) State Senator.
- (3) State Representative.
- (4) United States Representative.

(b) Registration.—Within 30 days after the close of registration of any primary, municipal or general election, the county board of elections shall submit to the bureau a report containing the total number of registered voters for each political party in each voting district.

1989, Dec. 22, P.L. 732, No. 101, § 6, imd. effective.

§ 3607. Regulations

The secretary may promulgate regulations to administer this act.

1989, Dec. 22, P.L. 732, No. 101, § 7, imd. effective.

CHAPTER 16

ELECTORS IN MILITARY SERVICE [REPEALED]

§§ 4001 to 4015. Repealed. 1945, March 9, P.L. 29, § 13;
1947, March 5, P.L. 35, § 4, eff. March 5, 1947

Historical and Statutory Notes

These sections, derived from act 1944, Ex.Sess., May 5, P.L. (1945) 1439, related to the voting by electors in military service during the then present war and for

six months thereafter. The matter of voting by persons in military service is now covered by §§ 3146.1 to 3146.9 of this title.

§§ 4031 to 4042. Repealed. 1947, March 5, P.L. 35, § 4, eff. March 5, 1947

Historical and Statutory Notes

These sections were derived from Act 1944, Ex.Sess. May 5, P.L. (1945) 1445, §§ 1 to 12, and made provision for voting by persons in military service, without registration or enrollment, during the

then present war and for 6 months thereafter. The matter of voting by persons in military service is now covered by §§ 3146.1 to 3146.9 of this title.

CHAPTER 17
VALIDATING ACTS

Section

4051. Election and returns validated despite errors or omissions.

§ 4051. Election and returns validated despite errors or omissions

Whenever any special, primary, municipal or general election has been held and errors of commission or omission have occurred or have been made in connection with the preliminary requirements therefor or in the conduct thereof, and no action, contest or suit has been instituted concerning any such election, or its returns, or its certification, within one year from the date thereof, any such election, its return and the certification made thereon are hereby ratified and validated: Provided, however, This act¹ shall in no event disturb, affect or validate any election, its return or certification thereon, wherein legal proceedings relating thereto and involving fraud or any error, have already been instituted or are now pending.

1949, April 11, P.L. 432, No. 64, § 1.

¹ This section.

Library References

Elections ⇨236.
WESTLAW Topic No. 144.

C.J.S. Elections § 222.
P.L.E. Elections § 101 et seq.

**TITLE 25 APPENDIX
PURDON'S
PENNSYLVANIA CONSOLIDATED
STATUTES ANNOTATED**

**TITLE 25
ELECTIONS**

Acts 1970, No. 230, approved November 25, 1970, as amended, establishes the structure of the Pennsylvania Consolidated Statutes by listing the Titles thereof which will be implemented from time to time in the future. For text of the Act including the list of Titles, see Title 1, Appendix.

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Question counters, voting machines, **25 P.S. § 3001**

WORDS AND PHRASES—Continued

Register,

Registration of voters,

Cities, boroughs and towns, **25 P.S. § 951-2**

Cities of first class, **25 P.S. § 623-2**

Registered and enrolled member of the political party, **25 P.S. § 2602**

Seal, voting machines, **25 P.S. § 3001**

Secretary,

Election District Alteration and Data Reporting Act, **25 P.S. § 3602**

Special election, **25 P.S. § 2602**

Supervisor,

Election expenses, **25 P.S. § 3241**

Swear,

Registration of voters, **25 P.S. § 951-2**

Valuable thing, election expenses, **25 P.S. § 3241**

Vote indicator, voting machines, **25 P.S. § 3001**

Voting booth, electronic voting systems, **25 P.S. § 3031.1**

Voting device, electronic voting systems, **25 P.S. § 3031.1**

Voting machine booth, **25 P.S. § 3001**

END OF VOLUME

