

**IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

No. 102 MM 2022

DAVID BALL, ET AL.,

Petitioners

v.

**LEIGH M. CHAPMAN, ACTING SECRETARY OF THE
COMMONWEALTH, ET AL.,**

Respondents

**BRIEF FOR RESPONDENTS LEIGH M. CHAPMAN AND JESSICA
MATHIS**

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STATEMENT OF QUESTIONS

1. Do the Petitioners have standing?

Suggested answer: No.

2. Does the Election Code's instruction that electors "shall ... date" absentee and mail-in ballots, 25 P.S. §§ 3146.6(a), 3150.16(a), require disqualifying votes of electors who do not comply with that instruction?

Suggested answer: No.

3. Assuming, arguendo, that this Court answers the second issue in the affirmative, would such a result violate the materiality provision of the Civil Rights Act of 1964?

Suggested answer: Yes.

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INTRODUCTION

Petitioners seek an order that will disenfranchise thousands of qualified Pennsylvania voters, predominantly older citizens, because the voter omitted (or incorrectly wrote) a date that serves no function in the administration of Pennsylvania's elections. To reach this result, they read back into the Election Code a specific requirement that the General Assembly eliminated in 1968. And they all but ignore the specific section of the Election Code that governs the counting of ballots by county boards of elections and which therefore speaks most directly to the central issue in this case.

Petitioners instead rest their argument entirely on language in the Election Code's directions to voters that states that the voter "shall ... fill out, date and sign" a declaration printed on the ballot-return envelope provided to voters. This Court previously considered this language two years ago, in expedited litigation brought in the immediate aftermath of the 2020 General Election. Four Justices read the Election Code's direction to voters to impose a mandatory obligation to include the date, such that undated ballots should be discarded, but the Court still ordered that those ballots could be counted for that election. Petitioners—understandably—rely heavily on this fact in arguing that county boards may not count ballots with omitted or incorrect handwritten dates.

But Petitioners fail to account for what has happened since this Court's 2020 decision. Because that decision failed to produce a majority, and because there were other outstanding legal questions, litigation over this issue has persisted. And three developments since 2020 have all supported the conclusion that, as a matter of both state and federal law, county boards may not disqualify ballots based on an omission of, or error in, the handwritten date:

First, a panel of the Court of Appeals for the Third Circuit unanimously concluded that a requirement of the 1964 Civil Rights Act prohibits excluding ballots based on the omission of a handwritten date. A fair reading of the two opinions in that case shows that the issue was not particularly close. The U.S. Supreme Court rejected a request to stay that decision, thus allowing the underlying election to be decided. Petitioners have little to say about the reasoning of the Third Circuit, instead relying entirely on points Justice Alito made in dissenting from the denial of the stay. But dissents are not law, and Justice Alito acknowledged that, in light of the rushed posture of the case, he “d[id] not rule out the possibility that further briefing and argument might convince [him] that [his] current view is unfounded.” *Ritter v. Migliori*, 142 S. Ct. 1824, 1824 (2022). In fact, his view is contrary to the applicable statute's text. Arguments he advanced, which Petitioners parrot, rest on multiple mistaken readings of the text of the relevant provision.

Second, subsequent litigation has allowed for the development of a fuller record, including testimony from multiple state and county election officials, which has conclusively resolved a question that divided this Court in 2020: whether the directive to voters to “date” their ballot return envelope serves any meaningful purpose under the Election Code. It does not, and while Petitioners occasionally pay lip service to the contrary argument, they also concede the date does not play a role in Pennsylvania’s election administration, and they do not in any way address the factual record developed in those cases. As a result of the subsequent record developed, the Commonwealth Court has issued two thorough decisions concluding that neither state nor federal law allows county boards to disregard ballots based on the lack of a handwritten date.

Third, since 2020, different parties have conducted a thorough review of the statutory history of the relevant language in the Election Code. That review, which was not available to the Court during the prior litigation, confirms that the General Assembly did not intend for county boards of elections to set aside votes based on a review of the handwritten date. That much is clear because, between 1945 and 1968, the Election Code *did* direct boards to review the written date and set aside ballots based on their review of that date. It did so because during those years, the date on which the voter cast their ballot mattered, as the Election Code set different deadlines for casting a ballot and returning the same ballot. Since 1968, there has

been only one deadline for casting and returning a ballot (currently 8 p.m. on Election Day). So, in 1968 the legislature removed the separate requirement that the board review the handwritten date and set aside ballots on that basis. It left in the language, still present today, directing voters to “date” the declaration, but removed the direction to county boards to *consider* the handwritten date in reviewing the ballot.

Thus, the only instruction that remains in the Code relating to the voter declaration is a longstanding requirement that the board must satisfy itself that the declaration is “sufficient.” Because the purpose of the declaration is to require the voter to attest to her eligibility, a signature alone is “sufficient” and the date is irrelevant. Were there any doubt as to whether a date is required for this purpose, the fact that the legislature added (in 1945) a *separate* requirement that boards review the date, before removing the same (in 1968), while simultaneously leaving the requirement that the declaration be “sufficient” untouched, puts it to rest.

Petitioners’ claims thus fail on the merits. And because the counting of other voters’ ballots does not injure Petitioners in any cognizable fashion, they also lack standing to bring this action. For any of these various reasons, Petitioners’ request should be denied.

STATEMENT OF THE CASE

The fate of timely received mailed ballots submitted by qualified electors who forgot to write a date on the declaration of their ballot's return envelope is before this Court again because there is not yet a definitive answer.

The Court previously considered this issue after the 2020 General Election, when urgent resolution was needed for election results to be finally certified. *See In re Canvass of Absentee and Mail-in Ballots of Nov. 3, 2020 Gen. Election*, 241 A.3d 1058 (Pa. 2020). Given that urgency, this Court had the benefit of only the parties' hurried briefing and research, with some relevant issues receiving limited attention. *See id.* at 1089 n.54 (Wecht, J.) And to meet the pressing need for resolution, this Court issued its decision just five days after exercising extraordinary jurisdiction, ordering that several thousand timely received ballots cast in either Allegheny or Philadelphia County could be counted for the 2020 General Election despite the voter having forgotten to write a date on the return envelope.

Three Justices explained that, during canvassing, county boards of elections review whether the declaration printed on the return envelope used for mailed ballots is "sufficient." *Id.* at 1067 (opinion announcing judgment) (quoting 25 P.S. § 3146.8(g)(3)). They concluded that "a board can reasonably determine that a voter's declaration is sufficient even without the date of signature." *Id.* at 1077 (opinion announcing judgment). The lead opinion also explained that the General

Assembly could not have meant for non-compliance with an instruction that voters “shall ... date” the return-envelope declaration to require disenfranchising voters given that the date does not serve any “weighty interests.” *Id.*

Justice Wecht considered the General Assembly’s instruction that voters “shall ... date” their ballot-return envelope as expressing an intention that ballots returned with undated declarations not be counted. *Id.* at 1086-87 (Wecht, J.). But Justice Wecht concluded that those ballots should be counted in the 2020 General Election because, without precedent, voters “lacked clear information regarding the consequence of, *e.g.*, failing to ... record the date beside the voter’s declaration signature.” *Id.* at 1089 (Wecht, J.).

Three Justices dissented, writing that an instruction to voters that they “shall ... date” the declaration requires disqualifying any ballot returned in an envelope without a dated declaration. *Id.* at 1090 (Dougherty, J.). The dissent listed three reasons that the General Assembly might have required a date: (1) confirming the voter’s intent to vote by mail, (2) providing a date to measure a voter’s eligibility, and (3) assessing a ballot’s timeliness. *Id.* at 1090-91 (Dougherty, J.).

The return-envelope declaration used in 2020 contained four fields for voters to complete: a signature, the date of signing, the voter’s name, and the voter’s address. *See id.* at 1065 (opinion announcing judgment). After the 2020 General Election, the Secretary of the Commonwealth modified the declaration, *see* 25 P.S.

§§ 3146.4, 3150.14 (directing Secretary to prescribe form of the declaration), so that it now asks voters for only their signature and a date, *see* Template Ballot Declaration (attached as Exhibit 1).

Neither *In re Canvass* nor the declaration's redesign put this issue to rest. After the 2021 Municipal Election, two divided panels of the Commonwealth Court ruled that certain timely received ballots returned by a qualified voter in an envelope with a signed but undated declaration would not be counted. *Ritter v. Lehigh Cnty. Bd. of Elections*, No 1322 CD 2021, 2022 WL 16577 (Pa. Commw. Ct. 2022 Jan. 3, 2022); *In re Election in Region 4 for Downingtown Sch. Bd. Precinct Uwchlan 1*, No. 1381 CD 2021, 2022 WL 96156 (Pa. Commw. Ct. Jan. 10, 2022).

The *Ritter* decision—which related to a judicial election in Lehigh County—resulted in federal litigation. The federal case was brought by individual voters whose ballots had been excluded because they omitted the declaration date.

As the Third Circuit noted, an analysis showed that the average age of the voters who neglected to date their declaration in Lehigh County's 2021 Municipal Election was 71 years old, with 15 voters over the age of 90. *Migliori v. Lehigh Cnty. Bd. of Elections*, 36 F.4th 153, 156 n.18 (3d Cir. 2022). That is consistent with other available data. In Montgomery County, for example, the average age of voters for both the 2021 Municipal Election and the 2022 General Primary Election who did

not date their declaration is about 70 years old. *See* Affidavit of Lee Soltysiak ¶ 20 (attached to Brief of Philadelphia County Board of Elections, et al.)

The Third Circuit eventually held that 52 U.S.C. § 10101(a)(2)(B) prohibits county boards from setting aside timely received mailed ballots merely because a qualified voter forgot to date the return envelope's declaration. *Migliori*, 36 F.4th at 162-64. Omitting a declaration date could not justify denying the right to vote, that court concluded, because the date does not in any way assist in determining a voter's qualifications. *Id.*

After the U.S. Supreme Court denied one candidate's request to stay the Third Circuit's judgment, *Ritter v. Migliori*, 142 S. Ct. 1824 (Mem.) (2022), all lawfully cast ballots were counted and the winner was certified. This month, after the losing candidate had conceded his defeat, the U.S. Supreme Court granted a request to vacate the Third Circuit's judgment under *United States v. Munsingwear, Inc.*, 340 U.S. 36 (1950), because the case became moot. *Ritter v. Migliori*, 2022 WL 6571686 (Mem.) (Oct. 11, 2022). The Court did not express a view of the merits.

Finally, in cases related to the 2022 General Primary Election, Commonwealth Court President Judge Cohn Jubelirer twice issued comprehensive decisions explaining why Pennsylvania does not allow county boards to set aside timely received ballots that qualified voters return with a signed but undated declaration. *See Chapman v. Berks Cnty. Bd. of Elections*, No. 355 MD 2022, 2022

WL 4100998 (Pa. Commw. Ct. Aug. 19, 2022); *McCormick for U.S. Senate v. Chapman*, No. 286 MD 2022, 2022 WL 2900112 (Pa. Commw. Ct. June 2, 2022). Independently, the President Judge Cohn Jubelirer held that if Pennsylvania law allowed voiding these ballots, federal law does not. *Id.*

After *Berks*, 66 of the 67 counties certified results for the 2022 General Primary Election that did not exclude timely received absentee or mail-in ballots from qualified electors even if the declaration on the ballot-return envelope was undated.¹

Before the 2022 General Election, the Department issued guidance consistent with *Berks*, *McCormick*, and *Migliori*.² That election is now well underway. As of

¹ Butler County, the one exception, was not named as a respondent in *Berks* because the Department of State had not properly recorded Butler County's statement that it would not count the ballots at issue. *Berks*, 2022 WL 4100998, at *6.

² Although Petitioners and several *amici* argue that the Department of State cannot order county boards to canvass and count timely received mailed ballots from qualified voters who neglected to date their return-envelope declaration, the Department of State's guidance merely reflects these judicial decisions, *see* Pa. Dep't of State, *Guidance Concerning Examination of Absentee and Mail-in Ballot Return Envelopes*, Version 3.0, at 2-3 (Sept. 26, 2022) (attached as Exhibit A to Petitioners' Application for Extraordinary Jurisdiction). The Acting Secretary does not claim the power to instruct county boards which ballots must be canvassed and counted.

Petitioners also reference the Department's website, which advises voters that "If you do not complete the declaration on the return envelope your ballot will not be counted." Br. at 5. The Department's website, which is consistent with its position here, is intended to maximize the ability of qualified electors to have their votes

October 24, 2022, more than 1.2 million Pennsylvania electors have requested an absentee or mail-in ballot, and more than 556,000 of those ballots have been returned.³

SUMMARY OF ARGUMENT

Petitioners ask that voters who forget to write a date that has no function in the administration of Pennsylvania's elections be disenfranchised. No Petitioner has standing to seek that relief, which, in any event, is unavailable under Pennsylvania and federal law.

First, no Petitioner has standing. Neither set of Petitioners—one group of voters and one group of political committees—has alleged any fact establishing their particularized interest in disqualifying certain people's votes. Indeed, the various ways in which they try to package their generalized interest in compliance with the law as legally cognizable injuries have been repeatedly rejected by courts in Pennsylvania and around the country.

Second, Petitioners arguments for why Pennsylvania law allows county boards to set aside ballots returned in envelopes lacking a dated declaration are at

counted. The Department consistently advises voters to take all actions needed to guarantee that their vote is counted.

³ The Daily Mail Ballot Report is publicly available on the Department of State's website at: <https://www.vote.pa.gov/About-Elections/Pages/Election-Results.aspx>.

odds with the Election Code’s text, structure, and history. Petitioners devote nearly their entire argument to whether an instruction that voters “shall ... date” the declaration on their ballot-return envelope requires setting aside a ballot from county boards’ canvassing. Yet a separate section of the Election Code specifically directs county boards not to set aside ballots if the return-envelope declaration is “sufficient.” 25 P.S. § 3146.8(g)(3). Text and context both confirm that a signed but undated declaration is “sufficient.”

The Election Code’s history unequivocally confirms this too. Since its inception, the Election Code has identified for county boards of elections which mailed ballots must be canvassed and counted. Those instructions have always required that county boards canvass timely received mailed ballots from qualified voters if the voter attestation printed on the mailed ballot’s return envelope is “sufficient.” County boards’ review of an attestation’s sufficiency has *never* entailed review of any date.

In fact, from 1945 to 1968, the Election Code included an explicit requirement—*in addition* to the requirement that the attestation be “sufficient”—that county boards set aside mailed ballots based on the date a voter wrote on the return envelope’s attestation. In 1968, when other amendments to the Election Code deprived the written date of any use, the General Assembly *removed* the directive that county boards set aside mailed ballots based on a voter’s handwritten date.

Petitioners believe this Court should insert the very requirement that the General chose to eliminate.

Finally, to the extent the Election Code's text is ambiguous, that ambiguity must be resolved in favor of the right to vote, especially given that the date on a voter's declaration has no function, as Petitioners largely concede.

Third, if this Court nevertheless interprets the Election Code as obligating county boards to set aside ballots returned in envelopes lacking a date, federal law prohibits county boards from following that direction. That is because federal law prohibits denying the right to vote based on certain errors or omissions if the error or omission is immaterial to determining a voter's qualifications. 52 U.S.C. §10101(a)(2)(B). A handwritten date on a ballot return envelope serves no purpose in the administration of Pennsylvania's elections. Each of Petitioners' contrary arguments ignore statutory text and would leave the federal statute completely ineffective.

ARGUMENT

I. PETITIONERS LACK STANDING

As a threshold matter, Petitioners—which comprise a group of voters and a group of Republican Committees—cannot obtain relief because they cannot show the “substantial, direct, and immediate interest” needed to establish standing. *Markham v. Wolf*, 136 A.3d 134, 140 (Pa. 2016). “To have a substantial interest, concern in the outcome of the challenge must surpass the common interest of all citizens in procuring obedience to the law.” *Id.* (cleaned up). Thus, “a generalized grievance about the conduct of government” is insufficient. *Fumo v. City of Phila.*, 972 A.2d 487, 522 (Pa. 2009). To satisfy the criterion of directness, a litigant must “demonstrat[e] that the matter caused harm to the party’s interest.” *Markham*, 136 A.3d at 140 (internal quotation marks omitted). Finally, “the concern is immediate if that causal connection is not remote or speculative.” *Id.* (internal quotation marks omitted).

No Petitioner satisfies this test.

A. The Voter Petitioners Lack Standing

The Voter Petitioners contend they are injured because their “validly cast” votes will supposedly be “canceled out and diluted by the counting of ... ballots”

returned without a “correct” handwritten date on the declaration. Pet. at 6.⁴ But courts—including this Court—have consistently rejected this “vote dilution” theory of standing, recognizing that it asserts only a generalized grievance and fails to identify any substantial, particularized injury. *See, e.g., Kauffman v. Osser*, 271 A.2d 236, 240 (Pa. 1970); *Wood v. Raffensperger*, 981 F.3d 1307, 1314-15 (11th Cir. 2020); *Bognet v. Sec’y Commonwealth of Pa.*, 980 F.3d 336, 356-60 (3d Cir. 2020) (citing cases), *vacated on mootness grounds sub nom. Bognet v. Degraffenreid*, 141 S. Ct. 2508 (2021); *Toth v. Chapman*, No. 22-208, 2022 WL 821175, at *7 (M.D. Pa. Mar. 16, 2022) (three-judge court); *Election Integrity Project Cal., Inc. v. Weber*, No. 21-32, 2021 WL 4501998, at *4 (C.D. Cal. June 14, 2021); *King v. Whitmer*, 505 F. Supp. 3d 720, 735-36 (E.D. Mich. 2020); *Martel v. Condos*, 487 F. Supp. 3d 247, 251-54 (D. Vt. 2020).

This Court’s decision in *Kauffman* is directly on point. There, a group of voters asserted a constitutional challenge to a statute allowing certain categories of electors to vote absentee. 271 A.2d at 237. The plaintiffs contended they had standing because, “if qualified electors [within the statutory authorization] [were] permitted to vote by absentee ballot,” the plaintiffs and all other voters “who intend to vote in person at the polls ... w[ould purportedly] have their votes diluted by the

⁴ “Pet.” refers to Petitioners’ application in support of invoking this Court’s King’s Bench power. “Br.” refers to Petitioners’ merits brief.

[allegedly unlawful] absentee votes.” *Id.* at 238. This Court squarely rejected that standing theory, observing that, among other deficiencies, it failed to establish a substantial, particularized injury: “the interest which [the plaintiffs] claim is nowise peculiar to them but rather it is an interest common to that of all other qualified electors.” *Id.* at 240. Voter Petitioners’ theory of standing is no different than the theory of generalized harm rejected by this Court in *Kauffman*.

Endorsing Petitioners’ vote-dilution theory would work a sea-change in the law. It would grant every voter in Pennsylvania standing to challenge “any ballot that [allegedly] deviates in some way from the requirements of [the] legislatively enacted election code.” *Bognet*, 980 F.3d at 360 (emphasis added); *see also Toth*, 2022 WL 821775, at *7 (under well-settled standing principles, “[t]he mere fact that an individual has a right to vote does not confer standing to challenge any and all voting laws and procedures”). And it would do so even where, as here, there is no question that the ballot was cast by a qualified elector indisputably entitled to participate in the selection of his or her political representatives, *i.e.*, a citizen whom no one has a right to exclude from the electorate. Such a holding would eviscerate the requirements of standing.

Nor can any voter establish standing based on their “statutory right to vote via absentee or mail-in ballot.” *Contra Br.* at 18. First, no Petitioner alleges that they actually intend to vote via such a ballot. Second, Petitioners are not seeking to

remove a burden on their own right to vote via absentee or mail-in ballot. They are complaining about the *absence* of a burden on another voter—that is, they seek to disqualify absentee and mail-in ballots that are timely returned by qualified voters but lack a handwritten date on the declaration. But the absence of a burden on one person’s right to vote does not injure anyone else. *Donald J. Trump for President v. Boockvar*, 502 F. Supp. 3d 899, 919 (M.D. Pa. 2020).

B. The Republican Committees Lack Standing

As for the Committees, they first identify an interest in electing Republican candidates, Pet. at 7-9, but do not contend that counting absentee and mail-in ballots returned in an envelope lacking a handwritten date puts Republicans at a competitive disadvantage or otherwise impairs their ability to win votes. The Committees’ reliance on *Shays v. Federal Election Commission*, 414 F.3d 76 (D.C. Cir. 2005), is misplaced. See Br. at 16. There, candidates asserted that FEC rules had impermissibly resurrected campaign practices that a campaign finance reform statute had prohibited. *Id.* at 79. As a result, the plaintiff candidates “face[d] *intensified* [electoral] competition” relative to what the statute allegedly allowed. *Id.* at 86. The question presented here—whether a qualified elector should be disenfranchised for neglecting to handwrite a date on her ballot-return envelope—does not implicate any restrictions on campaign activities, nor does it affect the intensity of a candidate’s competition.

As with the Voter Petitioners' dilution theory of standing, the standing theory advanced by the Republican Committees has no limiting principle. In their view, any political party committee has standing to seek a declaratory judgment regarding *any* election-administration question, based simply on the prospect that the answer to that question could, hypothetically, affect the outcome of a future election—despite the absence of any facts or allegations showing that the practice at issue tends to harm the committee's party or candidates. This Court has squarely rejected such standing theories. *See Kauffman*, 271 A.2d at 239-40 (holding that plaintiffs could not establish standing to challenge validity of certain absentee ballots based on an “assumption, unsupported factually,” that the challenged absentee voters “will vote for candidates at the November election other than those for whom the [plaintiffs] will vote”). And for good reason: Petitioners are not seeking to lift a burden on individuals' voting rights.

Next, the Committees' purported interest in “ensur[ing the vote-counting process] is conducted lawfully,” Pet. at 8, merely restates a generalized interest in adherence to the law, *see Markham*, 136 A.3d at 140; *see also Bognet*, 980 F.3d at 351-52 (candidate lacked standing to challenge election rule where he failed to plead any non-speculative facts showing how the rules “would lead to a *less* competitive race” or would cause a higher proportion of ballots to “be cast for [the candidate's]

opponent,” or that the number of allegedly invalid ballots would “change the outcome of the election to the [candidate’s] detriment”).

Nor can the Committees show a cognizable interest or injury based on the statutory right of candidates and parties to have a representative present in the “room in which the absentee ballots and mail-in ballots” are canvassed. *Contra* Br. at 13 (quoting 25 P.S. § 3146.8(g)(1.1)-(2)). That right is unaffected by the relief Petitioners seek here. Regardless of the rules governing which ballots should be counted and which disqualified, candidates and parties are allowed to be present and observe the canvassing process. Moreover, candidate and party representatives are no longer allowed to assert time-of-canvassing challenges, so the outcome of this litigation has no bearing on anything the representatives are able to do during the canvassing process. *See In re Canvassing Observation*, 241 A.3d 339, 351 (Pa. 2020); *In re Nov. 3, 2020 Gen. Election*, 240 A.3d 591, 610 (Pa. 2020).

Finally, the Committees also do not have “organizational” standing, under *Havens Realty Corp. v. Coleman*, 455 U.S. 363 (1982). *Contra* Br. at 15. Contrary to Petitioners’ mistaken view, an organization’s expenditure of resources is not sufficient to confer standing. In *Havens Realty*, the plaintiff organization alleged that it had suffered a direct, individualized injury because the racial discrimination it was challenging had directly undermined its mission of encouraging open housing *and* required it to expend resources to combat that injury. Thus, *Havens* “did not base

standing on the diversion of resources from one program to another,” *i.e.*, on the expenditures, “but rather on the alleged injury that the defendants’ actions themselves had inflicted upon the organization’s programs.” *Fair Housing Council of Suburban Phila. v. Montgomery Newspapers*, 141 F.3d 71, 75 (3d Cir. 1998). Here, as noted, Petitioners do not allege that they will sustain any particularized injury as a result of the counting of ballots timely returned by qualified electors but lacking a hand-dated declaration. Nor do the Committees present any specific facts showing how their educational activities will be affected by whether this Court decides the merits of their claims.⁵ Absent such a showing, the Republican Committees lack organizational standing.

II. STATE LAW PROHIBITS DISCARDING LEGAL VOTES BECAUSE THE VOTER OMITTED A DECLARATION DATE OR ENTERED AN INCORRECT DATE

Even if any Petitioner had standing, nothing in the Election Code permits counties to discard ballots because the voter either neglected to handwrite the date on the return envelope or wrote an incorrect date. Rather, the Election Code directs county boards that mailed ballots shall be counted if the board deems the declaration “sufficient.” 25 P.S. § 3146.8(g)(3)-(4). Because the purpose of the declaration is to require a voter to attest to their eligibility to vote, which a voter does by signing their

⁵ No matter how this Court rules, the Republican Committees—and, for that matter, the Democratic Party’s Committees—will presumably continue to direct voters to date their declarations.

declaration alone, a signed but undated declaration is sufficient. Context and history confirm the accuracy of this plain reading of the text.

Rather than engage with the Election Code's instructions to *county boards* about what mailed ballots must be canvassed, Petitioners ground their argument entirely in language in the Election Code's directions to *voters*. Those directions state that the voter "shall ... date" the declaration on a mailed ballot's return envelope. 25 P.S. §§ 3146.6 (a), 3150.16(a). But instructions to voters do not themselves indicate whether or when non-compliance results in disenfranchisement. That is found in specific directives to county boards about what ballots must be—or must not be—canvassed and counted.

Finally, Petitioners cannot identify any valid purpose the date requirement serves. So, to the extent there is any ambiguity in the relevant statutory language, it must be read so as not to disenfranchise voters.

A. Different Sections of the Election Code Govern the Casting of Votes by Voters and the Counting of those Votes by County Election Boards

The issue here is whether a mailed ballot cast by a legal voter who neglected to handwrite the date on the outer envelope should be counted. This Court has repeatedly (and correctly) looked to the Election Code's canvassing section, *see* 25 P.S. § 3146.8 ("Canvassing of official absentee ballots and mail-in ballots"), to resolve when and whether county boards may or may not canvass and count mailed

ballots. In *In re November 3, 2020 General Election*, for example, this Court ruled that nothing in § 3146.8 permits county boards to disqualify mailed ballots based on an analysis of the voter’s signature. 240 A.3d at 605-11. Likewise, in *Pennsylvania Democratic Party*, this Court reviewed § 3146.8 to determine that county boards may not canvass and count mailed ballots not placed in the inner secrecy envelope even though the Election Code’s instructions to voters state that they “shall” use the secrecy envelope. 238 A.3d at 378-80.⁶

Relevant here, § 3146.8 of the Election Code instructs county boards that ballots that meet the relevant criteria “shall be counted and included with the returns of the applicable election district.” 25 P.S. § 3146.8(g)(4). A ballot that meets the criteria under § 3146.8 may not be disqualified.

With respect to the voter’s declaration, § 3146.8 provides that county boards are to “examine the declaration on the envelope of each ballot” (save those where the voter appears to have died before Election Day) and compare the information on the envelope to the relevant list of absentee or mail-in voters. 25 P.S. § 3146.8(g)(3).

⁶ Section 3146.8 governs the review of ballots after they are received by county boards. It says nothing about whether an absentee or mail-in ballot has been validly returned by the voter to the board in the first place. So this Court’s decision in *In re Canvass of Absentee Ballots of Nov. 4, 2003 Gen. Election*, 843 A.2d 1223, 1230-34 (Pa. 2004), which held that a ballot returned by a voter to the county board in violation of the “in person” requirement of § 3146(a) should not be counted does not undercut the point that the determination of whether the board may exclude ballots based on the handwritten date is governed by § 3146.8(a)

If a county board has confirmed that the individual is entitled to vote, confirmed that the voter has provided identification (if required), and “is satisfied that the declaration is sufficient,” the vote shall be canvassed and counted. *Id.* § 3146.8(g)(3)-(4).

Past and proposed amendments to the Election Code corroborate that § 3146.8 answers the question presented in this case. The General Assembly added “shall ... date” language to the Election Code in 1945 to the section instructing voters on absentee procedures. Act of Mar. 9, 1945, P.L. 29, No. 17, sec. 10, § 1306, 1945 Pa. Laws 29, 37 (attached as Exhibit 4). At the same time, the General Assembly added *to the separate section governing county boards’ canvassing* a mandate (separate from counties’ review of a declaration’s sufficiency) that county boards set aside ballots based their review of the date. *Id.*, sec. 10, § 1307. Thus, when the General Assembly intended for a mailed ballot to be disqualified because of the declaration date, it clearly indicated that in the section of the Election Code governing county boards’ canvassing of mailed ballots, not in the section instructing voters. Nor did it view “shall ... date” instruction to voters as indicative of the consequence of noncompliance.

Likewise, last year, when both houses of the General Assembly voted in favor of sweeping changes to the Election Code (which the Governor vetoed), the bill would have added language *to the canvassing section* directing that county boards

could not canvass ballots returned with an undated declaration. *See* HB 1300, Session of 2021, § 20.⁷

Because Petitioners’ train their focus almost exclusively on sections of the Election Code that instruct voters how to submit absentee and mail-in ballots, their arguments distort the fundamental structure of the Election Code.

B. A Signed Declaration Is “Sufficient”

The proper place to begin, then, is to determine under what conditions a county board must be “satisfied that the declaration is sufficient.” 25 P.S. § 3146.8(g)(3). Nothing in the Election Code authorizes boards to scour the Election Code’s instructions to voters to discard a ballot returned with a “sufficient” declaration.

The meaning of “sufficient” should be determined based on evidence of the General Assembly’s intention. 1 Pa.C.S. § 1921(a). Statutory text is the best indicator of the General Assembly’s intentions, *id.* § 1921(b), and should be read in context, with words bearing their common meaning. *Crown Castle NG E. LLC v. Pa. Pub. Util. Comm’n*, 234 A.3d 665, 674 (Pa. 2020). The “former law” may also assist understanding the General Assembly’s intention. 1 Pa.C.S. § 1921(c); *In re Nov. 3, 2020 Gen. Election*, 240 A.3d 591, 609 (Pa. 2020) (looking to the history of

⁷ Available at: <https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2021&sessInd=0&billBody=H&billTyp=B&billNbr=1300&pn=1869>.

25 P.S. § 3146.8(g)(3) to determine if county boards were authorized to reject mailed ballots based on signature analysis).⁸

The longstanding definition of “sufficient,” (a word included as part of the original Election Code, *see infra* at 27) is “[o]f a quantity, extent, or scope adequate to a certain purpose or object.” *Sufficient*, Oxford English Dictionary (2d ed.) (dating this use of “sufficient” to 1380). By choosing the word “sufficient,” the legislature made clear that less than perfect compliance with the voting instructions was acceptable for a ballot to be counted, so long as the declaration achieves its purpose.

The statutory purpose of the declaration is for the voter to swear to their eligibility. *See* 25 P.S. § 3146.4; 25 P.S. § 3150.14. Indeed, the entire purpose of a county boards’ review under 25 P.S. § 3146.8(g)(3) is to consult various sources—including the declaration and voter lists—to confirm that the sources “verif[y] his right to vote.” 25 P.S. § 3146.8(g)(3). Ballots that have been “verified under paragraph (3) shall be counted and included with the returns” *Id.* § 3146.8(g)(4).

A signature alone is sufficient for a voter to attest to their eligibility, and thus to serve their particular purpose in the county boards’ verification of a voter’s

⁸ Petitioners (and multiple *amici*) wrongly assert that counting mailed ballots without a dated declaration would usurp power that the General Assembly possesses under Article I, § 4 of the U.S. Constitution. Br. at 28-29. These assertions are based on a fundamentally flawed view of the U.S. Constitution. A bedrock feature of our constitutional structure is this Court’s interpretation of statutes enacted by the General Assembly.

eligibility. A signed, but undated, declaration is no less an affirmative statement by the voter than is a signed and dated one. In fact, the Election Code clearly acknowledges that a signature alone is sufficient, as it imposes criminal penalties on anyone who falsely *signs* a declaration. *See* 25 P.S. § 3553. If a signature alone is sufficient to treat the declaration as an affirmative statement by the signatory where it is false, it surely is sufficient to do so where the declaration is true.

Accordingly, with a signature alone, “a board can reasonably determine that a voter’s declaration is sufficient.” *In re Canvass*, 241 A.3d at 1077 (Pa. 2020) (opinion announcing judgment); *see also Berks*, 2022 WL 4100998, at *20 (“[T]he Court concludes that the inclusion of a handwritten date on the declaration is not needed to make the declaration sufficient . . .”).

The Election Code’s history—which was neither presented to nor examined by this Court in its 2020 *In re Canvass* decision—is in accord with the plain meaning of its text. Tracing that history conclusively confirms that the General Assembly intended for county boards to regard a signed but undated declaration as “sufficient.” In particular, the statutory genealogy shows that:

- (1) Assessing if a “declaration is sufficient” has *never* included review of a date;
- (2) Section 3146.8 once included a *separate* directive that county boards disqualify mailed ballots based on the declaration’s date, but the General Assembly removed that requirement in 1968; and

(3) The purpose of the date was to ensure, when the Election Code imposed separate sent-by and received-by deadlines, that ballots were timely sent.

The Original Election Code of 1937

The initial version of the Election Code allowed some active military members—referred to as detached electors—to vote by mail. Act of June 3, 1937, P.L. 1333, No. 320, §§ 1327-1330, 1937 Pa. Laws 1333, 1442-44 (attached as Exhibit 2). Detached electors had to enclose their ballot in a secrecy envelope, which was then enclosed in another envelope on which was “printed the affidavit of the detached elector, together with the jurat of the officer in whose presence the ballot is marked and before whom the affidavit is made.” *Id.* § 1328. There was no requirement to date either the affidavit or the jurat; the Code provided only that the elector “shall ... take out, subscribe and swear to the affidavit ... and the jurat shall be subscribed by the [witnessing] officer.” *Id.* § 1329.

Detached electors had to vote “on or before the day of the election,” *id.*, but counties were instructed not to complete canvassing of their returns until the third Friday after Election Day. *Id.* § 1317. During canvassing, county boards were required to “compare the signature of such absent voter with his signature upon any register or other record in their possession.” *Id.* § 1330. If the boards were “satisfied that the signatures correspond and that the affidavit and jurat are sufficient,” the boards were to announce the name of the elector and provide an opportunity for any

person present to challenge the ballot for any reason that a ballot cast in person could be challenged. *Id.*

Because there was no instruction to date either the affidavit or jurat, the boards' determination of whether the affidavit and jurat were "sufficient" did not include any assessment of whether either was dated.

1941 Amendments

Following the 1941 amendments to the Election Code, county boards were still instructed not to complete canvassing until the second Friday after Election Day. Act of Aug. 1, 1941, P.L. 672, No. 273, sec. 4, § 1303, 1941 Pa. Laws 672 (attached as Exhibit 3). And eligible electors were still instructed to complete the ballot "on or before the day of the election." *Id.*, sec. 4, § 1306. This version of the Election Code also did not require that either the affidavit or jurat be dated, but it did mandate that county boards "set aside" during canvassing any ballot with a return envelope that "bear[s] a postmark later than the date of the particular Election Day involved." *Id.*, sec. 4, § 1307.

After setting aside ballots the postmark showed to be untimely, counties were directed to review the remaining ballots to determine if the "affidavit and jurat are sufficient." *Id.*

1945 Amendments

The 1945 version of the Election Code continued to require voters to cast absentee ballots no later than Election Day, Act of Mar. 9, 1945, P.L. 29, No. 17, sec. 10, § 1306, 1945 Pa. Laws 29, 37 (attached as Exhibit 4), and explicitly made the second Friday after Election Day the deadline for receipt of an absentee ballot. *Id.*, sec. 10, § 1307. These amendments added, for the first time, language instructing voters that the jurat on the ballot-return envelope “*shall be ... dated.*” *Id.*, sec. 10, § 1306 (emphasis added).

Consistent with the new dating language, the canvassing section was amended to require county boards to review the date on the jurat. *Id.*, sec. 10, § 1307. Under the 1945 version of the canvassing section, counties were specifically directed to “set aside” all ballots in which the “jurat bears a date later than the date of the election.” *Id.* After setting aside those ballots, counties were to review the remaining ballots to determine whether “the affidavit and jurat are sufficient.” *Id.*

1963 Amendments

As part of the 1963 amendments permitting certain categories of civilians to vote absentee, the requirement of a separate affidavit and jurat was replaced with the single declaration that is still in use today. Act of Aug. 13, 1963, P.L. 707, No. 379, sec. 22, § 1304, 1963 Pa. Laws 707, 736 (attached as Exhibit 5). Reflecting this consolidation, the previous instruction to date the jurat became an instruction to date

the declaration: “The elector shall ... fill out, date and sign the declaration printed on [the outer ballot-return] envelope.” *Id.*, sec. 22, § 1306. All other relevant parts of the Election Code remained materially unchanged.

1968 Amendments

In 1968, the General Assembly aligned, for the first time, the deadline for absentee voters to complete their ballot, and for county boards to receive those ballots. Act of Dec. 11, 1968, P.L. 1183, No. 375, sec. 8, § 1308(a) (attached as Exhibit 6). After creating a single deadline, the General Assembly *deleted* from the Election Code’s canvassing section the requirement that counties set aside ballots based on the date appearing on the ballot-return envelope. *Id.*, sec. 8, § 1308(c).

From 1968 to the Present

From 1968 to 2019, these provisions of the Election Code were materially unchanged. When the General Assembly passed Act 77 of 2019, giving all qualified voters the option to vote by mail, it adopted almost wholesale the pre-existing text and procedures for absentee voting, including the language that voters “shall ... fill out, date and sign the declaration” on the return envelope. Act of Oct. 31, 2019, P.L. 552, sec. 8 (adding Article XIII-D to the Election Code). The General Assembly likewise extended the existing canvassing procedures for absentee ballots to no-excuse mail-in ballots. *Id.*, sec. 7, § 1308. Act 77 continued

to impose a single deadline for voters to cast, and for counties to receive, most absentee and all mail-in ballots. *Id.* sec. 6, § 1306; *id.*, sec. 7, § 1308; *id.*, sec. 8.

Petitioners fail to address the canvassing section's text, context, or history, all of which confirm that a signed but undated declaration is "sufficient." They instead assert that it is inconsistent to suggest that a signature is needed to make the declaration sufficient, but not a date. *See Br.* at 39. But nothing about how the foregoing analysis applies to the signature and date is inconsistent given the purpose of the declaration. A signature is necessary to establish that the voter has attested to their qualifications; a date, however, is not.

The legislature *could* have required compliance with the voting instructions in any number of ways. As the version of the Election Code in effect from 1945 to 1968 shows, the General Assembly clearly knows how to do. Indeed, the General Assembly could have said that county boards "shall determine whether the declaration contains the information specified in sections 3146.6 and 3150.16(a)." Likewise, it could have directed county boards to confirm the declaration is "complete." Or it could have simply said not to canvass ballots returned with an undated declaration. But it did none of those things.

C. The “Shall ... Date” Language Does Not Justify Disenfranchising Voters on the Basis of an Incorrect or Omitted Date

By focusing on the section of the Election Code that governs the canvassing and counting of ballots, it becomes unnecessary to parse the voter instructions in the Code to “weigh in each instance whether to interpret the mandatory statutory language as being mandatory in fact.” *In re Canvass*, 241 A.3d at 1081 (Wecht, J.).

But even if the analysis begins with the voter instruction provisions, principles of statutory construction lead to the same result. The object of statutory interpretation is, of course, to “ascertain and effectuate the intention of the General Assembly.” 1 Pa. C.S. § 1921(a). The General Assembly’s intention may be discerned solely from statutory language “[w]hen the words of a statute are clear and free from all ambiguity.” *Id.* § 1921(b). But where this condition is not satisfied, courts look to a number of other factors to ascertain the General Assembly’s intent, such as the “occasion and necessity for the statute,” the “object to be attained,” the “consequences of a particular interpretation,” and the “contemporaneous legislative history.” *Id.* § 1921(c).⁹ Finally, in determining legislative intent, courts are to

⁹ The full list of factors is:

- (1) The occasion and necessity for the statute.
- (2) The circumstances under which it was enacted.
- (3) The mischief to be remedied.
- (4) The object to be attained.
- (5) The former law, if any, including other statutes upon the same or similar subjects.
- (6) The consequences of a particular interpretation.

employ certain presumptions, among them that the legislature “does not intend a result that is absurd, impossible of execution or unreasonable” and that it “intends the entire statute to be effective and certain.” *Id.* § 1922.

As an initial matter, “[t]he dating provisions at issue do not expressly provide that [undated] ballots should not be counted,” *Berks*, 2022 WL 4100998, at *16, much less in a way that is “clear and free from all ambiguity,” *see* 1 Pa. C.S. § 1921(b). Just months before the enactment of Act 77 of 2019, this Court held that “the precise meaning of the word ‘shall’ may be ambiguous in some contexts, and under such circumstances, reference to principles of statutory construction are instructive.” *MERSCORP, Inc. v. Delaware Cnty.*, 207 A.3d 855, 865 (Pa. 2019); *see also Gardner v. W.C.A.B. (Genesis Health Ventures)*, 888 A.2d 758, 765 (Pa. 2005) (concluding that “shall” is not “so clear and free from all ambiguity that we can attach one or the other meaning without reservation”).

Here, the “shall ... date” language alone does not clearly dictate that disenfranchisement is the consequence of non-compliance. That text appears among the Election Code’s instructions to voters on filling out and returning absentee and mail-in ballots. Voters are told when to fill them out (between receiving the ballot and 8 P.M. of Election Day) as well as how (“in secret”). 25 P.S. §§ 3146.6(a),

(7) The contemporaneous legislative history.

(8) Legislative and administrative interpretations of such statute.

3150.16(a). They are instructed as to use “black lead pencil, indelible pencil,” or “fountain pen or ball point pen.” *Id.* If they opt to use a pen, they are told to use “blue, black or blue-black ink.” *Id.*

After completing the ballot, the voter is instructed that they shall fold it and then to “enclose and securely seal” the ballot in the inner security envelope. *Id.* They are told to place the security envelope “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.” *Id.* At that point, the Election Code instructs the voter to “fill out, date and sign the declaration printed on such envelope” after which they are to seal the envelope and return it “by mail, postage prepaid, except where franked” or “deliver it in person to said county board of election.” *Id.*

A view that instructing voters “shall” do something, without more, universally requires county boards to discard a ballot where the voter has not followed the relevant instruction cannot be squared with this Court’s cases recognizing that the word “shall” can be ambiguous, and that resort to the principles of § 1921(c) is often required. And it would lead to absurd results, *contra* 1 Pa.C.S. § 1922(1), to uniformly assume that non-compliance with an instruction preceded by “shall” requires disenfranchisement. If that is right, any ballot filled out in a pen other than a ball point or fountain pen would be subject to disqualification.

Looking at the Election Code as a whole makes this point even clearer. The Election Code is largely a series of instructions directed to everyone involved in the voting process: voters, candidates, political parties, county boards, district election workers, the Secretary of the Commonwealth, and others. The word “shall” appears in it thousands of times, in connection with virtually every step to be taken in the planning and execution of an election. *E.g.*, 25 P.S. § 3004 (“The county election board shall provide machines in good working order, and shall preserve and keep them in repair.”); *id.* § 2673 (“The county board shall be notified immediately upon the determination of any such tie vote [for judge or inspector of elections].”); *id.* § 2838.1 (“The secretary of any political party shall certify and forward to the Secretary of the Commonwealth a copy of the party rules”); *id.* § 3055(a) (voters shall retire to one of the voter compartments, and draw the curtain or shut the screen door”); *id.* § 3055(d) (voters “shall fold [their] ballot . . . in the same way it was folded when received” before returning it).

The purpose of many of these requirements is plainly not to impose specific consequences for failure to take certain steps, but rather to provide direction as to what should be done to ensure a well-run election. *E.g.*, *id.* § 3031.10(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.”). In this regard, the voter directions fit in logically with the rest of the Election Code. For instance, it may have been the case

at one point that filling out an absentee ballot with a ball point or fountain pen in blue or black ink smoothed the process of counting that ballot, so the Election Code logically directed voters to use this method. But including such a direction certainly did not demonstrate that the legislature intended county boards to discard all other ballots.

If the General Assembly truly intended that the absence of a date should render a ballot void, it could have said so in unambiguous terms; Petitioners' suggestion that it "could not have been clearer," Br. at 21, is indefensible. If, for instance, Act 77 included language in section 3150.16(a) stating "The Board shall discard and not canvass any ballot without a handwritten date on the return envelope," *it would have been a different bill*. That language would invite scrutiny, and it would be subject to debate—and if it remained in the final legislation, then there would be no doubt about the General Assembly's intent. It is not this Court's responsibility to impose consequences where the legislature has not clearly done so itself. *See* 1 Pa.C.S. § 1923(b). That is especially true where the consequence is one the General Assembly *affirmatively removed*, as the General Assembly did here in 1968. *Supra* at 30.

Any suggestion that interpreting the word "shall" as mandatory in all circumstances in the Election Code would lead to greater clarity is illusory. Doing so would lead to ongoing litigation and cast doubt over many provisions of the

Election Code. This case shows why: Petitioners have piggybacked off of the suggestion that the “shall ... date” language requires discarding votes without dates to advance the claim that ballots with “incorrect” dates must be thrown out as well. Prior to this case, no county board had sought to exclude such votes, and for good reason: identifying if a date is “correct” would be largely impossible. To compensate for that, Petitioners suggest that the Court merely disenfranchise only *some* voters who write down the wrong date—namely, those who write a date that is outside the period between the mailing of the ballot and Election Day. Br. at 7-8. So a voter who inadvertently writes a date of birth or the wrong year would be out of luck; one who is merely off by a few days would probably be safe. Nothing in the Election Code requires drawing such arbitrary lines.

If Petitioners are successful in this litigation, the next similar challenge could involve ink color, or pen or pencil types. And undoubtedly interested parties will be able to find other uses of “shall” in the Election Code that, if interpreted similarly, could be grounds for further disenfranchisement. Such efforts would raise additional legal questions. Imposing draconian consequences for insignificant errors could, as is the case here, run afoul of federal statutory law, *see infra* Section III, or implicate the Constitution’s Free and Equal Election Clause, Pa. Const. art. I, § 5, or the U.S. Supreme Court’s line of cases addressing burdens on the right to vote, *see Burdick v. Takushi*, 504 U.S. 428 (1992); *Anderson v. Celebrezze*, 460 U.S. 780 (1983). And

these concerns would only be heightened where, as here, the purported restriction disproportionately impacts certain voters. So, far from providing certainty in our elections, adopting Petitioners' argument could lead to chaos.

D. Any Ambiguity Must Be Resolved in Favor of the Exercise of the Franchise

Assuming, despite the Election Code's text, structure, and history, § 3146.8's use of "sufficient," either on its own or read *in pari materia* with the "shall ... date" language, were somehow ambiguous, county boards still could not set aside a qualified voter's timely received mailed ballot just because the voter forgot to date the return envelope's declaration.

Ambiguous statutes should be interpreted in light of the "occasion and necessity for the statute," the "mischief to be remedied," "the object to be attained," and the "consequences of a particular interpretation." 1 Pa.C.S. § 1921(c)(1), (3), (4), (6). For the Election Code, "the purpose and objective ... is to obtain freedom of choice, a fair election and an honest election return." *Pa. Democratic Party*, 238 A.3d at 356 (cleaned up). Therefore, the Election Code "should be liberally construed so as not to deprive, *inter alia*, electors of their right to elect a candidate of their choice," *id.* (cleaned up), and interpreted "mindful of the longstanding and overriding policy in this Commonwealth to protect the elective franchise," *id.* at 360-61 (cleaned up). This policy "has been recognized by the courts for more than 70 years, through different administrations and throughout decades of economic,

political, and social changes in Pennsylvania.” *Berks*, 2022 WL 4100998, at *13. Where there is a choice, the Court should prefer that construction of the law that “favors the fundamental right to vote and enfranchises, rather than disenfranchises, the electorate.” *Pennsylvania Democratic Party*, 238 A.3d at 361.

Following these tenets of interpretation, the Election Code must be read to forbid excluding ballots of voters who neglect to date the declaration on their ballot’s return envelope. The record developed since this Court’s decision in *In re Canvass* has made one point abundantly clear: the handwritten date on the return envelope serves no purpose under the Election Code. *See Berks*, 2022 WL 4100998, at *20 (“[T]he parties have not identified a specific purpose served by dating the declaration on the return envelope, and the Court cannot discern any.”); *see also Migliori*, 36 F.4th at 164 (“Ignoring ballots because the outer envelope was undated, even though the ballot was indisputably received before the deadline for voting[,] serves no purpose other than disenfranchising otherwise qualified voters.”).

Petitioners concede that the date has no role in determining whether a ballot was cast by a qualified voter. Br. at 46-47, 52. And they can barely muster an argument as to *why* the date matters in any respect, devoting just three paragraphs to the issue. *See* Br. at 27-28, 32. Most of that discussion reprises statements from the concurring and dissenting opinions in *In re Canvass*, without any further explanation or discussion. This failure is glaring, because much of the litigation since *In re*

Canvass has focused on why, *under the records developed in the relevant cases*, the claims cited by Petitioners are not correct. *E.g.*, *Berks*, 2022 WL 4100998, at *24 (“Thus, the material facts in this case do not factually support the existence of the ‘weighty interests’ that would require invalidation.”); *Migliori*, 36 F.4th at 164 (“Ignoring ballots because the outer envelope was undated, even though the ballot was indisputably received before the deadline for voting serves no purpose other than disenfranchising otherwise qualified voters.”); *id.* at 165 (Matey, J., concurring) (“Appellees offered no evidence, and little argument, that the date requirement for voter declarations under the Pennsylvania Election Code ... is material as defined in § 10101(a)(2)(B).”). Yet Petitioners gloss over this subsequent history as if it never happened.

As those courts have all found, the specific justifications offered by Petitioners do not withstand scrutiny:

Voter Eligibility: First, the date on the declaration is not used to determine a voter’s qualification, as Petitioners later concede in their brief. Br. at 46-47, 52.

In Pennsylvania, a person may vote if, as of Election Day, they are 18 years old, have been a citizen for at least one month, have lived in Pennsylvania and in their election district for at least thirty days, and are not imprisoned for a felony

conviction. Pa. Const. art. VII, § 1; 25 P.S. § 2811(2), (3); 25 Pa.C.S. § 1301(a).¹⁰

Whether the declaration on a return envelope is dated is not relevant to any of these criteria.

Therefore, the date does not provide a point in time against which to measure the elector's eligibility to cast the ballot. Eligibility to vote is based on an elector's qualification *as of Election Day*. See Pa. Const. art. VII, § 1 (imposing residency requirements for the time period "immediately preceding the election"); 25 P.S. § 2811(2), (3) (same); *id.* § 3146.8(d) (directing county boards to discard absentee and mail-ballots cast by individuals who died before Election Day); 25 Pa. C.S. § 1301 (allowing anyone "who will be at least 18 years of age on the day of the next election" to register).

Timeliness: Second, the voter's handwritten date on the return envelope plays no role in separating timely absentee or mail-in ballots from untimely ones. The deadline for a voter to send, and for the county to receive, a mailed ballot are now (and have been since 1968) the same. 25 P.S. §§ 3146.6(c), 3146.8(g)(1)(ii), 3150.16(c). County boards have a statutory obligation to track the date that every

¹⁰ See also *Mixon v. Commonwealth*, 759 A.2d 442, 451 (Pa. Commw. Ct. 2000) (holding that individuals with felony convictions, other than those currently incarcerated, may register to vote); 1972 Op. Atty. Gen. No. 121 (concluding durational residency requirements longer than 30 days are unenforceable); U.S. Const. amend. XXVI (prohibiting denial of right to vote to citizens 18 years of age or older because of age).

absentee or mail-in ballot was received and make that information available for public inspection. 25 P.S. §§ 3146.9(b)(5), 3150.17(b)(5). They have procedures for doing so—including stamping ballots as “received” and scanning return envelopes’ barcodes into the SURE system. *See* Pa. Dep’t of State, *Guidance Concerning Examination of Absentee and Mail-in Ballot Return Envelopes*, Version 3.0, at 2-3 (Sept. 26, 2022) (attached as Exhibit A to Petitioners’ Application for Extraordinary Jurisdiction); *In re Canvass*, 241 A.3d at 1077 (opinion announcing judgment); *Berks*, 2020 WL 4100998, at *6. In fact, the date written on a return envelope would be an exceedingly poor proxy for determining if a ballot was received by 8 p.m. on Election Day, as ballots dated in advance of that day certainly may arrive sometime after.

Because in all cases county boards independently verify if a ballot was received by Election Day’s 8 p.m. deadline without reference to the date handwritten on the return envelope, the handwritten date is not a tool for preventing fraudulently back-dated votes. And because Pennsylvania employs only a received-by deadline, 25 P.S. §§ 3146.6(c), 3150.16(c), “back-dating” a ballot would be pointless: putting a false date could not fraudulently convert an ineligible ballot into a seemingly eligible one. A ballot is either received by the deadline or it is not.

Again, the General Assembly *removed* language directing county boards to set aside untimely mailed ballots based on the declaration date once it aligned the

deadlines for sending and receiving a mailed ballot. Act of Dec. 11, 1968, P.L. 1183, No. 375, sec. 8, § 1308(c). The “shall ... date” language is simply an artifact of an older version of the Election Code, no longer serving any relevant purpose. *See In re Nov. 3, 2020 Gen. Election*, 240 A.3d at 610 n.24 (recognizing that the Election Code contains “vestiges” of prior processes).

In 2020, three Justices suggested a declaration date may serve this purpose. *In re Canvass*, 241 A.3d at 1091 (Dougherty, J.). For that election, this Court extended the deadline for the *receipt* of absentee and mail-in ballots by three days, but did not change the deadline for the casting of ballots. For ballots received during the three-day window, the existence of a postmark dated on or before Election Day was sufficient to establish that the vote was cast in time. For ballots that lacked a postmark but were received within this three-day period, the Court concluded that a rebuttable presumption was warranted that the ballot was cast on time. *Pa. Democratic Party*, 238 A.3d at 371-72. These unique circumstances thus created at least a theoretical possibility that the handwritten date could matter under certain facts: if a ballot arrived within the three-day window but lacked a postmark, a handwritten date of later than Election Day might be sufficient, absent other evidence, to conclude that the ballot was not timely. No one suggests that the circumstances of 2020 are likely to repeat themselves.

Voter's Intention: Third, the date on a mailed ballot does not confirm that the voter wishes to vote by mail rather than in person. A date on the return envelope is no more confirmation of a voter's intent to vote absentee or by mail-in ballot than is completing, signing, and returning the ballot. More critically, whether someone who has cast an absentee or mail-in ballot has misgivings about having done so is irrelevant. Election district registers identify which voters have requested an absentee or mail-in ballot. 25 P.S. §§ 3146.6(b)(1), 3150.16(b)(1). Those voters may not vote in person unless they surrender their blank absentee or mail-in ballot, and its envelope, to their polling place; otherwise, they may vote only provisionally. *Id.* §§ 3146.6(b)(2)-(3), 3150.16(b)(2)-(3). If a voter returns a completed absentee or mail-in ballot before the deadline and casts a provisional ballot at a polling place, only the absentee or mail-in ballot is counted, regardless of the date written on it. *Id.* § 3050(a.4)(5)(ii)(F).

Consistent with the date's insignificance, county boards have, without any incident, counted ballots with "incorrect" dates—meaning dates that do not accurately reflect when the envelope declaration was signed (or perhaps when the ballot was completed). *Berks*, 2020 WL 4100998, at *5-*6, *18; *Migliori*, 36 F.4th at 164; *id.* at 165 n.3 (Matey, J., concurring). And while Petitioners want this Court to order county boards to deviate from this common practice, excepting obviously wrong dates—such as birth dates or dates with the incorrect year—there is no way

for county boards to determine whether a date written on a declaration envelope is actually the date the declaration was signed (or even the date the ballot was completed). *Berks*, 2020 WL 4100998, at *18. That county boards do count ballots irrespective of the date—and indeed have no way to confirm a date is “correct”—underscores that the underlying information is unimportant.

In attempting to justify their claim that discarding thousands of votes of legal Pennsylvania voters would serve *some* interest, Petitioners point to a single incident earlier this year in which the handwritten date was cited as evidence in a criminal complaint against an individual who allegedly attempted to fraudulently vote. Br. at 27-28. But even there, the date played no role in determining that the ballot at issue would not be counted. By the time the alleged fraud was discovered, county commissioners had *already* determined to exclude the ballot because the SURE system records showed—without reference to the handwritten date—that “the elector had died prior to the Primary Election Day.” *Berks*, 2022 WL 4100998, at *21 n.14; *see also* Affidavit of Probable Cause ¶ 2 (attached as Ex. A to Petitioners’ Application for Extraordinary Jurisdiction) (stating that deceased individual had been removed from voting rolls before Lancaster County received fraudulent vote). And the record does not even support their claim that the date was “crucial evidence” in the case, as the arrest affidavit makes clear that the ballot was received nearly two

weeks after the voter had died, which would presumably have prompted an investigation no matter what was written on the envelope.

In sum, the date no longer serves a purpose. *In re Canvass*, 241 A.3d at 1077-78 (opinion announcing judgment); *Berks*, 2022 WL 4100998, at *24. The consequence of interpreting the Election Code to require that ballots be excluded if the voter does not include a date on the declaration would therefore be to deprive individuals of their right to elect their preferred candidate for failing to provide their county board with inconsequential information, without serving *any* interest to the state. That would be contrary to the presumption this Court applies when confronted with ambiguous directives in the Election Code.

III. THE CIVIL RIGHTS ACT PROHIBITS DISCARDING LEGAL VOTES BECAUSE THE VOTER OMITTED THE DATE

Because Pennsylvania law does not allow county boards to disqualify timely received mailed ballots from qualified voters who neglected to date the return envelope's declaration, this Court need not consider what result federal law separately requires. But if this Court concludes that only a dated and signed declaration is "sufficient" under the Election Code, federal law still prohibits county boards from setting aside a ballot just because the voter neglected to date the return envelope's declaration.¹¹

¹¹ For reasons explained in the Acting Secretary's brief in a case pending in the Commonwealth Court, *see* Br. in Supp. of Cross-Application for Summ. Relief,

Under federal law:

No person acting under color of law shall ... deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election.

52 U.S.C. § 10101(a)(2)(B).

This section, enacted as part of the Civil Rights Act of 1964, was intended to end trivial requirements that “served no purpose other than as a means of inducing voter-generated errors that could be used to justify” denying the right to vote. *Fla. State Conf. of NAACP v. Browning*, 522 F.3d 1153, 1173 (11th Cir. 2008). It guards against “state election practices that increase the number of errors or omissions on papers or records related to voting and provide an excuse to disenfranchise otherwise qualified voters.” *League of Women Voters of Ark. v. Thurston*, No. 20-05174, 2021 WL 5312640, at *4 (W.D. Ark. Nov. 15, 2021).

When this Court last considered the type of ballots at issue here, four Justices observed that voiding ballots for minor errors might conflict with 52 U.S.C.

Bonner v. Chapman, No. 364 MD 2022 (Pa. Commw. Ct. Sept. 9, 2022), ruling that federal law prohibits county boards from disqualifying timely received ballots from qualified electors who forgot to date their declaration (assuming Pennsylvania law otherwise permits that outcome) would not require invalidating all of Act 77 of 2019, as some are currently arguing, *see* Pet’r’s Br. in Supp. of Summ. Relief, *Bonner v. Chapman* No. 364 MD 2022 (Pa. Commw. Ct. Sept. 16, 2022).

§ 10101(a)(2)(B). *In re Canvass*, 241 A.3d at 1074 n.5 (opinion announcing judgment); *id.* at 1089 n.54 (Wecht, J.). But because the relevance of § 10101 had not been briefed, and because this Court ordered that, under state law, timely received ballots without the voter's handwritten date on the return envelope must be counted in the 2020 election, there was no reason to answer if § 10101 would require counting those ballots.

The Third Circuit has now addressed how § 10101(a)(2)(B) applies here, ruling unanimously that the date on a return envelope's declaration is not material in determining a voter's qualifications, and so omitting a date cannot justify refusing to count a ballot. *Migliori*, 36 F.4th at 164; *id.* at 165 (Matey, J., concurring). That unanimous ruling remains highly persuasive authority, and this Court should follow its rationale.¹²

¹² The Supreme Court's order vacating the judgment in *Migliori* as moot is not an assessment of the merits of the Third Circuit's analysis. Federal appellate courts continue to treat cases where the Supreme Court has vacated the judgment as persuasive authority. *See, e.g., Czyzewski v. Jevic Holding Corp.*, 137 S. Ct. 973, 986 (2017) (citing *In re Chrysler LLC*, 576 F.3d 108, 118 (2d Cir.), *cert. granted, judgment vacated sub nom. Ind. State Police Pension Tr. v. Chrysler LLC*, 558 U.S. 1087 (2009)); *Doe I v. Governor of Pa.*, 977 F.3d 270, 273 (3d Cir. 2020) (citing *Beers v. Att'y Gen. United States*, 927 F.3d 150 (3d Cir. 2019), *cert. granted, judgment vacated sub nom. Beers v. Barr*, 140 S. Ct. 2758 (2020)). The *Munsingwear* vacatur of the Third Circuit's judgment is particularly irrelevant here because this Court was never bound by the Third Circuit's judgment. *Stone Crushed P'ship v. Kassab Archbold Jackson & O'Brien*, 908 A.2d 875, 884 (Pa. 2006).

To begin, excluding a ballot from a county boards' canvassing "den[ies] the right ... to vote." 52 U.S.C. § 10101(a)(2)(B). Section 10101 defines "vote" to include "all action necessary to make a vote effective including ... having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office" 52 U.S.C. § 10101(e). Setting aside a ballot so that it never counted is therefore squarely within the statute's scope.

Next, there is no dispute that a mailing envelope is a "record or paper." *See* Br. at 47. And if omitting a date is a disqualifying error under Pennsylvania law, then writing a date on the return-envelope declaration is an "act requisite to voting."

Because § 10101(a)(2)(B) applies to errors or omissions on papers related to "any application, registration, or other act requisite to voting," federal courts regularly apply the federal statute to disqualifying mistakes made on ballot return envelopes. *See La Union del Pueblo Entero v. Abbott*, – F. Supp. 3d –, No. 21-0844, 2022 WL 1651215, at *21 (W.D. Tex. May 24, 2022); *Sixth Dist. of Afr. Methodist Episcopal Church v. Kemp*, 574 F. Supp. 3d 1260, 1282 (N.D. Ga. 2021); *Martin v. Crittenden*, 347 F. Supp. 3d 1302, 1308–09 (N.D. Ga. 2018); *Thurston*, 2021 WL 5312640, at *4; *see also Common Cause v. Thomsen*, 574 F. Supp. 3d 634, 636 (W.D. Wis. 2021) ("[T]he text of § 10101(a)(2)(B) isn't limited to ... voter registration.").

Finally, to determine if an error or omission is material, courts consider “whether, accepting the error as true and correct, the information contained in the error is material to determining [the voter’s] eligibility.” *NAACP*, 522 F.3d at 1175. Materiality is thus judged by comparing the content of the voter’s error against the State’s voter qualifications. *See Migliori*, 36 F.4th at 163; *Martin*, 347 F. Supp. 3d at 1308-09; *Wash. Ass’n of Churches v. Reed*, 492 F. Supp. 2d 1264, 1270 (W.D. Wash. 2006); *Schwier v. Cox*, 412 F. Supp. 2d 1266, 1276 (N.D. Ga. 2005). Here, a declaration date is not “material” because the date does not assist in any way “in determining whether [the voter] is qualified under State law to vote in such election,” a point Petitioners concede. *See Br.* at 46-47.

In sum, if ballots are not counted because a voter neglected to write the date accompanying the declaration, then those voters would be deprived of their right to vote, as defined in § 10101, due to an immaterial error or omission on a record or paper. Federal law prohibits such a denial of the right to vote.

Petitioners’ reliance on a dissent by Justice Alito to suggest a contrary result is misguided. Beyond the obvious fact that it is a dissent, even Justice Alito confessed that he had only limited time to study the issue and did not rule out changing his view. *Ritter*, 142 S. Ct. at 1824 (Alito, J., dissenting). Petitioners ignore that cautionary note, instead repeating a number of lines from the dissent that are inconsistent with § 10101’s text or with Pennsylvania law.

1. Petitioners first insist that a voter whose vote will not count for failing to comply with a state-law prerequisite has not been denied the chance to vote, but instead has not followed the rules for voting. Br. at 43-45. That argument renders § 10101(a)(2)(B)—which operates *only* when there is non-compliance with some prerequisite to voting—completely null.

It also ignores that § 10101 itself defines denials of the right to vote to encompass excluding a ballot from canvassing and from the final election results. 52 U.S.C. § 10101(e). Petitioners cite a number of decisions stating that failure to follow a state’s voting rules is not a denial of the right to vote, Br. at 44, but not a single one of them addresses § 10101, which contains its own definition of what it means to “vote.”

2. Petitioners next ignore statutory text to argue that § 10101(a)(2)(B) applies only when a State determines a voter’s qualifications during registration. Br. at 45-47, 51. Yet § 10101(a)(2)(B) applies to “*any* record or paper relating to *any* application, registration, or *other act* requisite to voting.” 52 U.S.C. § 10101(a)(2)(B) (emphasis added). Congress’s first use of “any” requires reading the statute to cover documents “of whatever kind.” *Ali v. Fed. Bureau of Prisons*, 552 U.S. 214, 219 (2008). Congress’s second use of “any” requires a similarly broad reading of the occasions during which an immaterial error may occur. *Id.* Moreover, narrowing § 10101(a)(2)(B) to instances in which a State is judging a voter’s

qualifications to register leaves that paragraph's specific use of "other act requisite to voting" without any operation.

Although it is true that Congress passed § 10101(a)(2)(B) because some states historically required unnecessary information for voter registration to disenfranchise African-American voters, when "combating specific evils" Congress may "choose a broader remedy." *NAACP*, 522 F.3d at 1173. Here, Congress chose such a broad remedy. And, in any event, it is the statutory text, and not "historically motivating examples of intentional and overt racial discrimination, [that] is [] the appropriate starting point of inquiry in discerning congressional intent." *Id*; see also *Common Cause*, 574 F. Supp. 3d at 636 ("[T]he text of § 10101(a)(2)(B) isn't limited to race discrimination or voter registration").

Petitioners ignore § 10101(a)(2)(B)'s repeated use of broad language and encourage this Court to conclude that errors and omissions may *allow* disenfranchisement so long as they are immaterial to a voter's qualifications. But that argument flips § 10101 on its head. As the Eleventh Circuit has explained, a "sound interpretation of [§ 10101(a)(2)(B)] asks whether, accepting the error as true and correct, the information contained in the error is material to determining the eligibility of the applicant." *NAACP*, 522 F.3d at 1175. Put differently, § 10101(a)(2)(B) applies anytime a State would deny someone the right to vote for

failing to satisfy a State’s request for information if that information was not needed to judge the voter’s qualifications.

Petitioners do not cite a single decision endorsing their cribbed view of § 10101(a)(2)(B). Rather, courts regularly apply § 10101(a)(2)(B) to mistakes on a ballot return envelope where properly completing the envelope is among the “act[s] requisite to voting” under state law. *See La Union del Pueblo Entero*, 2022 WL 1651215, at *21; *Sixth Dist. of Afr. Methodist Episcopal Church*, 574 F. Supp. 3d at 1282 (same); *Martin*, 347 F. Supp. 3d at 1308-09 (same); *Thurston*, 2021 WL 5312640, at *4 (same).

3. Petitioners also maintain that § 10101 has no application here because completing a ballot-return envelope is not requisite to voting but is the act of voting. *Br.* at 47, 51-52. But here, too, Petitioners would read out of the statute the phrase “other acts requisite to voting.” Completing a declaration is no more the “act of voting” than any other predicate act necessary to having a ballot counted and included in the final election returns. Indeed, if Petitioners are right that the Pennsylvania Election Code demands setting aside all return envelopes lacking a date (or lacking a “correct” date), then the ballots within those envelopes will never be reviewed, and county boards will never review or count the ballots on which an elector cast their votes. 25 P.S. § 3146.8(g)(4) (directing that only ballots are opened only if they satisfy the canvassing criteria in § 3146.8(g)(3)).

4. Last, Petitioners wrongly assert that the Acting Secretary's view of § 10101(a)(2)(B) jeopardizes a wide range of reasonable election regulations.

Many of the regulations Petitioners reference—such as voting after Election Day, failing to use the secrecy envelope, making extraneous marks on the secrecy envelope, or voting at the wrong location, Br. at 44—are not an “*error or omission on any record or paper* relating to any application, registration, or other act requisite to voting.” 52 U.S.C. § 10101(a)(2)(B) (emphasis added). Put differently, not a single example describes a voter failing to properly respond to a State's demand for information that is immaterial to their qualifications, which is all the statute prohibits. *NAACP*, 522 F.3d at 1173 (explaining that §10101(a)(2)(B) was meant to address states requiring unnecessary information as a condition of voting); *Schwier v. Cox*, 340 F.3d 1284, 1294 (11th Cir. 2003) (same).

This limitation is significant and enforced. *See Democratic Cong. Campaign Comm. v. Kosinski*, No. 22-1029, 2022 WL 2712882, at *21 (S.D.N.Y. July 13, 2022) (rejecting argument that § 10101(a)(2)(B) allowed voter to cast ballot at wrong location); *Friedman v. Snipes*, 345 F. Supp. 2d 1356, 1372-73 (S.D. Fl. 2004) (rejecting argument that § 10101(a)(2)(B) allowed voter to return untimely mailed ballot). Fears that § 10101(a)(2)(B) will preempt all sorts of reasonable elections regulations are therefore unfounded. *Contra* Br. at 44-45 (citing *Vote.org v. Callanen*, 39 F.4th 297, 305 n.6 (5th Cir. 2022)).

Nor is Pennsylvania's signature requirement at risk. The signature is material. The signature is the voter's confirmation that they are indeed qualified. 25 P.S. §§ 3146.4, § 3150.14. An error in this act would be "material to determining the eligibility of the applicant," *NAACP*, 522 F.3d at 1175, because such an error would bear on the voter's own confirmation of their eligibility. Thus, the signature requirement falls outside the scope of § 10101.

* * * * *

Petitioners' arguments read § 10101 to permit disenfranchising voters for failing to correctly supply information that "serve[s] no purpose other than as a means of inducing voter-generated errors." *NAACP*, 522 F.3d at 1173. That is precisely what Congress meant to root out.

CONCLUSION

For all of the reasons set forth above, Petitioners' requested relief should be denied.

October 25, 2022

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CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Dated: October 25, 2022

/s/ Jacob B. Boyer

Jacob B. Boyer

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CERTIFICATE OF LENGTH

I certify that this brief complies with the word count requirement set forth in Pennsylvania Rule of Appellate Procedure 2135(a)(1). Excluding matters identified in Pennsylvania Rule of Appellate Procedure 2135(b), this brief is 13,128 words. I have relied on Word's word count function to determine the length of this brief.

Dated: October 25, 2022

/s/ Jacob B. Boyer

Jacob B. Boyer

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Exhibit 1

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YOUR BALLOT WILL NOT BE COUNTED UNLESS:

- You sign and date the voter's declaration in your own handwriting
- You seal your ballot inside the [color] secrecy envelope ("Official Election Ballot") and place it in here

Voter's declaration

I hereby declare that I am qualified to vote in this election; that I have not already voted in this election; and I further declare that I marked my ballot in secret. I am qualified to vote the enclosed ballot. I understand I am no longer eligible to vote at my polling place after I return my voted ballot. However, if my ballot is not received by the county, I understand I may only vote by provisional ballot at my polling place, unless I surrender my balloting materials, to be voided, to the judge of elections at my polling place.

Voter, sign or mark here (Required)




Today's Date (Required)

(_____)
FOR COUNTY ELECTION USE ONLY
(_____)

To be Completed by Voter Unable to Sign their Declaration Because of Illness or Physical Disability:

I hereby declare that I am unable to sign my declaration for voting my 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.

Voter, mark here



Today's Date

Witness, address (street)

Witness, address (city, zip code)

Witness, sign here

Exhibit 2

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been defective, all such bonds, securities, and obligations, sold under defective publication of the notices of such sale, are hereby made valid and binding obligations of every such county, city, borough, township, school district, or other municipality or incorporated district: Provided, That all the other requirements of law concerning such procedure, election, and issue of bonds have been complied with.

Section 2. The provisions of this act shall become When effective. effective immediately upon its final enactment.

APPROVED—The 3d day of June, A. D. 1937.

GEORGE H. EARLE

No. 320

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 Secretary 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.

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ARTICLE	XVIII.	Penalties.
ARTICLE	XIX.	Repeals.

Section 1. Be it enacted, &c., That 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:

ARTICLE I

Preliminary Provisions

Section 101. Short Title.—This act shall be known, and may be cited, as the “Pennsylvania Election Code.”

Section 102. 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.

(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.

ARTICLE XIII

Voting by Persons in Actual Military Service

Section 1301. **Qualified Electors in Actual Military Service.**—Whenever any of the qualified electors of this Commonwealth shall be in any actual military service, under a requisition from the President of the United States or by the authority of this Commonwealth, and as such, absent from their place of residence on the days appointed by law for holding the general or municipal elections within this State, or on the days for holding special elections to fill vacancies, such electors shall be entitled, at such times, to exercise the right of suffrage, as fully as if they were present at their usual places of election, in the manner prescribed in this article and, whether at the time of voting, such electors shall be within the limits of this State or not; and the right of voting shall not be affected by reason of the failure of any elector to have been registered in his place of residence.

Section 1302. **Polls to Be Opened in Each Military Unit; Detached Electors.**—A poll shall be opened in each military or naval unit, composed in whole or in part of Pennsylvania soldiers, at the quarters of the captain or other officer thereof, and all electors belonging to such unit who shall be within one mile of such quarters, on the day of election, and not prevented by orders of their commanders, or proximity of the enemy, from returning to their unit quarters, shall vote at such poll and at no other place; officers, other than those of a unit, and other electors detached and absent from their units, or in any military or naval hospital, or in any vessel or navy yard, may vote at such other polls as may be most convenient for them; and when there shall be ten or more electors at any place, who shall be unable to attend any unit poll, or their proper place of election as aforesaid, the electors present may open a poll, at such place as they may select, and certify in the poll-book, which shall be a record of the proceedings at said election, substantially in manner and form as hereinafter directed.

Section 1303. **Time of Opening and Closing Polls.**—The polls shall be opened as early as practicable on said day and remain open at least three hours, and if necessary in the opinion of the election officers, in order to receive the votes of all the electors, they may keep the polls open until seven o'clock P. M. of said day; proclamation thereof shall be made at or before the opening of the polls and one hour before closing them.

Section 1304. **Election Officers.**—Before opening the poll on the day of election, the electors present at each of the places aforesaid, shall elect viva voce three persons, present at the time, and having the qualifications

of electors, for judge and inspectors of said election, and the inspectors so elected shall then appoint two of the persons present, who shall be qualified, to act as clerks of said election; and the judge shall prepare boxes or other suitable receptacles for the ballots.

Section 1305. Oaths of Election Officers.—Before any votes shall be received, said judge, inspectors and clerks shall each take an oath or affirmation that he will perform the duties of judge, inspector or clerk, as the case may be, of said election, according to law, and to the best of his abilities, and that he will studiously endeavor to prevent fraud, deceit or abuse in conducting the same, which oath or affirmation any of the said judges, inspectors or clerks so elected or appointed may administer to each other; and the same shall be in writing, or partly written and partly printed, and signed by said judge, inspectors and clerks, and certified to by the party administering the same, and attached to or entered upon the poll-book, and there signed and certified as aforesaid.

Section 1306. Manner of Election; Challenges.—All elections under this article shall be by official ballots provided in the manner herein prescribed, and the judge and inspectors of elections may, and upon challenge of any elector shall, examine under oath or affirmation the applicant to vote (which oath or affirmation any of said judges or inspectors may administer), in respect to his right to vote, and his qualifications to vote in the particular election district, ward, precinct, city, borough, township or county of this State, in which he claims residence; and before issuing a ballot to any applicant to vote, the judge and inspectors, or majority of them, shall be satisfied that such applicant is a qualified elector of such place. The judge of election shall arrange one or more voting compartments, suitably curtained in which the electors may mark their ballots.

Section 1307. Poll-Books.—Separate poll-books shall be kept, and separate returns made, for the electors of each county; the poll-books shall name the unit and organization and the place, post or hospital, in which said election is held; the county and township, city, borough, ward or election district of each elector shall be indorsed opposite his name on the poll-books, so that there may be a double list of voters.

Section 1308. Ballots.—Ballots for use by persons in military service under the provisions of this article shall be prepared sufficiently in advance by the Secretary of the Commonwealth, and shall be by him distributed through the commissioners hereinafter provided, or in such other manner as he may think proper, to the various military or naval units containing Pennsylvania soldiers entitled to vote at any election. Such ballots

shall be in substantially the form prescribed by Article X of this act for ballots to be used at the same elections within this Commonwealth, but in cases where it is, in the opinion of the Secretary of the Commonwealth, not feasible 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 the voters may insert the names of the candidates for whom they desire to vote, and in such cases the Secretary of the Commonwealth shall furnish to the judge of election a sufficient number of printed lists containing the names of all the candidates who have been regularly nominated under the provisions of this act for the use of the electors in preparing their ballots.

Section 1309. Casting of Ballot.—The judge or one of the inspectors shall, upon the application of an elector to vote, pronounce his name audibly, and if no objection is made to him, and the judge and inspectors are satisfied that said elector is a citizen of the United States, and legally entitled, according to the Constitution and laws of this State, to vote at said election, shall issue a ballot to such elector first folding it so that the words printed on the back shall be the only words visible. The elector, after receiving his ballot, shall retire to one of the voting compartments and draw the curtain and shall there prepare his ballot. He shall then fold his ballot without displaying the markings in the same way it was folded when received by him, and he shall then leave the voting compartment and deposit the ballot thus folded in the ballot box or other receptacle therefor, and the clerks shall enter the name of the elector in the poll-book of his county, together with the ward, election district, city, borough, township and county of his residence.

Section 1310. Counting of Votes.—At the close of the polls, the number of voters who have voted shall be counted and set down at the foot of the list of voters, and certified and signed by the judge and inspectors and attested by the clerks.

Section 1311. Manner of Counting Ballots.—After the poll-books are signed, the ballot box shall be opened and the ballots therein contained shall be taken out, one at a time, by the judge, who shall read distinctly while the ballot remains in his hand, the names of the candidates voted for therein for the several offices voted for, and then deliver it to one of the inspectors, who shall examine the same and pass it to the other inspector, who shall place the same in an envelope prepared for the ballots of such count, and carefully preserve the same; the same method shall be pursued as to each ballot taken out, until all the votes are counted.

Section 1312. Rejection of Ballots.—No ballot which is so marked as to be capable of identification shall be counted, and if a ballot is marked for more candidates for any office than the number an elector is entitled to vote for for such office, the same shall not be counted for that office, but shall be counted for all other candidates properly marked.

Section 1313. Tally Lists.—As a check in counting, each clerk shall keep a tally list for each county from which votes shall have been received, which tally list shall constitute a part of the poll-books.

Section 1314. Enumeration of Votes.—After the examination of the ballots shall be completed, the number of votes for each person in the county poll-books, as aforesaid, shall be enumerated under the inspection of the judge and inspectors, and set down in the poll-books.

Section 1315. Form of Poll-Book and Returns.—The form of the poll-books to be used at such elections shall be determined by the Secretary of the Commonwealth, who shall also prescribe the form of return to be made by the election officers in each poll-book of the ballots cast by the electors of the county for which such poll-book is kept.

Section 1316. Disposition of Poll-Books and Returns.—After canvassing the votes in manner aforesaid, the judge shall put in an envelope, one of the poll-books with its tally list and return of each county, together with the ballots of such county, and transmit the same, properly sealed up and directed, through the nearest post office, or by express, as soon as possible thereafter, to the county board of elections of the county in which such electors would have voted if not in the military service aforesaid (being the county for which the poll-book was kept); and the other poll-book of said county, enclosed in an envelope and sealed as aforesaid, and properly directed, shall be delivered to one of the commissioners hereinafter provided for, if such commissioner calls for the same in ten days, and if not so called for, the same shall be transmitted by mail or by express, as* soon as possible thereafter, to the Secretary of the Commonwealth, who shall carefully preserve the same, and on demand of the proper county board, deliver to said county board, under his hand and official seal, a certified copy of the return of votes, so transmitted to and received by him, for said county.

Section 1317. Duties of County Boards.—In the case of any election at which votes are cast by persons in military service, under the provisions of this article, it shall be the duty of each county board of elections to withhold the completion of the computation of the returns of the county until the third Friday after such election, within which period all returns of votes cast

* "so" in the original.

by electors of the county in military service, as provided in this article, shall be added to and included in its computation of the returns of such election.

Section 1318. Returns of Federal and State Offices.—In all general elections for Federal and State offices at which votes are cast by persons in the military service, under the provisions of this article, it shall be the duty of the Secretary of the Commonwealth before finally computing and certifying the returns of such elections, to add to the returns received by him from the various county boards of election any returns of the votes cast by persons in the military service received by him under the provisions of this act, which, upon an examination of the returns received from the county boards, clearly appear not to have been added to and included in such returns by the respective county boards.

Section 1319. Contested Elections.—All said elections shall be subject to contest in the manner provided by Article XVII of this act; and in all cases of contested elections, all legal returns which shall have been bona fide forwarded by said judge and inspectors, in the manner hereinbefore prescribed, shall be counted, although the same may not have arrived or been received by the proper officers to be counted in the manner hereinbefore directed, before issuing the certificates of election to the persons appearing to have a majority of the votes then received, and the said returns shall be subject to all such objections, as other returns are liable to when received in due time.

Section 1320. Duties of Secretary of the Commonwealth.—The Secretary of the Commonwealth shall cause to be printed a sufficient number of copies of this article, with such extracts from the other portions of this act, as shall be deemed important to accompany the same, and blank forms of poll-books, together with ballots, tally lists, returns and envelopes, as prescribed in this article, which, with the necessary postage stamps, to defray expenses and postage on returns, shall in sufficient time before any such election, be forwarded by said secretary, at the expense of the Commonwealth, by commissioners or otherwise, as shall be deemed most certain to insure delivery thereof, to the captain or commanding officer of each unit, or in case of detached voters, to the officer having charge of the post or hospital, who shall retain the same until the day of election, and then deliver the same to the judge elected as provided in this article. No election shall be invalidated by reason of the neglect or failure of the said secretary to cause the delivery of said poll-books, ballots and other supplies to the proper persons as aforesaid.

Section 1321. Appointment of Commissioners; Oath.—For the purpose of more effectually carrying out the

provisions of this article, the Governor may appoint and commission, under the great seal of the Commonwealth, such number of commissioners, having the qualifications of an elector in this State, as he shall deem necessary, not exceeding one to each regiment or equivalent organization of Pennsylvania soldiers in the service of this State, or of the United States, and shall apportion the work among the commissioners and supply such vacancies as may occur in their number. Such commissioners, before they act, shall take and subscribe an oath or affirmation and cause the same to be filed with the Secretary of the Commonwealth, to the following effect:

"I, appointed commissioner, under Article XIII of the Election Law regulating elections by persons in actual military service, do solemnly swear (or affirm), that I will support the Constitution of the United States, and the Commonwealth of Pennsylvania, and impartially, fully, and without reference to political preference or results, perform, to the best of my knowledge and ability, the duties imposed on me by the said act; and that I will studiously endeavor to prevent fraud, deceit and abuse, not only in the elections to be held under the same, but in the returns thereof."

Section 1322. Duties of the Commissioners.—Such commissioners shall deliver, as far as practicable, at least four of the copies of this article, and other extracts from this act and the rules and regulations issued hereunder, published as hereinbefore directed, and at least two blank forms of poll-books, tally lists and returns entrusted to them, together with a suitable number of ballots, and other supplies, to the commanding officers of every unit, or part thereof, of Pennsylvania soldiers in the actual military or naval service of the United States, or of this State; and make suitable arrangements and provision for the opening of polls under this article. The said commissioners, as soon as practicable after the day of election, shall call upon the judge of the election, and procure one poll-book, containing the returns of the election, and safely preserve and deliver the same, without delay, to the Secretary of the Commonwealth.

Section 1323. Compensation of Commissioners.—Said commissioners shall receive, in full compensation for their services under this article, ten cents (.10) per mile in going to and returning from their respective organizations, estimating the distance of travel by the usually traveled route; and the accounts therefor shall be audited and paid out of the State Treasury in the same manner as other claims are now audited and paid. All commanding and other officers shall be required to aid the commissioners herein appointed, and to give

them all proper facilities to enable them to carry out the design and intention of this article.

Section 1324. Informalities Not to Invalidate Elections.—No mere informality in the manner of carrying out or executing any of the provisions of this article, shall invalidate any election held under the same, or authorize the returns thereof to be rejected or set aside; nor shall any failure on the part of the commissioners to reach or visit any unit or organization, or the failure of any unit, or part thereof, to vote, invalidate any election which may be held under this article.

Section 1325. Powers of Election Officers.—The several officers authorized to conduct such election, shall have the like powers, and they, as well as other persons who may attend, vote, or offer to vote at such election, shall be subject to the like penalties and restrictions as are declared or provided in the case of elections by the citizens at their usual places of election; and all of the provisions of this act, so far as applicable and not inconsistent with the provisions of this article, nor supplied thereby, shall apply to all elections held under this article.

Section 1326. No Compensation for Election Officers.—No compensation shall be allowed to any judge, inspector or clerk under this article.

Section 1327. Rights of Detached Electors.—When any of the electors mentioned in section 1301, less than ten (10) in number, shall be members of companies of another state or territory or for any sufficient and legal cause shall be separated from their proper unit or shall be in a hospital, navy yard, vessel or on recruiting, provost, or any other duty, whether within or without this State, under such circumstances as shall render it probable that they will be unable to rejoin their proper unit or to be present at their proper place of election on or before the day of any election, said electors shall have the right to vote in the following manner.

Section 1328. Ballots and Envelopes for Detached Electors.—The Secretary of the Commonwealth shall prepare and distribute to the said detached electors through the commissioners provided for by this article or in such manner as he may think proper, additional official ballots to be known as detached soldier's ballots. Such ballots shall be prepared and printed in the same form as the ballots provided for by section 1308 of this act, but shall have in addition printed thereon the words "Detached Soldier's Ballot." The Secretary of the Commonwealth shall also provide and distribute as aforesaid, three envelopes for each detached soldier's ballot of such size and shape that will permit the placing of one within the other. On the first shall be printed only the words "Detached Soldier's Ballot."

On the second shall be printed the affidavit of the detached elector, together with the jurat of the officer in whose presence the ballot is marked and before whom the affidavit is made, such affidavit and jurat to be in form prescribed by the Secretary of the Commonwealth. On the third shall be placed the name and address of the county board of elections of the proper county.

Section 1329. Voting by Detached Electors.—Any such detached elector may make application prior to the day of any election to one of the commissioners appointed under the provisions of this article or to the Secretary of the Commonwealth for a "Detached Soldier's Ballot." At any time after receiving such detached soldier's ballot, but on or before the day of the election, such elector may appear before any commissioned officer of the military or naval forces, either within or without the Commonwealth, and mark such ballot under the scrutiny of such officer in the following manner. The voter shall first display the ballot to such officer as evidence that the same is unmarked, and shall then proceed to mark the ballot in the presence of such officer, but in such manner that such officer is unable to see how the same is marked, and then fold the ballot, enclose and securely seal the same in the envelope on which is printed "Detached Soldier's Ballot." This envelope shall then be placed in the one on which is printed the affidavit of the elector and the jurat of the officer before whom the elector appears, and such envelope sealed in like manner by the elector. The elector shall then make out, subscribe and swear to the affidavit printed on the face of such envelope and the jurat shall be subscribed by the officer before whom the affidavit was taken. Such ballot and envelope shall then be securely sealed in the third envelope which the elector shall send by registered mail to the county board of elections of the proper county.

Section 1330. Receipt and Counting of Detached Soldiers' Ballots.—The county board of elections upon receipt of such registered letter shall safely keep the same in their office until they meet to canvass the vote of such election under the provisions of this act, at which time they shall open such registered letter and after examining the affidavit and jurat, shall compare the signature of such absent voter with his signature upon any register or other record in their possession. If the county board is satisfied that the signatures correspond and that the affidavit and jurat are sufficient, they shall announce the name of the elector and shall give any person present an opportunity to challenge the same in like manner and for the same causes as such elector could have been challenged had he presented himself in his own district to cast his vote. If

there are no challenges, they shall open the second envelope in such manner as not to destroy the affidavit and jurat printed thereon, which envelope shall be kept in their office for a period of one year thereafter. All envelopes on which are printed the words "Detached Soldier's Ballot" and containing the ballots, shall be put into one depository at one time and said depository well shaken, and the envelopes containing the ballots mixed before any ballot is taken therefrom. The county board shall then break the seals of such envelopes and record the said ballots in the same manner as district election officers are required to record votes under the provisions of this act. In like manner all detached soldier's ballots received, prior to completion of the computation of the returns of the county, shall be counted and recorded and upon the completion of the computation of the returns of the county the votes cast upon the detached soldier's ballots shall then be added to the votes cast within the county, city, borough, township, ward or election district, as designated on each ballot. Detached soldier's ballots shall be safely kept by the county board of elections for a period of one year.

ARTICLE XIV

Returns of Primaries and Elections

Section 1401. 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.

Section 1402. 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.

Section 1403. 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

Exhibit 3

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Cancellation of registration of persons in military service

expiration of the time specified in such notice, cancel the registration of such person unless he personally appears and proves his qualifications as an elector: *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.*

Said act, section 30, amended by adding new subsection (h).

Section 7. Section thirty-six of the said act is hereby amended by adding thereto subsection (h) to read as follows:

Right of persons in military service to vote

(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.*

Act effective immediately.

Section 8. This act shall become effective immediately upon final enactment.

APPROVED—The 1st day of August, A. D. 1941.

ARTHUR H. JAMES

No. 273

AN ACT

To amend the act, approved the third day of June, one thousand nine hundred and thirty-seven (Pamphlet Laws, one thousand three hundred thirty-three), entitled, "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 Secretary 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", by changing the procedure for, and regulating voting in elections by, persons in actual military service; conferring powers and imposing duties upon the Secretary of the Commonwealth, courts, county boards of elections and county commissioners; providing for reimbursement of counties for actual expenses incurred for canvassing the vote of electors in actual military service.

Elections.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Pennsylvania Election Code.

Act of June 3, 1937, P. L. 1333, section 102, amended.

Section 1. Section one hundred two of the act, approved the third day of June, one thousand nine hundred and thirty-seven (Pamphlet Laws, one thousand three hundred thirty-three), entitled, "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 Secretary 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", is hereby amended to read as follows:

Section 102. 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.

(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.

(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.

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

"Electors in actual military service", defined.

Said act, section 305, amended.

Section 2. Section three hundred and five of said act is hereby amended to read as follows:

Section 305. 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 ten 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.

(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, properly 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.

Reimbursement of counties by Commonwealth for expense of canvassing military vote.

(c) *The Commonwealth shall reimburse each county for election expenses incurred at every election for the preparation, handling and mailing of ballots for electors in actual military service, in the sum of forty-three cents for each ballot mailed to an elector in actual military service in such manner as is now or may hereafter be provided by law.*

Statement of number of ballots to be filed with Department of State.

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 in such manner as is now or may hereafter be provided by law to electors in actual military service upon the written application of each such elector. Such applications shall be preserved by each county board of elections until reimbursement is made as herein provided, subject to inspection or production in the Department of State, if demanded by the Department of State.

Department of State to determine and requisition payment of amount due.

The Department of State shall ascertain and fix the amount due, as herein provided, to each county for election expenses incurred for the preparation, handling and mailing of ballots to electors in actual military service, 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 counties to be reimbursed, if the amount so appropriated shall not be sufficient for the payment in full to each county of the amount found to be due.

Said act, Article XIII, repealed absolutely.

Section 3. Article thirteen of said act is hereby repealed absolutely.

Said act amended by adding new Article XIII.

Section 4. Said act is hereby amended by adding* thereto a new article thirteen to read as follows:

**ARTICLE XIII
VOTING BY PERSONS IN ACTUAL MILITARY SERVICE**

Electors in actual military service to have right of suffrage at any election.

Section 1301. Qualified Electors in Actual Military Service.—Whenever any of the qualified electors of this Commonwealth shall be in any actual military service and as such absent from their place of residence on the days appointed by law for holding any election within this State, or on the days for holding special elections to fill vacancies, such electors shall be entitled at such times to exercise the right of suffrage as fully as if they were present at their usual places of election in the manner prescribed in this article, and whether at the time of voting such electors shall be within the limits of this State or not.

Preparation and distribution of ballots for use of persons in military service.

Section 1302. Ballots.—Ballots for use by electors in actual military service under the provisions of this article shall be prepared sufficiently in advance by the county boards of election and shall be by such boards distributed as hereinafter provided to the electors in actual military service entitled to vote at any election. Such ballots shall be in substantially the form prescribed by article ten of this act for

*"adding" repeated in original.

ballots to be used at the same elections within this Commonwealth, but in cases where there is not time in the opinion of the county boards of elections 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 the voters may insert the names of the candidates for whom they desire to vote, and in such cases the county boards of elections shall furnish to the elector in actual military service a sufficient number of printed lists containing the names of all the candidates who have been regularly nominated under the provisions of this act for the use of the elector in preparing his ballot.

Section 1303. Duties of County Boards.—In the case of any election at which votes are cast by electors in actual military service under the provisions of this article, it shall be the duty of each county board of elections to withhold the completion of the computation of the returns of the county until the second Friday after such election, within which period all votes cast by electors of the county in actual military service as provided in this article shall be added to and included in its computation of the returns of such election, but not afterwards.

County boards to include military vote in computation of returns of any election.

Section 1304. Manner of Voting by Electors in Actual Military Service.—Electors mentioned in section one thousand three hundred and one shall have the right to apply, not less than thirty (30) days, and not more than fifty (50) days, before any election for a "military ballot". The application shall be in writing signed by the applicant in his own hand and addressed to the county board of elections of the county wherein the applicant is registered to vote and shall state the county and the city, borough or township, and the precise ward or election district in, or the street and number at, which the applicant is registered to vote. If the application is for a ballot for a primary election, it shall also state the political party in which the applicant is enrolled.

Application for ballot by person in military service.

Section 1305. Ballots and Envelopes for Electors in Actual Military Service.—The county boards of elections shall prepare, and, upon request, deliver to the said electors in actual military service a ballot by registered mail, with return receipt required, in an envelope addressed to each such elector at the address furnished by the elector in his application for a military ballot. Such ballots shall be prepared and printed in the same form as the ballots provided for by section one thousand three hundred and two of this act, but shall have in addition printed, stamped or endorsed thereon the words "Military Ballot". The county boards of elections shall also provide and deliver, as aforesaid, three envelopes for each military ballot of such size and shape that will permit the placing of one within the other. On the first shall be printed, stamped or endorsed only the words "Military Ballot". On the second shall be printed the affidavit of the elector, together with the jurat of the officer in whose presence the ballot is marked and before whom the affidavit is made, such affidavit and jurat to be in

Method of preparing and distributing ballots for use by persons in military service.

form prescribed by the Secretary of the Commonwealth. On the third shall be placed the name and address of the county board of elections of the proper county. All military ballots and envelopes shall be mailed at least fifteen (15) days before the election involved to the electors requesting them.

List of applicants for ballots for use by electors in military service to be posted.

Each county board of elections shall print and post in a conspicuous public place at its office a list, setting forth the name, present location, the local voting district or ward of every elector to whom a military ballot has been sent. This list shall be posted at least ten (10) days before the primary or election involved and shall also set forth the total number of military ballots prepared by the county board of elections. Copies of such list shall be furnished upon request to the county chairman of each political party and political body.

Manner of marking and handling ballot by person in military service.

Section 1306. Voting by Electors in Actual Military Service.—Any such elector may make application within the time prescribed by section one thousand three hundred and four to the county boards of elections for a "Military Ballot". At any time after receiving such military ballot, but on or before the day of the election, such elector in actual military service may appear before any commissioned officer of the military or naval forces, either within or without the Commonwealth, or before any officer of this or* any other state or territory of the United States authorized to administer oaths, and mark such ballot under the scrutiny of such officer in the following manner. The voter shall first display the ballot to such officer as evidence that the same is unmarked, and shall then proceed to mark the ballot in the presence of such officer, but in such manner that such officer is unable to see how the same is marked, and then fold the ballot, enclose and securely seal the same in the envelope on which is printed, stamped or endorsed "Military Ballot". This envelope shall then be placed in the one on which is printed the affidavit of the elector and the jurat of the officer before whom the elector appears, and such envelope sealed in like manner by the elector. The elector shall then make out, subscribe and swear to the affidavit printed on the face of such envelope, and the jurat shall be subscribed by the officer before whom the affidavit was taken. Such ballot and envelope shall then be securely sealed in the third envelope which the elector shall send by mail to the county board of elections of the proper county with postage prepaid.

Receipt and counting of military ballots by county boards.

Section 1307. Receipt and Counting of Military Ballots.—The county board of elections upon receipt of such third envelope shall safely keep the same in their office until they meet to canvass the vote of such election under the provisions of this act.

At such time the members of the county board of elections may in person dispose of military ballots in the manner hereinafter set forth, or they may designate a sufficient number of clerks to perform such duties. When it is determined that clerks shall be appointed, the total number shall

*"or" repeated in original.

in every case be in multiples of three; each member of the county board of elections shall appoint an equal number thereof.

Watchers appointed in the manner prescribed by, and subject to the restrictions imposed by section four hundred and seventeen of this act, in so far as applicable, shall be permitted to be present whenever any of the envelopes containing military ballots are opened and whenever any such ballots are counted and recorded.*

In disposing of military ballots the county board of elections, or the clerks designated as aforesaid, shall first examine the third envelope and set aside unopened all such envelopes which bear a postmark later than the date of the particular election day involved. The envelopes thus set aside shall be retained for a period of one year and then destroyed unopened.

They shall then open the third envelopes not thus set aside, and after examining the affidavit and jurat, shall compare the signature of such absent voter with his signature upon any register or other record in their possession. If the county board is satisfied that the signatures correspond, that the affidavit and jurat are sufficient and that the voter has been duly registered as provided by law, they shall announce the name of the elector and shall give any person present an opportunity to challenge the same in like manner and for the same causes as such elector could have been challenged had he presented himself in his own district to cast his vote. If there are no challenges, they shall open the second envelope in such manner as not to destroy the affidavit and jurat printed thereon, which envelope shall be kept in their office for a period of one year thereafter. All envelopes on which are printed, stamped or endorsed the words "Military Ballot", and containing the ballots, shall be put into one depository at one time and said depository well shaken, and the envelopes containing the ballots mixed before any ballot is taken therefrom. The county board shall then break the seals of such envelopes and record the said ballots in the same manner as district election officers are required to record votes under the provisions of this act. In like manner all military ballots received prior to completion of the computation of the returns of the county shall be counted and recorded, and, upon completion of the computation of the returns of the county, the votes cast upon the military ballots shall then be added to the votes cast within the county, city, borough, incorporated town, township, ward or election district as designated on each ballot. Military ballots shall be safely kept by the county board of elections for a period of one year.

****Section 5.** This act shall become effective immediately upon final enactment.

APPROVED—The 1st day of August, A. D. 1941.

ARTHUR H. JAMES

*"opened" in original.

**All of Section 5 italicized in original.

Exhibit 4

RETRIEVED FROM DEMOCRACYDOCKET.COM

No. 17

AN ACT

To further amend the act, approved the third day of June, one thousand nine hundred thirty-seven (Pamphlet Laws, one thousand three hundred thirty-three), entitled "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 Secretary 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," by further regulating elections during the time of the present war and for six months thereafter; authorizing and providing a procedure for the voting of qualified electors in actual military service as herein defined, who are absent from their place of residence while in, attached to, or serving with the armed forces of the United States; imposing additional duties upon the various county boards of elections and election officers; chairmen of political parties or committees, and officers and employes of certain political subdivisions; placing costs upon the Commonwealth; authorizing appropriations by cities of the first class and counties; further regulating the last day for filing nomination petitions and nomination papers; the withdrawal of nominated candidates; the payment of fees by persons nominated at primary elections; the filing of substitute nomination certificates to fill vacancies caused by the withdrawal of candidates, and further regulating the date of the primary election.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section one hundred two (w) of the act, approved the third day of June, one thousand nine hundred thirty-seven (Pamphlet Laws, one thousand three hundred thirty-three), entitled "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 Secretary 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," is hereby amended to read as follows:

Section 102. (w) ["Electors in actual military service" shall mean qualified electors of this Commonwealth, who are or may be by enlistment, enrollment, or draft in the military or naval service of the United

Elections.

Section 102 (w),
act of June 3,
1937, P. L. 1333,
as amended by
act of August 1,
1941, P. L. 672,
further amended

"Qualified
elector in actual
military service"
defined.

States, or any branch or unit thereof, or in the military service of the Commonwealth.] *The term "qualified elector in actual military service" shall mean a qualified elector of this Commonwealth, who is or may be in the military or naval service of the United States or any branch or unit thereof, or in the Merchant Marine of the United States, or serving in the American Red Cross, the Society of Friends, the Women's Auxiliary Service Pilots, the American Field Service or the United Service Organizations attached to and serving with the armed forces of the United States, and regardless of whether such person is registered or enrolled in accordance with law.*

Section 305 (c), act of June 8, 1937, P. L. 1333, as amended by act of August 1, 1941, P. L. 672, further amended.

Section 2. Section three hundred five (c) of said act is hereby amended to read as follows:

Section 305. (c) [The Commonwealth shall reimburse each county for election expenses incurred at every election for the preparation, handling and mailing of ballots for electors in actual military service, in the sum of forty-three cents for each ballot mailed to an elector in actual military service in such manner as is now or may hereafter be provided by law.] *The Commonwealth shall reimburse each city of the first class and county for the actual expenses incurred in and incidental to preparing, handling, mailing, delivering, counting and storing official military ballots as herein provided in a sum not to exceed forty cents (40¢) for each such ballot mailed or delivered.*

Cities of the first class and counties shall be reimbursed by Commonwealth in sum not to exceed 40¢ for each ballot mailed or delivered.

County boards of election to file statement of number of ballots mailed or delivered with Secretary of Commonwealth.

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. [upon the written application of each elector. Such applications shall be preserved by each county board of elections until reimbursement is made as herein provided, subject to inspection or production in the Department of State, if demanded by the Department of State.]

Department of State shall fix amount due and provide for payment.

The Department of State shall ascertain and fix the amount due, as herein provided, to each [county] *city of the first class and county for actual election expenses incurred [for the preparation, handling and mailing of ballots to electors in actual military service], 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 [counties] 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 [county] *city of the first class and county* of the amount found to be due.

Section 3. Section six hundred four of said act is hereby amended to read as follows:

Section 604. [Fall] *Summer* Primary; Officers to Be Nominated.—There shall be a [Fall] *Summer* primary preceding each municipal election which shall be held on the [second] *third* Tuesday of [September] *June* in all odd-numbered years. Candidates for all offices to be filled at the ensuing municipal election shall be nominated at the [Fall] *Summer* primary.

Section 4. Sections nine hundred four, nine hundred five, nine hundred six and subsection (d) of section nine hundred thirteen of said act are hereby amended to read as follows:

Section 904. 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, school districts and poor districts, with the advice of their respective solicitors, on or before the [tenth] *thirteenth* Tuesday preceding the [Fall] *Summer* primary, to send to the county boards of their respective counties a written notice setting forth all city, borough, town, township, school district and poor 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 [tenth] *thirteenth* Tuesday preceding the Spring 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 [tenth]

Section 604, act of June 3, 1937, P. L. 1333, amended.

Primary date in odd-numbered years changed.

Sections 904, 905 and 906 and subsection (d) of 913, act of June 3, 1937, P. L. 1333, amended.

Time for municipal clerks and party chairmen to furnish information changed.

thirteenth Tuesday preceding the Spring 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.

Time for Secretary of Commonwealth to notify county boards of vacancies changed.

Section 905. Secretary of the Commonwealth to Notify County Board of Certain Nominations to Be Made.—On or before the [tenth] *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.

Time for publication of notice of vacancies changed.

Section 906. Publication of Notice of Officers to Be Nominated and Elected.—Beginning not earlier than [nine] *twelve* weeks, nor later than [eight] *eleven* weeks before any regular Spring or [Fall] *Summer* primary, the county board of each county shall publish in newspapers, as provided by section 106 of this act, 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.

Filing of nomination petitions 71 days before primary.

Section 913. (d) All nomination petitions shall be filed at least [fifty (50)] *seventy-one (71)* days prior to the primary.

Section 5. Section nine hundred fifty-three (c) of said act is hereby amended to read as follows:

Section 953. (c) All nomination papers must be filed at least [twenty (20)] *forty-one (41)* days prior to the date of the primary election.

Section 6. Section nine hundred seventy-eight of said act is hereby amended to read as follows:

Section 978. Withdrawal of Nominated Candidates.

—Any person who has been nominated by any political party or 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 court of record, may withdraw his name from nomination by request in writing, signed by him and acknowledged before an officer qualified to take acknowledgment 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 one hundred five days previous to the day of the general *or municipal* election [and at least twenty-five days previous to the day of the 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.

Section 7. Section nine hundred seventy-eight and one-tenth* of said act, added by the act, approved the twenty-seventh day of May, one thousand nine hundred forty-three (Pamphlet Laws, seven hundred forty-seven), is hereby amended to read as follows:

Section 978.1. Vacancy in Party Nomination by Failure to Pay Filing Fee.—Every person nominated at any primary election as the candidate of any political party for any office, who has not paid the filing fee required by section nine hundred thirteen of this act, as amended, for the filing of a nomination petition for such office, shall pay the amount of such fee to the [State Treasurer] *Secretary of the Commonwealth*, or to the [county treasurer] *county board of elections* as the case

Section 953 (c), act of June 3, 1937, P. L. 1333, amended.

Filing of nomination papers 41 days before primary.

Section 978, act of June 3, 1937, P. L. 1333, as amended by Act No. 3 of May 5, 1944, further amended.

Withdrawals filed 105 days previous to November election.

Section 978.1, act of June 3, 1937, P. L. 1333, added by act of May 27, 1943, P. L. 747, as amended by Act No. 3 of May 5, 1944, further amended.

Nominees who have not paid filing fee shall pay same 105 days previous to November election.

* "one-tenth" in original.

may be, at least one hundred five days previous to the day of the general or municipal election [or at least twenty-five days previous to the day of the municipal election] at which such candidate's name would appear on the ballot. Failure to pay such fee 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.

Section 981 (a), act of June 8, 1937, P. L. 1333, amended by Act No. 8 of May 5, 1944, further amended.

Substituted nomination certificates to fill vacancies filed 95 days prior to November election.

Article XIII of act of June 3, 1937, P. L. 1333, as amended, repealed.

New Article XIII added to act of June 3, 1937, P. L. 1333.

Absentee qualified electors in actual military service entitled to vote.

Applications for official military ballots.

Section 8. Section nine hundred eighty-one (a) of said act is hereby amended to read as follows:

Section 981. 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 ninety-five days before the day of the general or municipal election [and at least twenty days before the day of the municipal election].

Section 9. Article Thirteen of said act as amended is hereby repealed absolutely.

Section 10. Said act is hereby amended by adding thereto a new Article Thirteen to read as follows:

ARTICLE XIII VOTING BY PERSONS IN ACTUAL MILITARY SERVICE

Section 1301. *Qualified Electors in Actual Military Service.*—Whenever any qualified elector in actual military service is absent from his place of residence on any day appointed by law for holding a general, municipal or primary election within this Commonwealth, such elector shall be entitled to exercise the right of suffrage as fully as if he were present at his place of election, in the manner prescribed in this act, whether at the time of voting such elector shall be within the limits of this Commonwealth or not, and regardless of whether such elector is registered or enrolled.

Section 1302. *Applications for Official Military Ballots.*—Any qualified elector in actual military service may apply at any time before any election for an official military ballot on Form USWBC Form No. 1 or any other form supplied by the Federal Government, or by post card, letter or other writing, addressed to the Secretary of the Commonwealth of Pennsylvania or the county board of election of the county wherein the voting residence of the elector is located.

The application shall contain the following information: Residence, length of time a citizen, length of residence in Pennsylvania, date of birth, length of time a resident of voting district, voting district, party choice in case of primary, name, rank or grade, military address, branch of service and serial number. When such application is received by the Secretary of the Commonwealth it shall be forwarded to the proper county board of election.

Contents of application.

The application for a military ballot in any November election may be made or information supplied over the signature of any person who is familiar with the voting qualifications of the military elector, as required in the preceding paragraph.

Applications for November election.

The various county boards of election, upon receipt of any application, shall ascertain from the information on such applications, district register or from any other source that such applicant possessed all the qualifications of a qualified elector other than being registered or enrolled.

Duty of county boards of election when application received.

Section 1303. Official Military Ballots.—Ballots for use by such military electors under the provisions of this act shall be prepared sufficiently in advance by the county boards of election and shall be distributed by such boards as hereinafter provided. Such ballots shall be marked "Official Military 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.

Form, preparation and distribution of official military ballots.

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 who have been regularly nominated under the provisions of this act, for the use of such electors in preparing their ballots.

Candidate's name need not appear on ballot for local offices.

Section 1304. Envelopes for Official Military Ballots.—The county boards of election shall provide two additional envelopes for each official military 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 Military Ballot," and nothing else. On the larger of the two envelopes, to be

Form of envelopes prescribed by Secretary of Commonwealth.

enclosed within the mailing envelope, shall be printed the affidavit of the elector, together with the jurat of the person in whose presence the ballot is marked and before whom the affidavit is made, and the name and address of the county board of election of the proper county. Said affidavit, jurat and envelope shall be in the form prescribed by the Secretary of the Commonwealth and shall contain among other things a statement of elector's qualifications. The mailing envelope addressed to the elector shall contain the two envelopes, the official military ballot, lists of candidates, when authorized by section 1303 of this act, the uniform instructions in form and substance as prescribed by the Secretary of the Commonwealth and nothing else.

Time for mailing military ballots.

Section 1305. Duties of County Boards.—The county boards of election shall at least thirty-eight days prior to the election deliver or mail official military ballots to all electors whose names and addresses have been ascertained; as additional names and addresses of electors are ascertained, the board shall deliver or mail official military ballots to such additional electors within forty-eight hours after ascertaining their names and addresses.

Posting of military file.

Each county board of election shall post in a conspicuous public place at its office a master list, arranged alphabetically by election districts, setting forth the name, residence and the local voting district or ward of every elector to whom an official military ballot has been sent. This posted list shall not contain the elector's military address or military organization. This list shall be known as the "Military File" and shall be posted at least five days before the election day involved, and shall also set forth the total number of such ballots prepared for use in such election. Copies of such military files shall be furnished upon request to the county chairman of each political party and political body, and shall also be furnished to registration commissions.

Method of absentee military voting.

Section 1306. Voting by Electors in Actual Military Service.—At any time after receiving an official military ballot, but on or before the day of the election, the elector, for the purpose of voting, may appear before any commissioned or noncommissioned officer, not below the rank of sergeant or petty officer third class, of the military or naval forces or any member of the Merchant Marine of the United States designated for the purpose by the Administrator of the War Shipping Administration. Such persons are hereby authorized and empowered to administer oaths as required herein. Such elector may also appear before any person of this or any other state or territory of the United States authorized to administer oaths. The elector shall first display the ballot to such person as evidence that the same is un-

marked, and then shall proceed to mark the ballot with pencil, crayon, indelible pencil or ink, in the presence of such person, but in such manner that the person administering the oath is unable to see how the same is marked, and then fold the ballot, enclose and securely seal the same in the envelope on which is printed, stamped or endorsed "Official Military Ballot". This envelope shall then be placed in the second one, on which is printed the affidavit of the elector, the jurat of the person before whom the elector appears, and the address of the elector's county board of election. The elector shall then fill out, subscribe and swear to the affidavit printed on such envelope, and the jurat shall be subscribed and dated by the person before whom the affidavit was taken. Such envelope shall then be securely sealed and the elector shall send same by mail to said county board of election.

Section 1307. Canvassing of Official Military Ballots.
 --The county boards of election, upon receipt of such envelopes, shall safely keep the same until they meet to canvass official military ballots, which canvass shall begin immediately following the official civilian canvass for all primary elections. After the November election, the canvass of official military ballots shall begin at ten o'clock A. M., Eastern Standard Time, on the second Friday following the election. No such ballots shall be counted which are received in their offices later than ten o'clock A. M., Eastern Standard Time, of the first Tuesday following the primary election, and ten A. M., Eastern Standard Time, of said second Friday following the November election. At such time the members of the return boards or the county boards of election shall in person dispose of official military ballots in the manner hereinafter* set forth. The county boards of election may designate a sufficient number of clerks to perform such duties. When it is determined that clerks shall be appointed, the total number shall in every case be in multiples of three, and each member of a county board of election shall appoint an equal number thereof.

Each candidate for nomination or election shall be entitled to appoint one watcher and each political party or body which has nominated candidates shall be entitled to appoint three watchers. Watchers shall be permitted to be present when the envelopes** containing official military ballots are opened and when *** such ballots are counted and recorded.

In disposing of an official military ballot the county return board or the county board of election shall examine the affidavit and jurat and if the jurat bears a

Time and method of canvassing military ballots.

Watchers.

Disposition of official military ballots.

* "herinafter" in original.
 ** "envelope" in original.
 *** "then" in original.

date later than the date of the election, the envelope shall be set aside unopened.

Challenges and recordation of votes.

The board shall then further examine the affidavit and jurat of each envelope not so set aside and shall compare the informatio. thereon with that contained in the military file. If the board is satisfied that the affidavit and jurat are sufficient and that the elector has qualified, and the board has utilized the information contained in the military file to verify his right to vote, the board shall announce the name of the elector and shall give any person present an opportunity to challenge in like manner and for the same cause, except failure to register or enroll, as the elector could have been challenged had he presented himself in his own district to vote other than by official military ballot. If no challenges are sustained, the board shall open the envelope in such manner as not to destroy the affidavit and jurat printed thereon. All envelopes on which are printed, stamped or endorsed the words "Official Military 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. The 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. Upon completion of the computation of the returns of the county, the votes cast upon the official military ballots shall be added to the other votes cast within the county.

Military ballots, etc., declared public records.

Section 1308. Public Records.—All official military ballots, military files, applications for such ballots and envelopes on which the jurats and affidavits 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 shall be made public which is expressly forbidden by the War Department because of military security.

Cities of first class empowered to appropriate money.

Section 11. 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.

Purpose of act and liberal construction.

Section 12. The purpose of this amendment is to enable every qualified elector of this Commonwealth in actual military service, as herein defined, during the continuance of the present war and for six months thereafter, to vote, notwithstanding the fact that such elector may be absent on election day 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 regardless of whether such person is

registered or enrolled as a qualified elector, and this amendment shall be liberally construed to effectuate such purpose.

Section 13. The following supplements, acts or parts of acts are hereby repealed absolutely.

Acts repealed.

Supplement No. 1, approved the fifth day of May, one thousand nine hundred and forty-four supplementing the act, approved the third day of June, one thousand nine hundred and thirty-seven (Pamphlet Laws, one thousand three hundred thirty-three), known as the "Pennsylvania Election Code".

Supplement No. 1 of May 5, 1944, repealed.

Act No. 4, approved the fifth day of May, one thousand nine hundred and forty-four, entitled "An act relating to voting by official military ballot; conferring powers and imposing duties upon the State Council of Defense, local and district councils of defense, county boards of election, election officers and the Secretary of the Commonwealth; providing for the promulgation of rules, regulations and orders; and providing penalties".

Act No. 4 of May 5, 1944, repealed.

Section 14. This act shall remain in effect until the termination of hostilities in the present war, and for six months hereafter. The termination of hostilities in the present war shall be the time proclaimed as such by the President of the United States, or the date specified as such in a concurrent resolution of the two houses of Congress.

Effective for present war and 6 months thereafter.

Section 15. The provisions of this act shall become effective immediately upon final enactment.

Act effective immediately.

APPROVED—The 9th day of March, A. D. 1945.

EDWARD MARTIN

No. 18

AN ACT

To amend sections three hundred ten and three hundred eleven of Article III of the act, approved the third day of June, one thousand nine hundred and thirty-seven (Pamphlet Laws, one thousand two hundred twenty-five), entitled "An act concerning game and other wild birds and wild animals; and amending, revising, consolidating, and changing the law relating thereto," by providing for monthly returns and payments by certain issuing agents and requiring that amount of bond of issuing agents shall be fixed by Secretary of Revenue.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Wild birds and animals.

Section 1. Sections three hundred ten and three hundred eleven of Article III of the act, approved the third day of June, one thousand nine hundred and thirty-seven (Pamphlet Laws, one thousand two hundred twenty-five), entitled "An act concerning game and

Article III, sections 310 and 311, act of June 3, 1937, P. L. 1225, amended.

Exhibit 5

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contains and is confined to examples of the face amount of the loan instrument, the proceeds to the borrower exclusive of the charge, and the amount, number and intervals of the required payments.

(b) The aggregate amount of unpaid principal due from any one borrower on one or more installment loans granted pursuant to the provisions of [this clause (4)] *subclause (a) hereof* shall not at any time exceed [thirty-five hundred dollars] *the principal amounts set forth in such subclause (a).*

* * * * *

Section 2. This act shall take effect immediately.

Act effective immediately.

APPROVED—The 13th day of August, A. D. 1963.

WILLIAM W. SCRANTON

—
No. 379

AN ACT

Amending the act of June 3, 1937 (P. L. 1333), entitled "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 Secretary 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," authorizing and providing procedures whereby certain qualified registered electors absent from or unable to attend their regular polling places may cast their votes; authorizing and providing procedures for the absentee voting by certain personnel of the Federal Government and of this Commonwealth, including their spouses and dependents in the event they are qualified registered electors; imposing additional duties upon the Secretary of the Commonwealth, various county boards of elections and election officers, courts, various registration commissions, chairmen of political parties or committees, and officers and employees of certain political subdivisions; changing the method of marking ballots; further regulating the procedures for the voting of qualified electors serving in the armed forces of the United States and certain qualified bedridden or hospitalized veterans; authorizing and providing assistance in voting for certain absentee voters; further regulating the dates for furnishing information as to offices to be filled for filing and circulating nomination petitions and nomination papers; further regulating the time within which writs of election may issue for holding special elections to fill vacancies occurring in the offices of United States Senators, Representatives in Congress, Representatives in either House of the General Assembly, councils or legislative bodies of cities, boroughs, towns and townships, and further regulating the dates for filing nomination certificates, withdrawals of nominated candidates, vacancies for failure to pay filing fees or for failure to file loyalty oath, substituted nomination certificates and fur-

ther regulating the date for certification of nominees by the Secretary of the Commonwealth; and providing penalties.

Pennsylvania
Election Code.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Clauses (w), (x) and (y), section 102, act of June 8, 1937, P. L. 1333; clause (w) reenacted and amended March 6, 1951, P. L. 3; clause (x) added March 6, 1951, P. L. 3; and clause (y) added January 8, 1960, P. L. (1959) 2135, further amended.

Section 1. Clauses (w) (x) and (y) of section 102, act of June 3, 1937 (P. L. 1333), known as the "Pennsylvania Election Code;" clause (w), reenacted and amended March 6, 1951 (P. L. 3); clause (x), added March 6, 1951 (P. L. 3); and clause (y), added January 8, 1960 (P. L. (1959) 2135), are amended to read:

Section 102. Definitions.—The following words, when used in this act, shall have the following meanings, unless otherwise clearly apparent from the context:

* * * * *

(w) [The term "qualified elector in actual military service" shall mean a qualified elector of this Commonwealth, who is or may be in the military or naval service of the United States or any branch or unit thereof, and regardless of whether such person is registered or enrolled in accordance with law.

(x) The term "qualified bedridden or hospitalized veteran" shall mean any qualified elector of this Commonwealth who may be unavoidably absent from the State or county of his residence because of his being bedridden or hospitalized due to illness or physical disability contracted or suffered in connection with, or as a direct result of, his military service.

(y) The term "absentee elector" shall mean any qualified elector of this Commonwealth properly registered and enrolled, who (1) on the occurrence of any election is unavoidably absent from the county of his voting residence by reason of his duties, business or occupation, or who (2) on the occurrence of any election is unable to attend at his proper polling place by reason of illness or physical disability, but shall not include a "qualified elector in actual military service" or a "qualified bedridden or hospitalized veteran," as defined in this section, or any person committed to and confined in a penal institution or a mental institution.]

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 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 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 unavoidably absent from the Commonwealth or county of his residence and regardless of whether he is registered and enrolled; or

(10) Any qualified, registered and enrolled elector who expects to be or is unavoidably absent from the Commonwealth or county of his residence 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:

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.

Section 2. Section 102 of the act is amended by adding, after clause (x) thereof, four new clauses to read:

Section 102 of act, amended by adding four new clauses (y), (z), (z-1) and (z-2).

Section 102. Definitions.—The following words, when used in this act, shall have the following meanings, unless otherwise clearly apparent from the context:

* * * * *

(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).

(z-2) The words "unavoidably absent" shall mean absence in good faith by reason of duties, occupation or business.

Section 3. Subsection (c) of section 305 of the act, reenacted and amended March 6, 1951 (P. L. 3), is amended to read:

Subsection (c), section 305 of act, reenacted and amended March 6, 1951, P. L. 3, further amended.

Section 305. Expenses of County Boards and of Primaries and Elections to Be Paid by County; Expenses of Special Elections; Boards to Be Provided with Offices.—

* * * * *

(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 [military] *absentee* ballots [and veterans' official 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 forty cents (40¢) 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.

Sections 626 and 627 of act, amended.

Section 4. Sections 626 and 627 of the act are amended to read:

Section 626. 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 [forty(40)] *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 [accordingly] *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; and by political bodies, by means of nomina-

tion papers, in accordance with the provisions of sections 951, 952 and 954 of this act. Said nomination certificates and nomination papers shall be filed in the office of the Secretary of the Commonwealth at least [thirty (30)] *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.

Section 627. 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 [thirty (30)] *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.

Section 5. Section 628 of the act, amended April 13, 1942 (P. L. 20), is amended to read:

Section 628. 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 [thirty (30)] *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

Section 628 of
act, amended
April 13, 1942,
P. L. 20, further
amended.

shall issue a new writ of election, fixing therein such earlier date therefor as is deemed expedient, but which shall not be less than [thirty (30)] *sixty (60)* days after the issuance of said writ.

Section 628.1 of act, added May 23, 1949, P. L. 1656, amended.

Section 6. Section 628.1 of the act, added May 23, 1949 (P. L. 1656), is amended to read:

Section 628.1. 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 [not be less than thirty (30)] *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.

Sections 629 and 636 of act, amended May 23, 1949, P. L. 1656, further amended.

Section 7. *Sections 629 and 636 of the act, amended May 23, 1949 (P. L. 1656), are amended to read:

Section 629. 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; and by political bodies, by means of nomination papers, in accordance with the provisions of sections 951, 952 and 954 of this act. Said nomination certificates and nomination papers for the office of Representative in Congress shall be filed in the office of the Secretary of the Commonwealth not later than [ten (10)] *fifteen (15)* days after the issuance of the writ of election, and said nomination certificates and nomination papers for the office of Senator and Representative in the General Assembly shall be filed in the office of the Secretary of the Commonwealth, and for the office of member of the council or legislative body of a city, borough, town or township, in the office of the

* "Section" in original.

county board of elections wherein such city, borough, town or township is situate, not later than [the twentieth day before the day of the election] *fifteen (15) days after the issuance of the writ of election.*

Section 636. Certification by Secretary of the Commonwealth of Candidates for Special Elections.—The Secretary of the Commonwealth shall, not later than the [tenth (10th)] *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.

Section 8. Section 901 of the act is amended to read:

Section 901 of act, amended.

Section 901. 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, and not later than the [tenth] *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 [tenth] *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.

Section 9. Section 904 of the act, amended January 14, 1952 (P. L. 1937), is amended to read:

Section 904 of act, amended January 14, 1952, P. L. 1937, further amended.

Section 904. 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 [and poor districts], with the advice of their respective solicitors, on or before the [twelfth] *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 [and poor 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 [twelfth] *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 [twelfth] *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.

Section 905 of act, amended March 6, 1951, P. L. S, further amended.

Section 10. Section 905 of the act, amended March 6, 1951 (P. L. S), is amended to read:

Section 905. Secretary of the Commonwealth to Notify County Board of Certain Nominations to Be Made.—On or before the [twelfth] *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.

Section 11. Section 906 of the act, amended January 14, 1952 (P. L. 1937), is amended to read:

Section 906 of act, amended January 14, 1952, P. L. 1937, further amended.

Section 906. Publication of Notice of Officers to Be Nominated and Elected.—Beginning not earlier than [eleven] *twelve* weeks, nor later than [ten] *eleven* weeks before any [regular] General or Municipal primary, the county board of each county shall publish in newspapers, as provided by section 106 of this act, 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.

Section 12. Section 908, subsection (d) of section 913 and subsections (b) and (c) of section 953 of the act, amended March 6, 1951 (P. L. 3), are amended to read:

Section 908, subsection (d), section 913, and subsections (b) and (c), section 953 of act, amended March 6, 1951, P. L. 3, further amended.

Section 908. 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, or 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 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 [twenty (20) days before the last day on which such petition may be filed] *the thirteenth Tuesday before the primary*, and no signature shall be counted unless it bears a date [within twenty (20) days of the last day of filing the same] *affixed not earlier than the thirteenth Tuesday nor later than the tenth Tuesday prior to the primary.*

Section 913. Place and Time of Filing Nomination Petitions; Filing Fees.—

* * * * *

(d) All nomination petitions shall be filed [at least sixty-four (64) days] *on or before the tenth Tuesday prior to the primary.*

* * * * *

Section 953. Place and Time of Filing Nomination Papers.—

* * * * *

(b) No nomination paper shall be circulated prior to [twenty (20) days before the last day on which such paper may be filed] *the tenth Wednesday prior to the primary*, and no signature shall be counted unless it bears a date [within twenty (20) days of the last day of filing the same] *affixed not earlier than the tenth Wednesday prior to the primary nor later than the seventh Wednesday prior to the primary.*

(c) All nomination papers must be filed [at least forty-four (44) days prior to the date of the primary election] *on or before the seventh Wednesday prior to the primary.*

Sections 978, 978.1 and subsection (a), section 981 of act, amended March 6, 1951, P. L. 3, further amended.

Section 13. Sections 978, 978.1 and subsection (a) of section 981 of the act, amended March 6, 1951 (P. L. 3), are amended to read:

Section 978. Withdrawal of Nominated Candidates.—Any person who has been nominated by any political party or 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 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 [sixty-five (65)] *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.

Section 978.1. 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 alderman, justice of the peace, or constable, who has not paid the filing fee required by section nine hundred thirteen of this act, as amended, 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), shall pay the amount of such fee to and file such oath with the Secretary of the Commonwealth, or [to] the county board of elections, as the case may be, at least [sixty-five (65)] *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.

Section 981. 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 [fifty-five (55)] *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.

* * * * *

Section 984 of
act, amended.

Section 14. Section 984 of the act is amended to read:

Section 984. Certification of Nominees by Secretary of the Commonwealth to County Boards.—The Secretary of the Commonwealth shall, [at least fifteen days previous to the day of] *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.

Subsection (b),
section 993
of act, added
August 26, 1958,
P. L. 1479,
amended.

Section 15. Subsection (b) of section 993 of the act, added August 26, 1958 (P. L. 1479), is amended to read:

Section 993. Filling of Certain Vacancies in Public Office by Means of Nomination Certificates and Nomination Papers.—

* * * * *

(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 [forty-five (45)] *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 [forty-five (45)] *fifty (50)* days prior to a municipal election.

* * * * *

Subsection (a),
section 1002
of act, amended
January 8, 1960,
P. L. 2142,
further amended.

Section 16. Subsection (a) of section 1002 of the act, amended January 8, 1960 (P. L. 2142), is amended to read:

Section 1002. 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 (X) 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. [If you spoil your ballot do not erase but ask for a new ballot.] 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 [; use the same mark either a cross (X) or check (✓) for all markings].

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
 (Promises to support popular choice of party in the State for President.)

John Stiles
 (Does not promise to support popular choice of party in the State for President.)

Delegate to National Convention District.
 (Vote for)

John Doe
 (Promises to support popular choice of party in District for President.)

John Stiles

(Does not promise to support popular choice of party in District for President.)

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

* * * * *

Section 1003, subsection (a) of act last amended January 8, 1960 (1959) P. L. 2142, and subsections (b) and (d) of act last amended April 24, 1947, P. L. 68, further amended.

Section 17. Section 1003, subsection (a) of the act as last amended January 8, 1960 (1959) (P. L. 2142) and subsections (b) and (d) of the act as last amended April 24, 1947 (P. L. 68), are amended to read:

Section 1003. Form of Official 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 (X) 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 (X) 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 (X) 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 (X) 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 (X) 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 [; use the same mark either a cross (X) or check (✓) for all markings].

Party Column	Presidential Electors
To Vote a Straight Party Ticket Mark a Cross (X) 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)

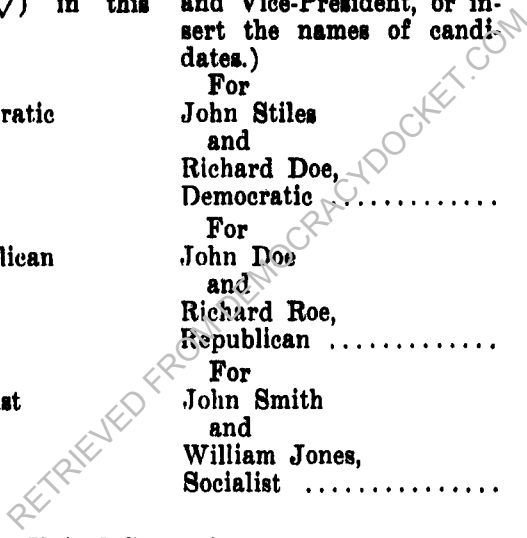
Richard Roe Democratic
 John Doe Republican
 Richard Stiles Socialist

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 DoeDemocratic
Richard RoeRepublican

(b) On the back of each ballot shall be printed in prominent type the words "Official Ballot," followed by the designation of the election 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. 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 (X) or check (✓) mark.

* * * * *

(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 every party name or appellation shall be a square of sufficient size for the convenient insertion of a cross (X) or check (✓) mark.

* * * * *

Section 1007 of act, amended.

Section 18. Section 1007 of the act is amended to read:

Section 1007. 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 [shall] *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.

Section 19. Subsection (a) of section 1223 of the act, amended January 8, 1960 (P. L. 2142), is amended to read:

Subsection (a), section 1223 of act, amended January 8, 1960, P. L. 2142, further amended.

Section 1223. 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 [and that all markings on the ballot are the same type of marking either a cross (X) or check (✓)]. 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.

* * * * *

Article heading
and sections
1301 and 1302
of act, added
March 6, 1951,
P. L. 3, amended.

Section 20. The article heading and sections 1301 and 1302 of the act, added March 6, 1951 (P. L. 3), are amended to read:

Article XIII

Voting By [Persons in Actual Military Service] *Qualified Absentee Electors*

Section 1301. [Qualified Electors in Actual Military Service.—Any qualified elector in actual military service may vote under the provisions of this act in any election held in this Commonwealth, 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.] *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 is or who may be 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 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

(h) Any qualified elector who is a spouse or dependent residing with or accompanying a 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 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 unavoidably absent from the Commonwealth or county of his residence and regardless of whether he is registered and enrolled; or

(j) Any qualified registered and enrolled elector who expects to be or is unavoidably absent from the Commonwealth or county of his residence 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 is unable to attend his polling place because of illness or physical disability;

(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:

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.

Section 1302. Applications for Official [Military] Absentee Ballots.—(a) Any qualified elector [in actual military service] defined in preceding section 1301, subsections (a) to (h), inclusive, may apply at any time before any primary or election for any official [military] absentee ballot on [Form USWBC Form No. 1] post card application or any other form supplied by the Federal Government, or by post card, letter or other writing, 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: [Residence] *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 rank or grade, military address, branch of service 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 [a military] an official absentee ballot in any primary or election may be made or information supplied over the signature of any person who is familiar with the voting qualifications of the [military] elector, as required in the preceding subsection.

(d) [The various county boards of election, upon receipt of any application, shall ascertain from the information on such application, district register or from any other source that such applicant possessed all the qualifications of a qualified elector other than being registered or enrolled.]

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 unavoidably absent from the State or county of his residence, regardless of whether he is registered or enrolled, may apply at any time before any primary or election for an official absentee ballot by post card, letter or other writing, 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 may be made or information supplied over the signature of any person who is familiar with the voting qualifications of the bedridden or hospitalized veteran as required in the preceding subsection (f). Any qualified registered elector, including a spouse or dependent referred to in subsection (l) of section 1301, who expects to be or is unavoidably absent from the Commonwealth or county of his residence 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, 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 or request may be made upon an application form supplied by the county board of elections. Such 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 (l), who expects to be or is unavoidably absent from the Commonwealth or county of his residence on the day of any primary or election, shall be signed by the applicant and shall include the surname and christian name or names of the applicant, his occupation, date

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 day 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.

Section 1302.2. 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, 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. 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): 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." 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 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." When so approved, the registration commission shall cause the applicant's permanent registration card to be removed from the district register and the county board of elections shall cause same to be inserted in the Registered Absentee Voters File as provided in section 1302.3 subsection (a):

Provided, however, That the duties of the county boards of elections and the registration commissions with respect to the removal of the original registration card of any elector from the district register as set forth in section 1305 shall include only such 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 day 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 county boards of elections shall, upon canvassing the official absentee ballots under section 1308, 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 county 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 county 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.

Section 1302.3. Absentee Electors Files and Lists.—

(a) The county board of elections shall maintain at its office a file containing the original registration cards of every registered elector to whom an absentee ballot has been sent. Such original 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 Thursday prior to the day of the primary or election until the third Monday 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 day of the primary or election until the third Monday 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.

Section 22. Sections 1303, 1304, 1305 and 1306 of the act, added March 6, 1951 (P. L. 3), are amended to read:

Section 1303. Official [Military] Absentee Voters Ballots.—(a) [Ballots] In districts in which ballots are used, the ballots for use by such [military] absentee electors under the provisions of this act shall be [prepared sufficiently in advance by the county boards of election and] the official ballots printed in accordance with sections 1002 and 1003: 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. [Such ballots shall be marked "Official Military Ballot" but shall not be numbered and shall otherwise be in substantially the form for ballots required by

Sections 1303,
1304, 1305 and
1306 of act,
added March 6,
1951, P. L. 3,
amended.

* "to" in original.

article ten of this act, which form shall be determined and prescribed by the Secretary of the Commonwealth.]

(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.*

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.

Section 1304. Envelopes for Official [Military] Absentee Ballots.—

The county boards of election shall provide two additional envelopes for each official [military] 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 [Military] Absentee Ballot," and nothing else. On the larger of the two envelopes, to be enclosed within the mailing envelope, shall be printed the [affidavit] form of the declaration of the elector, [together with the jurat of the person in whose presence, the ballot is marked and before whom the affidavit is made,] and the name and address of the county board of election of the proper county. Said [affidavit, jurat] form of declaration and envelope shall be [in the form] as prescribed by the Secretary of the Commonwealth and shall contain among other things a statement of the elector's 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 [military] absentee ballot, lists of candidates when authorized by section 1303 subsection (b) of this act, 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, 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 and instructions where required, 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.

Section 1305. [Duties of County Boards] *Delivering or Mailing Ballots.*—

(a) 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 [at least twenty-five days prior to the election] as soon as possible after the respective district ballots are printed and in no event later than the second Tuesday prior to the day of the primary or elec-

* "subsection" in original.

** "read" in original.

tion commence to deliver or mail official [military] absentee ballots to all such electors whose [names and addresses] applications have been [ascertained] approved; as additional [names and addresses] applications of such electors are [ascertained] received, the board shall deliver or mail official [military] absentee ballots to such additional electors within forty-eight hours after [ascertaining] approval of their [names and addresses] application.

(b) [Each county board of election shall post in a conspicuous public place at its office a master list, arranged alphabetically by election districts, setting forth the name, residence and local voting district or ward of every elector to whom an official military ballot has been sent. This posted list shall not contain the elector's military address or military organization. This list shall be known as the "Military File" and shall be posted at least five days before the election day involved, and shall also set forth the total number of such ballots prepared for use in such election. Copies of such military files shall be furnished upon request to the county chairman of each political party and political body, and shall also be furnished to registration commissions.]

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.

Section 1306. Voting by Absentee Electors [in Actual Military Service].—(a) At any time after receiving an official [military] absentee ballot, but on or before the day of the primary or election, the elector [, for the purpose of voting, may appear before any person of this or any other state or territory of the United States authorized to administer oaths by Federal, State or military laws. The elector shall first display the ballot to such person as evidence that the same is unmarked, and then] shall, *in secret*, proceed to mark the ballot [with] *only in black lead pencil, [crayon,] indelible pencil or blue, black or blue-black ink, in fountain pen or ball point pen,* [in the presence of such person, but in such manner that the person administering the oath is unable to see how the same is marked,] and then fold the ballot, enclose and securely seal the same in the envelope on which is printed, stamped or endorsed "Official [Military] Absentee Ballot." This envelope shall then be placed in the second one, on which is printed

the [affidavit] form of declaration of the elector, [the jurat of the person before whom the elector appears,] and the address of the elector's county board of election. The elector shall then fill out, [subscribe] date and [swear to] sign the [affidavit] declaration printed on such envelope [, and the jurat shall be subscribed and dated by the person before whom the affidavit was taken]. 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 or by representative* 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) 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 *(f) (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.*

..... (Mark)

.....
(Date)

.....
(Signature of Witness)

.....
(Complete Address 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 bal-

* "(g)" in original.

lot cast by such elector shall, upon challenge properly sustained, be declared void.

However, any such elector referred to in this subsection, who is within the county of his residence, 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 before the court of common pleas of his county between the hours of seven o'clock A. M. and five o'clock P. M. on the day of any primary or election and has procured an "Emergency Voting Form" signed by the court, which form entitles the elector to vote at his regular polling place upon the signing of a voter's certificate; Provided, however, That the court may require the surrender of said elector's absentee ballot where he has not already voted, which shall thereupon be marked "cancelled" by said court and transmitted to the county board of elections. In the event such elector has already voted, then the court shall direct the county board of elections to set such ballot aside unopened.

Act amended by adding a new section 1306.1.

Section 23. The act is amended by adding, after section 1306, one new section to read:

Section 1306.1. 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 (h), may receive assistance in voting (1) if there is recorded on his registration card his declaration that he has a physical disability which renders him unable to see or mark the official absentee ballot, the exact nature of such disability being recorded on such registration card; (2) if such elector requiring assistance submits with his application for an official absentee ballot, a statement setting forth the precise nature of the disability which renders him unable to see or mark the official absentee ballot and that to the best of his knowledge and belief he will still suffer from the said physical disability at the time of voting his official absentee ballot. He shall acknowledge the same before an officer qualified to take acknowledgement of deeds. Such statement shall be in substantially the following form:

Statement of Absentee Elector Requiring Assistance
I,, hereby state
(Name of voter requiring assistance)
that I require assistance in marking the official absentee ballot for the primary or election held,
(Date)

19. . . , that will be issued to me for the following reason:

(Insert nature of disability)

(Signature or mark of elector)

(Date of signature or mark)

Commonwealth of Pennsylvania: } as
County of }

On this day of , 19. . . , before me,
. , the undersigned officer personally
appeared , known to me (or satis-
factorily proven) to be the person whose signature or
mark appears on the within instrument and acknowl-
edged the same for the purposes therein contained.

In witness whereof, I have hereunto set my hand and
official seal

(Title of Officer)

Upon receipt of the official absentee ballot, such elector
requiring assistance may select an adult person to assist
him in voting such assistance to be rendered in secret.
The adult person rendering the assistance in voting
should be required to fill out, date and sign the declara-
tion in such form approved by the Secretary of the Com-
monwealth, or substantially in the form as set forth be-
low, as he has caused the elector's ballot to be marked
in accordance with such elector's desires and instruc-
tion. Such declaration form shall be returned to the
county board of elections in the mailing envelope ad-
dressed to the county board of elections within which
the small "official absentee ballot" is returned.

Declaration of Person Rendering Assistance

I, , an adult per-
(Name of Person rendering assistance)

son hereby 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)

Section 24. Sections 1307, 1308 and 1309 of the act,
added March 6, 1951 (P. L. 3), are amended to read:

Sections 1307,
1308 and 1309 of
act, added March
6, 1951, P. L. 3,
amended.

Section 1307. [Military] 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 [to his district election board] *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 [and vote it in such election].

(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. [All such applications shall be transmitted to the county board of election immediately upon the closing of the polls.]

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." 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).

(c) Upon receiving an official *absentee* ballot and envelopes therefor, he shall, in secret, in the [polling place] *office of the county board of elections* vote the ballot and [prepare it for execution of the affidavit and jurat] *execute the declaration* as prescribed by this act. [The affidavit shall be executed before the judge or either inspector of election, and the jurat subscribed by the person before whom the affidavit is taken.] The [military] elector shall then securely seal the second envelope and hand it to the [judge] *chief clerk of the county board of election who shall securely keep same in accordance with the provisions of section 1308.* [The judge of election shall place all such envelopes in a container marked "Official Military Ballots" which shall be sealed immediately upon the closing of the polls and transmitted to the county board of election.

(d) Each district election board shall prepare a separate list of the names of all such voters, which shall be attached to the lists of voters required by the act to which this is an amendment.

(e) Each county board of election shall prepare and deliver to each district election board on such election days an adequate supply of official ballots, envelopes and other supplies as required by this act.

(f) Each county board of election, before the day fixed by this act for the canvassing of official ballots, shall post, attached to the "Military File," an alphabetically arranged list setting forth the name, residence, the local voting district and ward of every military elector voting under the provisions of this section. The list shall not contain the elector's military address or military organization. Copies of such lists may be furnished as in the case of copies of the military file.]

Section 1308. Canvassing of Official [Military] Absentee Ballots.—

(a) The county boards of election, upon receipt of official [military] *absentee* ballots in such envelopes, shall safely keep the same *in sealed or locked containers* until they meet to canvass official [military] *absentee* ballots, which canvass shall begin immediately following the official civilian canvass for [all] the primary or [elections] *November election or the second Friday following the primary or November election, whichever date is later.* [After the November election, the canvass of official military ballots shall begin at ten o'clock A. M., Eastern Standard Time, on the second Friday following the election.] *Said canvass to commence at ten o'clock A. M., Eastern Standard Time.* No such ballots shall be counted which are received in their offices later than ten o'clock A. M., Eastern Standard Time, of the second Friday following the primary election or the November election. At such time the members of the return boards or the county boards of election shall in person dispose of official [military] *absentee* ballots in the manner hereinafter set forth. The county boards of election may designate a sufficient number of clerks to perform such duties. When it is determined that clerks shall be appointed, the total number shall in every case be in multiples of three, and each member of a county board of elections shall appoint an equal number thereof.

(b) Each candidate for nomination or election shall be entitled to appoint one watcher and each political party or body which has nominated candidates shall be entitled to appoint three watchers. Watchers shall be permitted to be present when the envelopes containing official [military] *absentee* ballots are opened and when such ballots are counted and recorded.

(c) In disposing of an official [military] *absentee* ballot the county return board or the county board of election shall examine the [affidavit and jurat] *declaration* and if the [jurat] *same* bears a date later than the date of [the] *such primary or election*, the envelope shall be set aside unopened.

(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) *The board shall then further examine the [affidavit and jurat of] declaration on each envelope not so set aside and shall compare the information thereon with that contained in the "Registered Absentee Voters File" and the "Military, Veterans and Emergency Civilians Absentee Voters File" [military file]. If the board is satisfied that the [affidavit and jurat are] declaration is sufficient and that the elector has qualified, and the board has utilized the information contained in the [military] "Registered Absentee Voters File" and the "Military, Veterans and Emergency Civilians Absentee Voters File" [file] to verify his right to vote, the board shall announce the name of the elector and shall give any [person] watcher present an opportunity to challenge in like manner and for the same cause, except the failure of qualified electors set forth in preceding section 1901, *subsections (a) to (i), inclusive, to register or enroll, as the elector could have been challenged had he presented himself in his own district to vote other than by official [military] absentee ballot; Provided further, That any watcher may challenge any absentee elector upon the ground or grounds (1) that the absentee elector is not a qualified absentee elector as defined in this act; 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, the board shall mark "challenged" on the envelope together with the reason or reasons therefor, and the same shall be set aside unopened pending decision. [If no challenges are sustained] Thereupon, the board shall open the envelope of every unchallenged absentee elector in such manner as not to destroy the [affidavit and jurat*

* "subsection" in original.

printed] *declaration executed* thereon. All of such envelopes on which are printed, stamped or endorsed the words "Official [Military] *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. The 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, the board 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 ten (10) days after the date of challenge. On the day fixed for said hearing, the board shall proceed without delay to hear said challenges and, in hearing the testimony, the 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 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 board's decision and praying for an order reversing same. Pending the final determination of all appeals, the board shall suspend any action in canvassing and computing all challenged ballots irrespective of whether or not appeal was taken from the board's decision. Upon completion of the computation of the returns of the county, the votes cast upon the official [military] absentee ballots shall be added to the other votes cast within the county.*

Section 1809. Public Records.—

All official [military] *absentee ballots*, [military] files, applications for such ballots and envelopes on which the *executed [jurats and affidavits] 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.

Section 25. Section 1853 of the act, amended January 8, 1960 (P. L. 2135), is amended to read:

Section 1853. Violations of Provisions Relating to Absentee Electors Ballots.—If any person shall sign an

Section 1853 of
act, amended
January 8, 1960.
P. L. 2135,
further amended.

application for absentee ballot or declaration of elector on the [form] *forms* prescribed [by section 1302-B] 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 [-B] 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 (\$1000), 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 [-B] of this act, or shall reveal or divulge any of the details of any ballot cast in accordance with the provisions of Article XIII [-B] of this act, or shall count an absentee ballot knowing the same to be contrary to Article XIII [-B], or shall reject an absentee ballot without reason to believe that the same is contrary to Article XIII [-B], 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 (\$1000), or be imprisoned for a term of one year, or both, at the discretion of the court.

Articles XIII-A and XIII-B of act repealed.

Section 26. Articles XIII-A and XIII-B of the act and its amendments are repealed.

All other acts or parts of acts are hereby repealed in so far as they are inconsistent with the provisions of this act.

Cities of first class.

Section 27. 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.

Effective date.

Section 28. This act shall take effect January 1, 1964.

APPROVED—The 13th day of August, A. D. 1963.

WILLIAM W. SCRANTON

No. 380

AN ACT

Amending the act of April 29, 1937 (P. L. 487), entitled, as amended, "An act to provide for the permanent personal registration of electors in cities of the second class, cities of the sec-

Exhibit 6

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monwealth, subject to the limitations provided in any current capital budget, money not exceeding in the aggregate the sum of [twenty-four million one hundred seventy thousand dollars (\$24,170,000)] twenty-four million two hundred eighty-three thousand six hundred ninety dollars (\$24,283,690) as may be found necessary to carry out the acquisition and construction of transportation assistance projects heretofore specifically itemized in a capital budget.

Section 2. This act shall take effect immediately.

APPROVED—The 11th day of December, A. D. 1968.

RAYMOND P. SHAFER.

No. 375

AN ACT

HB 1908

Amending the act of June 3, 1937 (P. L. 1333), entitled "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 Secretary 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," revising provisions relating to absentee voting and providing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subclauses (9) and (10) of clause (w) of section 102, act of June 3, 1937 (P. L. 1333), known as the "Pennsylvania Election Code," added or amended August 13, 1968 (P. L. 707), are amended, and section 102 is amended by adding after clause (a),¹ and clause (r)² respectively³ new clauses, to read:

Section 102. Definitions.—The following words, when used in this act, shall have the following meanings, unless otherwise clearly apparent from the context:

* * *

(a.1) "Canvass" includes gathering the ballots after the election and counting, computing and tallying the votes.

¹ "and" not in original.

² "respectively" not in original.

³ "and clause (z-2)" in original.

* * *

(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, poorhouses and county homes.

* * *

(w) The words "qualified absentee elector" shall mean:

* * *

(9) Any qualified war veteran elector who is bedridden or hospitalized due to illness or physical disability if he is [unavoidably] 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 [unavoidably] 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

* * *

Section 2. Clause (z-2) of section 102 of the act is repealed.

Section 3. Section 102 of the act, amended August 18, 1968 (P. L. 707), is amended by adding at the end thereof, a new clause to read:

¹ Section 102. Definitions.—The following words, when used in this act, shall have the following meanings, unless otherwise clearly apparent from the context:

* * *

(z-8) 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.

Section 4. Subsections (i) and (j) of section 1801 of the act, amended August 18, 1968 (P. L. 707), are amended to read:

Section 1801. 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:

¹ "Section 102. Definitions.—The following words, when used in this act, shall have the following meanings, unless otherwise clearly apparent from the context:" not in original.

* * *

(i) Any qualified war veteran elector who is bedridden or hospitalized due to illness or physical disability if he is [unavoidably] 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 [unavoidably] 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

* * *

Section 5. Subsections (a), (b), (c) and (e) of section 1802 of the act, amended August 18, 1968 (P. L. 707), are amended to read:

Section 1802. Applications for Official Absentee Ballots.—(a) Any qualified elector defined in preceding section 1801, subsections (a) to (h), inclusive, may apply at any time before any primary or election for any official absentee ballot in person, on [post card application or] any [other] form supplied by the Federal Government, or [by post card, letter or other writing,] 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. 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.

(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 [rank or grade,] stateside military address, [branch of service] 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 [or information supplied] over the signature of any person [who is familiar with the voting qualifications of the elector], other than the qualified elector or an adult member of his immediate family, as required in the preceding subsection.

* * *

(e) Any qualified bedridden or hospitalized veteran [unavoidably] 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 [by post card, letter or other writing,] 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 request for an application shall be in writing, signed and transmitted by mail.

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 [may] shall be made [or] on information supplied over the signature [of any person who is familiar with the voting qualifications] of the bedridden or hospitalized veteran as required in the preceding subsection [(f)]. Any qualified registered elector, including a spouse or dependent referred to in subsection ¹(1) of section 1301, who expects to be or is [unavoidably] 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

¹“(1)” in original.

physical disability and any qualified registered bedridden or hospitalized veteran in the county of residence, 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 [or request may] 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. 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. A copy of the request for the application shall be kept on record at the office of the county board of elections.

(1) The application of any qualified registered elector, including spouse or dependent referred to in subsection ¹(1) of section 1801, who expects to be or is [unavoidably] 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, shall be signed by the applicant and shall include the surname and christian name or names of the applicant, his occupation, 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 ²his 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 christian 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 of their attending physician, if any, together with a supporting dec-

¹ "(1)" in original.

² "this" in original.

laration 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: 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.

..... (Mark)
 (Date)

..... (Signature of Witness)
 (Complete Address of Witness)

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.

Section 6. Section 1302 of the act is amended by adding after subsection (e), three new subsections to read:

Section 1302. Applications for Official Absentee Ballots.—* * *

(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

¹ "Ballot" in original.

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 1808 of this act 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 1802.3 of this act.

Section 7. Sections 1802.1, 1802.2 and 1802.3 of the act, added August 18, 1968 (P. L. 707), are amended to read:

Section 1802.1. 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 [day] 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.

Section 1302.2. 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, 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): 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 ¹ at 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 1201, 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 [the applicant's permanent registration card to be removed from the district register and the county board of elections shall cause same to be inserted in the Registered Absentee Voters File as provided in section 1302.3 subsection (a):] an absentee voter's temporary registration card to be inserted in the district register on top of and along with the

¹ "at" not in original.

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 [removal] insertion of the [original] absentee voter's temporary registration card of any elector from the district register as set forth in section [1305] 1302.2 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 [day] 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 [county] local district boards of elections shall, upon canvassing the official absentee ballots under section 1308, 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 [county] 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 [county] 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.

Section 1302.3. Absentee Electors Files and Lists.—(a) The county board of elections shall maintain at its office a file containing the [original] duplicate absentee voter's temporary registration cards of every registered elector to whom an absentee ballot has been sent. Such [original] 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 [Thursday] Tuesday prior to the day of the primary or election until the [third Monday] 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 [third Monday] 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 references 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.

Section 8. Sections 1304 and 1306, subsection (b) of section 1307 and section 1308 of the act, amended August 13, 1963 (P. L. 707), are amended to read:

Section 1304. 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, 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 elector's 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, 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, 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 [and instructions] where required, and shall contain detailed instructions on the pro-

cedures 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.

Section 1306. Voting by Absentee Electors.—(a) At any time after receiving an official absentee ballot, but on or before [the day of] 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 [or by representative] 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) 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 (f)] subsection (e) (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.

..... (Mark)

.....
 (Date)

.....
 (Signature of Witness)

.....
 (Complete Address 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, [upon challenge properly sustained,] be declared void.

[However, any] Any such elector referred to in this subsection, who is within the county of his residence must present himself at his polling place and, 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 [before the court of common pleas of his county between the hours of seven o'clock A. M. and five o'clock P. M. on the day of any primary or election and has procured an "Emergency Voting Form" signed by the court, which form entitles the elector to vote at his regular polling place upon the signing of a voter's certificate: Provided, however, That the court may require the surrender of said elector's absentee ballot where he has not already voted, which shall thereupon be marked "cancelled" by said court and transmitted to the county board of elections. In the event such elector has already voted, then the court shall direct the county board of elections to set such ballot aside unopened.] 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, 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.

Section 1307. Certain Electors Voting in Districts of Residence.—

* * *

(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. 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).

* * *

Section 1308. 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 [meet to canvass official absentee ballots, which canvass shall begin immediately following the official civilian canvass for the primary or November election or the second Friday following the primary or November election, whichever date is later. Said canvass to commence at ten o'clock A. M., Eastern Standard Time. No such ballots shall be counted which are received in their offices later than ten o'clock A. M., Eastern Standard Time, of the second Friday following the primary election or the November election. At such time the members of the return boards or the county boards of election shall in person dispose of official absentee ballots in the manner hereinafter set forth. The county boards of election may designate a sufficient number of clerks to perform such duties. When it is determined that clerks shall be appointed, the total number shall in every case be in multiples of three, and each member of a county board of elections shall appoint an equal number thereof.] 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 dis-

trict 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 ¹ 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) [Each candidate for nomination or election shall be entitled to appoint one watcher and each political party or body which has nominated candidates shall be entitled to appoint three watchers.] Watchers shall be permitted to be present when the envelopes containing official absentee ballots are opened and when such ballots are counted and recorded.

[(c) In disposing of an official absentee ballot the county return board or the county board of election shall examine the declaration and if the same bears a date later than the date of such primary or election, the envelope shall be set aside unopened.]

(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) [The] 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 that the elector has qualified,] and [the board has utilized] the information contained in the "Registered Absentee Voters File," the absentee voters' list and the "Military Veterans and Emergency Civilians Absentee Voters File" [to verify] verifies his right to vote, the local election board shall announce

¹ "canvas" in original.

the name of the elector and shall give any watcher present an opportunity to challenge [in like manner and for the same cause, except the failure of qualified electors set forth in preceding section 1301, subsections (a) to (i), inclusive, to register or enroll, as the elector could have been challenged had he presented himself in his own district to vote other than by official absentee ballot: Provided further, That any watcher may challenge] any absentee elector upon the ground or grounds (1) that the absentee elector is not a qualified [absentee] elector: [as defined in this act;] 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, [the board] 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 [ten (10)] 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

¹ "challenge" in original.
² "challenger" in original.

(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 1306 shall be printed on the envelope for the absentee ballot.

Section 9. The act is amended by adding after section 1330, a new section to read:

Section 1331. 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.

Section 10. This act shall take effect immediately.

APPROVED—The 11th day of December, A. D. 1968.

RAYMOND P. SHAFER.

No. 376

AN ACT

SB 1086

Prohibiting the interception and interference of certain police and fire radio broadcasts; regulating the manufacture, conversion, sale, possession and use of certain equipment adaptable for such purpose and prescribing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Police and Fire Radio Broadcasts.—(a) Police or fire radio broadcasts as used herein shall mean broadcasts on frequencies from one hundred fifty-four to one hundred fifty-six megacycles and four hundred fifty-three to four hundred fifty-nine megacycles only.

(b) No unauthorized person shall interfere with or broadcast on any police or fire radio broadcast. No person shall intercept any such broadcast for the purpose of aiding himself or others in the perpetra-