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All about elections

Your guide to the
electoral process
in Pennsylvania



**REGISTER
AND
VOTE**

Milton J. Shapp-Governor
Barton A. Fields-Secretary of State

All about elections...your guide to the electoral process

*All
About
Elections*

**YOUR GUIDE TO THE ELECTORAL
PROCESS IN PENNSYLVANIA**

All About Elections

**YOUR GUIDE TO THE ELECTORAL
PROCESS IN PENNSYLVANIA**

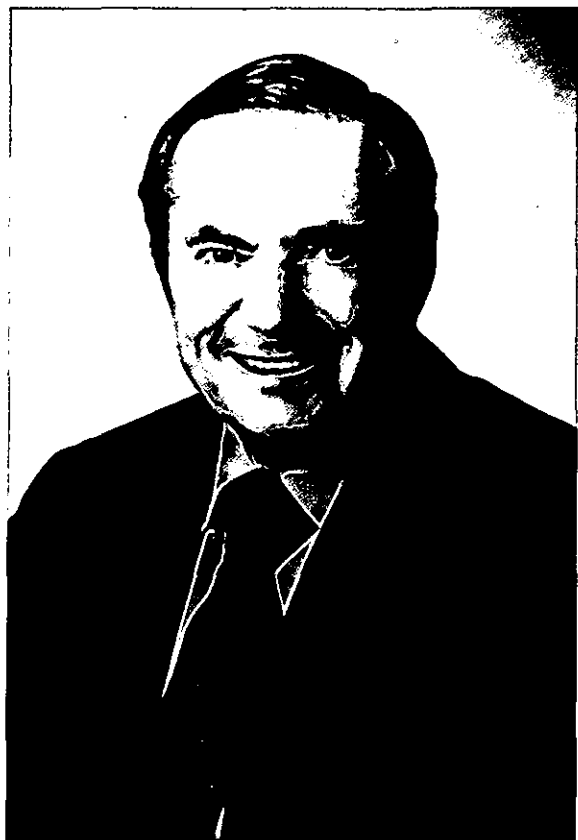
MILTON J. SHAPP
Governor

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Secretary of State



Published By The Department of State
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Deputy Secretary of State
LOUIS G. METE
Commissioner of Elections





COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE GOVERNOR
HARRISBURG

MILTON J. SHAPP
GOVERNOR

Dear Fellow Pennsylvanian:

The electoral process is the cornerstone of American democracy and you, the citizen, hold the keys to its preservation. Your understanding of--and participation in--the electoral system is vital to the continuing progress of a democratic society.

Voting is only one of your electoral rights. You also have the right, and the responsibility, to be fully aware of the laws and procedures which govern the voting process.

Therefore, I am pleased to recommend to you this new, second edition of the State Election Guide--which has been completely revised to include recent reforms in Pennsylvania's electoral process.

This book will enable you to take full advantage of all your electoral rights by clearly explaining all the facts about how to register, how to run for office, how to vote by absentee ballot and how elections are conducted.

I hope you will make good use of it by using it as a ready reference for your full participation in our democratic system.

Sincerely,

A handwritten signature in cursive script that reads "Milton J. Shapp".

MILTON J. SHAPP
Governor





COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
HARRISBURG, PENNSYLVANIA
17120

SECRETARY OF THE COMMONWEALTH

December 1, 1977

Dear Citizen:

As we enter our third century, it is imperative that all citizens pledge a renewed commitment to the very core of democracy--the electoral process.

It is the duty of every American to protect that process by continually demanding that the electoral system keep pace with our changing times and needs. Electoral reform comes about not only through the actions of legislators and government officials, but in direct response to citizen concern and involvement.

Governor Shapp and I, along with your public officials here in Harrisburg and around the state, urge your active participation in the democratic system and in its continued renewal. We are here to serve you, to responsively reflect your wishes and needs.

This new Election Guide has been prepared to give you comprehensive information on the electoral process and your involvement in it. Study this guide, learn what your rights and responsibilities are.

Your active participation in the electoral process will truly insure the maximum protection and expansion of American democracy.

Sincerely,

Barton A. Fields
Barton A. Fields
Secretary
of the Commonwealth

General Information

General Information

The Secretary of State; or as he or she has been called in Pennsylvania, the Secretary of the Commonwealth, is the chief election officer of the state.

Both the Constitution of the United States and the Constitution of Pennsylvania contain provisions concerning the voter and elections. Article XV of the United States Constitution declares: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." Congress is given the power to enforce this article by appropriate legislation.

In the bill of rights, the Constitution of Pennsylvania states that elections are to be free and equal, and that no power, civil or military, shall interfere to prevent the free exercise of the right of suffrage. The Constitution also enumerates the qualifications for voting. Every citizen eighteen years of age is eligible to vote if he or she has been a citizen of the United States at least one month, has resided in the State thirty days immediately preceding the next election and has resided in the appropriate election district thirty days preceding the election. In a 1971 opinion handed down by the Attorney General of Pennsylvania, college students are permitted under state law to vote in the locality at which they are attending a college or university.

Other constitutional provisions relate to election days, offices to be filled by election, rights of electors, bribery of electors, election and registration laws, voting machines, violation of election laws, election districts, election officers, contested elections, and absentee voting.

Outside of constitutional provisions, the General Assembly has the power to enact legislation on voting and elections. The substantial bulk of such legislation is contained in the Registration and Election Codes of the Commonwealth. A further amplification of election law is made by the courts in their interpretations of constitutional and statutory provisions in the light of actual cases of violation which come before them.

The Election Calendar

The Constitution of Pennsylvania sets election days for general and municipal elections in

different years. General elections are held biennially on the Tuesday next following the first Monday of November in even-numbered years. Municipal elections are on the same day in odd-numbered years.

The primary elections preceding each general election are held on the third Tuesday of May in even-numbered years, except in presidential election years when they are held on the fourth Tuesday of April. Municipal primary elections preceding each municipal election are held on the third Tuesday of May in odd-numbered years.

Local Elective Officers and Electoral Decisions

On the national level the Pennsylvania elector votes for the president and vice-president, two senators and one representative. On the state level, he votes for the governor, the lieutenant governor, the auditor general, the state treasurer. The elector also votes for one state senator, and one state representative in the respective legislative district. Judges of the state Supreme, Superior and Commonwealth Courts are also elected.

The county has the largest number of elective officers. They include the judges of common pleas courts, the board of three county commissioners, the sheriff, the coroner, the controller or three auditors, the treasurer, the district attorney, the prothonotary, the clerk of the courts, the recorder of deeds, the register of wills, the two jury commissioners, and sometimes the surveyor.

In the cities, boroughs, and townships, electors vote for a mayor (except in townships); justices of the peace; members of council, commissioners or supervisors; tax collectors, tax assessors; treasurers; auditors or controller, and constables. The exact number and combination varies between classes of local units and population of the units.

In school districts, five, seven or nine directors are elected, except in Philadelphia and Pittsburgh where they are appointed by the mayor and court respectively.

In election districts, the judge of election and the two inspectors of election are elected.

Political parties must use primary elections to nominate their candidates for elective office. The members of a political party also vote for state and local party committeepersons or chair-

persons, and in presidential years, for delegates and alternates to the national convention of their party, and for presidential preference.

Furthermore, Pennsylvania electors vote on constitutional amendments, on calls for constitutional conventions, and on proposed new constitutions. They vote also on certain local referenda submitted to them by local governing bodies. Examples are questions such as the adoption of voting machines, the sale of beer and liquor, the showing of Sunday movies, the adoption of city home rule charters, and the incurring of local government debt. Finally, voters in cities of the third class may initiate proposals for ordinances to be voted on by them or by the council, and in the City of Philadelphia, the voters may recall the mayor.

Terms of office for the elective local offices are usually four years. But there are some exceptions: common pleas judges are elected for ten years; and the minor judiciary, school directors, supervisors of townships of the second class, and borough and township auditors for six-year terms.

Limited voting, where the elector votes for fewer candidates than offices to be filled, is practiced in the case of boards of county commissioners, election district boards and members of the Philadelphia city council. This is to make minority party representation possible.

Political Parties and Political Bodies

The main function of political parties recognized by law is to nominate candidates for elective office. To do this, they are required to hold primary elections, sometimes called elections within elections. Of course, parties also bend every effort to elect their candidates in the general and municipal elections, but in such activities they are largely on their own, except that they must follow legislative direction in the raising and spending of money for political purposes.

Political parties are defined by law in Pennsylvania. There are state-wide and county-wide parties, both recognized only on the basis of the percentage of votes cast for their candidates in the last election. A county-wide party meets the legal requirement when at either the general or municipal election preceding the primary,

one of its candidate polled at least five per cent of the largest entire vote cast for any officer elected in the county. (For the qualifications of statewide political parties please refer to page 27.)

The names of candidates for nomination are placed on the primary ballot by nomination petitions which must be signed by a certain number of qualified electors from the local district within which the nomination is to be made. For local offices, this number runs from five to one hundred signers. A fee must accompany the nomination petitions which must be filed with the county board of elections.

A political body is not a political party because it cannot meet the requirement of having polled five per cent of the vote in the last election. But it may nominate candidates who are known as "independent" because they are not sponsored by a bonafide political party. To get on the election ballot, nomination of independent candidates must be made by nomination papers instead of primary elections. These papers must specify the name of the political body which the candidate represents. The name of the body must contain no more than three words, and these must not be identical or similar to any words used by a political party or a political body which has previously filed nomination papers. The nomination papers must also contain the names and addresses of not less than three and not more than five persons authorized to fill vacancies if they should occur. For local offices, the minimum number of signers on nomination papers must equal two per cent of the largest entire vote cast for any elected official, except a judge of a court of record, at the last preceding election held in the same electoral district; but in no case shall the number be less than the number required for nomination petitions for party candidates for the same office. Signers must be qualified electors of the respective political district. Different sheets must be used for residents of different counties within the same political district. Unexpected vacancies are filled by the political parties and political bodies as the case may be.

Under the Pennsylvania Loyalty Act of 1951, every candidate for any state or local office must take a loyalty oath or affirmation. This

must accompany the nomination petition, paper or certification. Each person nominated by write-in or sticker votes must also file in the same manner.

Primary and Election Expenses

Pennsylvania law limits the purposes for which money may be spent in primaries and elections by candidates or treasurers of political committees. These are: (1) printing, travel and personal expenses; (2) rental of radio and amplifier systems; (3) political meetings, demonstrations, and speakers; (4) rent and office maintenance; (5) clerks, typists, and other office help; (6) transportation of electors to and from the polls, (7) employment of watchers at primaries and elections; (8) legal counsel and expenses incurred in good faith; and (9) contributions to other political committees. Detailed financial reports of revenues, expenditures and liabilities must be made within thirty days after the election if the aggregate amount exceeds \$150. For local parties and candidates the financial reports are made to the county board of elections. For state-wide candidates, the financial reports are made to the Secretary of the Commonwealth.

The Election District Board

Elections are conducted, supervised and controlled at three levels. Locally, by the election district board; in the county, by the county board of election and the county registration commission, both being the board of county commissioners (in Philadelphia, the city commissioners); and on the state-wide level, by the Secretary of State.

The election district board is composed of a judge and two inspectors of election who are chosen at municipal elections by the electors of each district for four-year terms. Each elector votes for one judge and one inspector. The person receiving the highest number of votes for judge shall be declared the judge of election; the person receiving the highest number of votes for inspector shall be the majority inspector, and the person receiving the second highest number of votes shall be the minority inspector.

Vacancies on the board are filled by appointment by the court of common pleas of the

county. However, if the properly elected or appointed election officers do not show up at the polling places at 7 A.M. on election day, the offices of those absent are filled by the election officers present or by the qualified electors of the district who are present at the polls at that time. The latter procedure is known as a "curbstone election," and its use is by no means uncommon in Pennsylvania.

The judges and inspectors of election are constitutional officers and cannot be removed either by the county board of elections or the Secretary of the Commonwealth. Only when a vacancy exists can the court of common pleas make an appointment. The members of the election district board must be electors in the election district they serve and must not hold any other public office. Pennsylvania is the only state in the Union which elects its election district officers. In most states, they are appointed by the county election authorities.

Assistants to the election district board are clerks and voting machine inspectors named respectively by the election district officers and by the county board of elections. Two overseers of election may be appointed by the county court of common pleas upon petition of five or more electors who fear for the fairness of the coming election. Watchers, two for each candidate in the primary, and three for each party in the election, may be certified by the county board of elections on the recommendation of their parties or candidates. Their job is to see that the interests of their sponsors are protected. Except in Philadelphia, constables or their deputies are required to be present in the polling places during the elections and when the votes are counted. All district election officers and their assistants are compensated by the county board of elections at a per diem rate of from \$25 to \$45 depending on the office and the number of votes cast in the district. Overseers serve without compensation, and watchers are paid by their sponsors.

The election board and their assistants are responsible for the conduct of elections in the polling place of their district. This means that they must keep order, protect the secrecy of the ballot, enforce the laws relating to procedure in elections, record and count the votes,

and make their report to the county board of elections.

Election Districts and Polling Places

Each borough and township, not divided into wards, and each ward of every city, borough, or township, shall constitute an election district unless further divided according to law. The court of common pleas of the county may form and create new election districts, and alter, consolidate, or divide existing ones into two or more districts of compact and contiguous territory, in order to suit the convenience of the electors and promote the public interest. Changes may be made upon petition of 20 registered voters or by the county board of elections.

Each election district has only one polling place. The county board of elections are to select, wherever possible, school houses and public rooms or buildings. Polling places may be established outside the election district where no public place is available in the district, and private homes, offices, and other buildings may be used within the districts. However, polling places are not allowed in buildings where beer and liquor are sold. Two or more polling places may be in the same building. The county boards of elections are to furnish rooms used for polling places with heat, light, and janitorial services.

Each polling place is to consist of a single room with every part of it visible from any other part. It must have a guard rail enclosing the inner part of the room, which would make it impossible for anyone outside the guard rail to be within six feet of the ballot box or voting machine. Both ballot boxes and voting booths, as well as voting machines and compartments, shall be in full view of persons outside the guard rail.

The number of voting booths shall not be less than one for every hundred voters or fraction thereof, and in no case less than three. The number of voting machines shall not be more than one for every 350 voters or fraction thereof, and not less than one machine for each 600 voters or fraction thereof.

Registration of Voters

Permanent and mandatory registration is established by law throughout the Commonwealth. To be eligible to vote, all electors (except mem-

bers of the armed forces and bedridden or hospitalized veterans unavoidably absent from the county of residence) must be registered.

Persons claiming the right to be registered may appear before the registration commission, or one of its members or staff, in its office in the county court house or at such places throughout the county where registrars sit on specified days of the year. The elector shall be sworn in, required to give his or her name, address, occupation and other personal data, must state whether he or she is unable to read the names of candidates on the ballot or voting machine labels, and whether a physical disability would make it impossible to vote without assistance. If desiring to be a member of a political party, the elector must so state, and then is eligible to vote in the primary election of the party of his or her choice. Enrollment as a party member automatically brings with it full party membership.

In addition to the above, any elector may apply for registration through the mail by completing and then mailing to the county board of elections an official mail registration application form (for further information please refer to page 25).

The information required of the elector is put on serially numbered registration cards in duplicate. When registration is complete, the elector is given a statement setting forth his name, address, local unit of government, election district, the serial number on his registration card, and a space for his signature.

The original registration card is filed alphabetically with index by and within election districts. These cards constitute the district register which must be kept in the office of the county registration commission and may be open to public inspection. Removals and transfers are duly entered as they are made. The second registration card is for the permanent records of the registration commission.

The district registers are delivered to the election district boards before each primary and election. They are inserted into suitable binders so constructed and locked that the name, address, voting record, and other data on the card is visible, that new entries may be made on the cards, and that the cards cannot be removed by the election officials.

Electors are required to be reinstated if they have not voted at least once during the two immediately preceding years. Change of residence into another election district requires a filing of a change of address card or by using an official mail registration application form. However, electors do not gain or lose their residence by virtue of being employed in the civil and military service of the United States or the Commonwealth, or while engaged in navigation. Veterans in a home for the disabled and indigent, and who possess the necessary qualifications, may gain residence for registering and voting at their home.

Registration by mail is provided for all qualifying citizens of Pennsylvania. Registration application cards should be sent to the registration commission of the county in which the elector resides.

Requests for absentee ballots will also be considered as applications for an official mail registration application card in the case of those persons in the military service and their spouses and dependents, as well as for those in religious and welfare groups serving with the armed forces, for civilian employees of the United States outside of the District of Columbia and abroad, and for members of the Merchant Marine on ships on all except inland waters and the Great Lakes.

The judges of the court of common pleas in each county which maintains a reinstatement system of registration shall be in continuous session at the court house on the day of each primary and election during the time the polls are open. The judges shall hear and determine the petition of any qualified elector who desires to vote but whose name has been omitted from the district register for reasons beyond the elector's control. County registration commissions undertake regular checkups of registers to insure that only those qualified to vote remain on the district registers.

Voting Procedures

At every primary and election, on entering the polling place, each elector who desires to

vote first signs a voter's certificate, inserting his address therein, and hands the same to the election officer in charge of the district register. The officer compares the elector's signature on his or her voter's certificate with the signature on the district register card. If, upon such comparison, the signature on the voter's certificate appears to be genuine, the elector who signed the certificate is, if otherwise qualified, permitted to vote. If, however, the signature is deemed not to be authentic by any of the election officers, the elector may not be denied the right to vote for that reason but shall be considered challenged as to identity and required to make an affidavit and produce the evidence required by law.

When the elector is found entitled to vote, the election officer who examined the voter's certificate signs his name or initials to the certificate and records this fact on the registration card in the district register. As each elector votes, his name in the order of voting is also recorded in two numbered lists of voters.

No elector is allowed within the enclosed space in the polling place until he has been found entitled to vote. When he is admitted, the election officer in ballot districts gives him a ballot detached from the stub and folded so that only the figures and words on the back are visible. The voter then enters the voting booth, prepares his ballot, folds it, leaves the voting booth, and shows the ballot to the election officer who inspects the number on the back to see that it is the same ballot the elector received when he entered the voting booth. Then the voter removes the corner of the ballot and deposits the ballot in the ballot box.

In voting machine districts, an election officer instructs the voter in the use of the voting machine, and the voter retires into the voting compartment and votes. When he has pulled the levers of his choice, he operates the recording mechanism and leaves the booth. He may not remain in the booth more than three minutes unless granted more time if no other voters are waiting.

No voter is allowed assistance in voting unless a declaration of illiteracy or physical disability has been recorded on his or her registration card. If found to be entitled to receive assistance, the

elector is permitted by the judge of election to select a registered voter of the election district to enter the voting compartment or booth to assist him in the voting. A record shall be made of the assistance, which is also available for signing the voter's certificate.

Counting the Votes

In all election districts, when the hour for closing the polls arrives, all qualified electors who are standing in line must be permitted to vote. After the polls are closed and the last elector has voted, the election officers and their assistants remain within the enclosed space. Absentee ballots are to be canvassed immediately and continuously without interruption until completed after the close of the polls. When this is done, all other ballots will be counted. The election officers check on and compare the number of ballots, the names on the voting lists, and the number of stubs. The differences are to be reconciled.

Then the ballot box is opened, and the ballots counted one by one. A record is made of votes for the candidates which is entered on tally sheets in triplicate. Straight party votes are also recorded. All ballots must be in plain sight of persons outside the enclosed space, and no person handling the ballots may have anything in his or her hand to mark the ballot.

When the votes have been tallied and counted, the election officers certify the count and prepare the general returns. One of the returns is posted outside the polling place; the other is entrusted to the judge of elections to be returned to the county board of elections in an envelope provided for that purpose. The minority inspector retains one set of the tally sheets for a period of one year.

In voting machine districts, when the polls are closed and the last elector has voted, the election officers must immediately lock and seal the operating mechanism of the voting machine. The count of votes must be made plainly visible on the registering counters or not less than four printing paper proof sheets must be drawn from the machine, the vote is to be read, entered onto duplicate return sheets and also on a general return sheet, and signed by the election officers. The proclamation of the result of the voting must

be announced distinctly and audibly by the judge of elections. One of the duplicate return sheets is to be given to the judge of elections and sealed in an envelope to be returned to the county board of elections, and one given to the minority inspector. A statement of the vote must be posted outside the polling place.

All ballot boxes and returns are received by the county board of elections after the closing of the polls. The general returns that are unsealed are to be open for public inspection as soon as they are received. The county board of elections arranges for the computation of the votes by a return board beginning the third day following the primary or election. When the computation is completed, the results are read, and if there is no petition for a recount or recanvass, they are to be certified, except upon appeal when the court of common pleas orders a stay. When all is settled, certificates of election are issued to the successful candidates for county and other local offices by the county board of elections.

***Powers and Duties
of your Election
Officials***

*The Secretary of the Commonwealth
or Secretary of State
Shall Have the Following
Powers and Duties:°*

(a) To examine and reexamine voting machines, and to approve or disapprove them for use in this State.

(b) To determine the form of nomination petitions and papers, expense accounts, official registration application cards and all other forms and records.

(c) To certify to county boards of elections for primaries and elections the names of the candidates for President and Vice-President of the United States, Presidential Electors, United States Senators, Representatives in Congress and all state offices, including senators, representatives, and judges of all courts of record, and delegates and alternate delegates to national conventions, and members of state committees, and the form and wording of constitutional amendments or other questions to be submitted to the electors of the State at large.

(d) To receive and determine the sufficiency of nomination petitions, certificates and papers of candidates for President of the United States, Presidential Electors, United States Senators, Representatives in Congress and all state offices, including senators, representatives and judges of all courts of record, and delegates and alternate delegates to national conventions and members of state committees.

(e) May intervene on behalf of the Commonwealth in any suit brought by or against any county board at any stage of the proceedings.

(f) To demand any reports from the county boards of elections as he/she may deem necessary and to receive reports from the county boards of elections as required by law.

(g) To receive from county boards of elections the returns of primaries and elections, to canvass and compute the votes cast for candidates and questions to proclaim the results of such primaries and elections, and to issue certificates of election to the successful candidates at such elections, except in cases where that duty is imposed by law on another officer or board.

(h) To accept for filing every expense account concerning primary or election expenses incurred by or in regard to candidates for offices to be voted for by the electors of the state at large.

(i) To transmit to the Governor the results, as certified by the county board, of the election of any officer who is required by law to be commissioned by the Governor.

(j) To publish, in at least two newspapers in every county any proposed amendment or amendments to the Constitution of Pennsylvania.

(k) To fix a day for the casting of lots for the position of names upon the primary ballots or ballot labels.

(l) To hold open for public inspection all returns, nomination petitions, certificates, and papers, other petitions accounts, contracts, reports and other documents and records in his/her custody.

(m) To perform such other duties as may be prescribed by law.

* Article II, Pennsylvania Election Code; 1937, P.L. 1333 (Purdon's Pennsylvania Statutes Annotated, Title 25).

*Powers and Duties of County Boards of Elections**

The county boards of elections, which consist of the county commissioners (in Philadelphia, the city commissioners), have the following powers and duties:

(a) To investigate and report to the court of common pleas their recommendations on all petitions by electors (or to present such petitions of their own) for division, alteration, change or consolidation of election districts.

(b) To select and equip polling places.

(c) To purchase, store and maintain equipment of all kinds (including voting booth, ballot boxes and voting machines) and to procure ballots and all other supplies for primaries and elections.

(d) To appoint their own employes, voting machine custodians and machine inspectors.

(e) To issue certificates of appointment to watchers at primaries and elections.

(f) To make and issue rules and regulations for the guidance of election officers, machine custodians and voters.

(g) To instruct election officers in their duties and to inspect the conduct of primaries and elections in the election districts.

(h) To prepare and publish all notices required in connection with the conduct of primaries and elections.

(i) To investigate election frauds, irregularities and violations of the election laws, and to report all suspicious circumstances to the district attorney.

(j) To receive and determine the sufficiency of all nomination petitions, papers and certificates of candidates for county, city, borough, township, ward, school district and election offices, and for local party offices.

(k) To receive the returns of all primaries and elections from the district election officers, to canvas and compute them, and to certify the results to the Secretary of the Commonwealth or to such other authorities as may be required by law. The certification shall include the number of votes received in each election district by each candidate for the General Assembly.

(l) To publicly announce the results of primaries and elections for all offices enumerated

in (j) above, and to issue certificates of election to the successful candidates for such offices.

(m) To prepare, and submit, not less than twenty days prior to each primary, municipal and general election, a report to the Secretary of the Commonwealth in the form prescribed by him, which shall contain a statement of the total number of electors registered in each election district, together with a breakdown by party registration. Copies of said statement shall be furnished, upon request, to the county chairman of each political party and political body.

(n) To prepare and submit to the appropriate officers of the county an annual estimate of the cost of primaries and elections and of the expenses of the board for the ensuing year.

(o) To perform such other duties as may be prescribed by law.

* Article III, Pennsylvania Election Code; 1937, P.L. 1333 (Purdon's Pennsylvania Statutes Annotated, Title 25).

***A Comprehensive
Outline of the
Electoral Process***

Registration

Permanent registration is established by law throughout the Commonwealth. All electors except members of the armed forces and bedridden or hospitalized veterans unavoidably absent from the county of residence, must be registered to be eligible to vote.

Registration is open to any qualified elector up to thirty days before each general, municipal, and primary election. It shall be reopened thirty days following each election and five days following each primary except in Philadelphia where registration reopens the day after each election and primary.

After registration, unless he changes his residence, an elector is not required to register again so long as he has voted at least once during the two immediately preceding calendar years.

No elector will be permitted to receive assistance in voting unless his registration card bears the notation setting forth the reason which makes assistance necessary.

The polls will close at 8 PM (Prevailing Time) on election day. All persons standing in line at the time the polls close must be permitted to vote.

Qualifications of Voters

The Constitution and laws of Pennsylvania prescribe that the following requirements be complied with by prospective voters:

They must be eighteen (18) years of age;

They must have been citizens of the United States at least one month;

They must have resided in the State thirty days immediately preceding the election;

They must have resided in the election district, precinct or division where they offer to vote, at least thirty days immediately preceding the election. (A qualified voter who moves his residence from one district to another in Pennsylvania within thirty (30) days of an election may vote in the district from which he moved at that election);

They must have registered under the permanent registration law, except persons in military service or bedridden or hospitalized veterans unavoidably absent from the county of residence.

A voter becomes of age on the day before his eighteenth birthday.

The registration commissions shall, during the regular registration period preceding any primary, special, municipal or general election, register any person whose eighteenth birthday falls on or before the day after such election, provided he is otherwise qualified.

Qualifications of Voters at Primary

The qualifications of an elector entitled to vote at a primary are the same as the qualifications of an elector entitled to vote at elections, except that he must be registered and enrolled in a qualified political party. All registered electors are entitled to vote on referendum questions.

Residence of Electors

For the purpose of registration and voting, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while employed in either the civil or military service of this State or of the United States, nor while engaged in the navigation of the waters of the State or of the United States, or on the high seas. Any veteran who resides in a home for disabled and indigent soldiers and sailors operated and maintained by the Commonwealth of Pennsylvania and who possesses all the qualifications for voting may gain a residence for registration and voting at the home. (This is not to be construed to affect the voting rights of bedridden or hospitalized veterans who choose to vote as absentee electors.)

Rules for Determining Residence

In determining the residence of a person desiring to register to vote, the following rules shall be followed so far as they may be applicable:

(a) That place shall be considered the residence of a person where he has intention of remaining for an indefinite period of time.

(b) A person shall not be considered to have lost his residence who leaves his home and goes into another state or another election district of this State for temporary purposes only, with the intention of returning.

(c) A person shall not be considered to have gained a residence in any election district of this State into which he comes for temporary

purposes only, without the intention of remaining for an indefinite period of time.

(d) The place where the family of a married man or woman resides shall be considered and held to be his or her place of residence, except where the husband and wife have actually separated and live apart, in which case the place where he or she has resided for thirty days or more shall be considered and held to be his or her place of residence.

(e) If a person removes to another state with the intention of making such state his permanent residence, he shall be considered to have lost his residence in this State.

(f) If a person removes to another state with the intention of remaining there an indefinite time and making such state his place of residence, he shall be considered to have lost his residence in this State, notwithstanding he may entertain an intention to return at some indefinite future period.

(g) If a person removes to the District of Columbia or other Federal territory or foreign country to engage in the government service, he shall not be considered to have lost his residence in this State during the period of such service, and the place where the person resided at the time of his removal shall be considered and held to be his place of residence.

(h) If a person goes into another state and while there exercises the right of a citizen by voting, he shall be considered to have lost his residence in this State.

Residence and Right to Vote of State Employes and Federal Employes

Any person employed in the service of this Commonwealth or in the service of the Federal government, and required thereby to be absent from any district wherein he resided when entering such employment, and his wife or her husband, shall be registered as of the district wherein he or she resided immediately prior to entering such service, and be enrolled as a member of the political party he or she designates, without declaring a residence by street and number. All persons employed by this Commonwealth who register in this manner, shall produce a certificate from the head of the department, board, or commission, under the seal of

his office, setting forth that said person, or the husband or wife of said person, is actually employed in the service of this Commonwealth, and also setting forth the nature of such employment and the time when such person first entered such employment.

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

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

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

Registration by Mail

Act No. 123 (and for Philadelphia, Act 122) signed into law by the Governor July 1, 1976, provides for registration by mail for all citizens of Pennsylvania who meet the qualifications for residence, citizenship and age described in the preceding section.

How to Register by Mail

Any person entitled to register by mail should first obtain an official mail registration application card. Such applications may be obtained at various public offices (state and local), party committees, state stores, civic groups, or your local county board of elections. Citizens having difficulties in locating forms should contact the Office of the Secretary of the Commonwealth, Bureau of Elections, for assistance.

After a registration application card has been procured, citizens should read the instructions carefully and complete all items on the card accordingly. Once completed, the form should then be sent to the respective county board of elections for processing. The county board within three days of receipt of the application should send to the applicant (by non-forwardable mail) the notification stub which appears at the top of the card. This stub serves to notify the elector that his/her application has been received and is being processed. Additionally, it serves to provide a verification of address. If the elector does not receive the stub within ten days from the date the application is sent, he/she should contact their county board of elections.

Upon acceptance of an application, the county board must transmit to the registered elector by first class non-forwardable mail, a wallet sized voters identification card.

Registrations by all persons may be made up until thirty (30) days before the election, BUT when they are received by the commission at any time when registration is closed the application must be retained by the commission until the beginning of the next period during which registrations can be accepted in person. At that time the applicant, if otherwise entitled, will be duly registered.

Registrations by mail from those persons in the military services and their spouses and dependents, as well as for those in religious and

welfare groups serving within the armed forces, for civilian federal employees overseas and their spouses and dependents, must be received by the appropriate registration commission by 5 o'clock on the Friday preceding the election. In addition, the registration commission may consider a request for an absentee ballot from these persons as an application for an official registration application card and may forward the same with the absentee ballot.

Registration Cards Not Properly Completed

Any registration cards received by mail which are not properly completed shall be rejected and marked "Rejected". The persons so rejected shall be notified by mail with the reasons for rejection listed.

Change of Party Enrollment

Any elector wishing to change their party enrollment must appear in person before a registrar to effect such a change.

Registration by Mail for Federal Elections Only

The Federal Voting Rights Act of 1970 provides that no citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice-President shall be denied the right to vote for the choice of electors for President and Vice-President, in such election because of any requirement of registration that does not include a provision for registration by mail.

Accordingly, those unregistered persons residing out of the Commonwealth but within the country and who claim Pennsylvania residency but do not maintain an actual residence in the state, may register to vote pursuant to the above act and may vote only for President and Vice-President.

In addition, unregistered persons who reside outside the country and who do not maintain a residence in Pennsylvania, but claim Pennsylvania residency may register and vote pursuant to the "Federal Overseas Voting Rights Act of 1975" which enables them to vote for all Federal offices (President, Vice-President, U. S. Senator, and Congressmen) in Federal Elections.

Political Parties^o

Qualified Parties

In order to qualify under the law to have a party name on the primary ballots and to nominate candidates at a primary election, the following requirements must be met by all political parties or political bodies:

State-wide: At the general election preceding the primary, one candidate must have polled at least two per cent of the largest entire vote cast for any elected candidate in EACH of at least TEN counties, and a total vote in the State of at least two per cent of the largest entire vote cast in the State for any elected candidate. A party or political body meeting these requirements is entitled to nominate candidates at the primary for any office to be voted on throughout the State and to enjoy all other privileges of a political party provided by law.

County-wide: At either the general or municipal election preceding the primary, one candidate must have polled at least five per cent of the largest entire vote cast for any officer elected in the county. A party or political body meeting these requirements is entitled to nominate candidates at the primary for any office in the county, in all political districts within the county, and in all political districts of which the county is a part, under the provisions of law governing political party organization and nominations.

Determination and Certification of Political Parties

The Secretary of the Commonwealth shall determine which organizations are political parties within the State under the provisions above and shall transmit to each county board of elections a list of said political parties not later than the thirteenth Tuesday preceding each primary.

Each county board of elections shall determine which organizations are political parties within the county under the provisions above and shall transmit a list of said political parties to the Secretary of the Commonwealth not later than the thirteenth Tuesday preceding each primary.

Delegates to a National Party Convention

The Election Code provides that Delegates and Alternate Delegates to a National Convention of a political party shall be apportioned, selected or elected in such manner as the Rules of the party may provide. The Secretary of any political party shall certify and forward to the Secretary of the Commonwealth a copy of the Party Rules at least thirty days prior to the first day on which nomination petitions may be circulated for the offices which are to be filled at the Spring Primaries in the years in which candidates for the President of the United States are to be nominated.

Whenever the Rules of a party provide that a candidate for Delegate or Alternate Delegate to a National Convention of a political party may pledge his support to a Presidential candidate, he shall be committed to support and vote for the nomination of that candidate as President as party Rules provide, the notation of which shall be printed upon the ballot.

Where the names of the Delegate or Alternate Delegate and the Presidential candidate he is supporting shall both appear, the print size of the name of the Delegate or Alternate Delegate shall be equal to the size of the name of the particular Presidential candidate to whom he is committed, or in the case where he is uncommitted, the word "uncommitted" shall appear in the same size print.

No candidate for Delegate or Alternate Delegate shall make a commitment unless he has obtained prior authorization to do so from the Presidential candidate to whom he is pledging support. No candidate for Delegate or Alternate Delegate shall be allowed to commit himself to any Presidential candidate nor shall the Secretary of the Commonwealth cause any notation of commitment to be printed on any ballot unless the Presidential candidate forwards notice to the Secretary of the Commonwealth, upon a form prescribed by the Secretary, that he is a candidate for the nomination of President of the United States and that he authorizes Delegates and Alternate Delegates to pledge their support and commit themselves to him. This notice must be received by the Secretary at least fifteen days prior to the first day on

which nomination petitions may be circulated for the offices which are to be filled at the Spring Primaries in the years in which candidates for the President of the United States are to be nominated.

Nomination petitions for Delegates committed to particular Presidential candidates shall bear the imprint of the seal of the Secretary of the Commonwealth and may be obtained only from the Presidential candidate or his duly authorized representative who is certified by the Secretary of the Commonwealth as being authorized by the candidate to distribute nomination petitions bearing his name.

* Article VIII, Pennsylvania Election Code; 1937, P.L. 1333 (Purdon's Pennsylvania Statutes Annotated, Title 25.)

The Electoral College

The President and Vice-President of the United States are not elected directly by the people, but by Presidential Electors, who elect the President and Vice-President in the manner prescribed by the Federal Constitution.

The Federal Constitution provides that "each State shall appoint in such manner as the Legislature thereof may direct, a number of Electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative or person holding an office of trust or profit under the United States shall be appointed an Elector."

The Legislature has provided that electors of President and Vice-President be elected by the people. At Presidential Elections, therefore, the electors of this State elect Presidential Electors, who in turn, cast the State's electoral vote for President and Vice-President.

The nominee of each political party for the office of President of the United States shall, within thirty days after his nomination by the National Convention of such party, nominate as many persons to be the candidates of his party for the office of Presidential Elector as the State is entitled to. If, for any reason, the nominee of any political party for President fails or is unable to make said nominations within the time provided, then the nominee for the office of Vice-President shall, as soon as possible after the expiration of thirty days, make the nominations. The names of such nominees shall be certified immediately to the Secretary of the Commonwealth.

While the people of this State vote for Presidential Electors, and not for President and Vice-President, the Election Code provides that the names of the candidates for Presidential Elector shall not be printed on the ballot, but the names of the candidates of their respective parties for President and Vice-President shall be printed together in pairs under the title "Presidential Electors." All ballots marked for the candidates for President and Vice-President of a party shall be counted as votes for each candidate for Presidential Elector of such party.

It is the duty of the Governor to certify the

election of Presidential Electors to the Administrator of General Services of the United States.

The persons elected to the office of Presidential Elector at the General Election shall meet and cast their votes for President and Vice-President at 12 o'clock noon on the first Monday after the second Wednesday in December next following their election at the State Capitol.

The Presidential Electors shall vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate.

Following the election of Presidential Electors, the Senate and House of Representatives of the United States meet in joint session, at which time the President of the Senate opens all the certificates and the votes are then counted and announced by the President of the Senate. The person having the greatest number of votes for President shall be President, if such number be a majority of the whole number of electors elected or appointed, and if no person have such majority, then from the persons having the highest number, not exceeding three (3) on the list of those voted for as President, the House of Representatives shall by ballot choose the President. In thus choosing the President, the votes shall be taken by states, the representation from each state having one vote, and a majority of all the states shall be necessary to a choice.

The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors elected or appointed, and if no person have a majority, then from the two (2) highest numbers on the list, the Senate shall choose the Vice-President and a majority of the whole number of Senators shall be necessary to a choice.

* Article XV, Pennsylvania Election Code; 1937, P.L. 1333 (Purdon's Pennsylvania Statutes Annotated, Title 25).

The terms of the President and Vice-President begin at noon on January 20th following their election.

Qualifications for the Various Offices

President

For the office of President of the United States, one must be a natural born citizen, at least 35 years of age, and a resident of the United States for a minimum of fourteen years.

U.S. Senate

For the office of United States Senator, one must be at least 30 years of age, and a citizen of the United States for no less than 9 years, and be an inhabitant of that state for which he shall be chosen.

U.S. House of Representatives

For the office of United States Representative, one must be at least 25 years of age, a citizen of the United States for a minimum of seven years, and an inhabitant of that state in which he shall be chosen.

Governor (& Lieutenant Governor)

For the office of Governor or Lieutenant Governor, one must be a citizen of the United States, at least 30 years of age, and an inhabitant of this Commonwealth for 7 years immediately preceding his election.

Pa. Senate and House of Representatives

Senators must be at least 25 years of age and Representatives at least 21 years of age. They must have been citizens and inhabitants of the state for four years, and inhabitants of their respective districts one year directly preceding their election.

Nominations—Political Parties°

Loyalty Oath Required of Candidates

The "Pennsylvania Loyalty Act" of 1951 requires every candidate for election to any State, district, county or local public office to take oath or affirmation prescribed therein.

(NOTE: The Loyalty Oath need not be taken by candidates for any Federal or political office.)

(a) Such oath or affirmation must be filed with the nomination petition, nomination paper or nomination certificate of each candidate; and no nomination petition, nomination paper or nomination certificate shall be accepted for filing by any county board of elections or by the Secretary of the Commonwealth without the oath or affirmation attached.

(b) Each person nominated by write-in or sticker votes must also file a loyalty oath or affirmation with the proper county board of elections or with the Secretary of the Commonwealth, as the office for which he has been nominated may require, at least eighty-five (85) days previous to the day of the next general or municipal election or such candidate's name may not appear on the ballot.

(c) The name of NO person who has failed or refused to make the required oath or affirmation shall be printed on any ballot or ballot label to be used at any primary, municipal, general or special election.

(NOTE: The Secretary of the Commonwealth has undertaken to furnish to any candidate who files in the Secretary's office under (a) or (b) above a proper oath form.)

Petitions for Nomination by Political Parties

The names of candidates for nomination shall be printed upon the official ballot of each designated party if nomination petitions are filed in their behalf, signed by the prescribed number of qualified electors of the Commonwealth or of the political district, as the case may be, within which the nomination is to be made or election is to be held, verified by affidavits of the candidates as provided by law.

Petitions—Qualifications of Signers

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 petitions: Provided, however, That where there are two or more persons to be elected to the same office, each signer may sign petitions for as many candidates for such office as he could vote for at the November Election. He shall also declare therein that he is a qualified elector of the county therein named, and of the political district or division in which nomination is to be made. He shall add his occupation and residence, giving city, borough or township, with street and number, if any, and shall also add the date of signing. No NOMINATION PETITION SHALL BE CIRCULATED PRIOR TO the THIRTEENTH TUESDAY before the primary nor later than the TENTH TUESDAY before the primary. No signature shall be counted unless it bears date within this period.

A nomination petition may be on one or more sheets, and different sheets must be used for signers resident in different counties. Each sheet shall have appended thereto the affidavit of the circulator of the sheet, setting forth that he or she is a qualified elector duly registered and enrolled as a member of the designated party of the State and of the political district referred to in said petition; his residence, giving city, borough or township, with street and number, if any; that the signers signed with full knowledge of the contents of the petition; that their respective residences are correctly stated therein; that they all reside in the county named in the affidavit; that each signed on the date set opposite his name; and that to the best of affiant's knowledge and belief, the signers are qualified electors and registered and enrolled members of the designated party of the State or of the political district, as the case may be.

(NOTE: The circulators of petitions for judicial candidates need not be enrolled members of the designated party.)

Blank Forms of Petitions for Nomination

The Secretary of the Commonwealth although not required by the law to do so, will furnish a reasonable supply of blank petitions free of charge to candidates for those offices which require filing of petitions with the Secretary,

solely for the purpose of uniformity and to insure compliance with all the provisions of the law relating to the filing of petitions, and to assure that the statements, affidavits, etc., are in proper form.

Number of Signatures Required

(a) For the office of President of the United States or of United States Senator, petitions must be signed by at least one hundred (100) registered and enrolled members of the proper party in each of at least ten (10) counties.*

(b) For the office of Governor and Lieutenant Governor, Auditor General, State Treasurer, or statewide Judges petitions must be signed by at least one hundred (100) registered and enrolled members of the proper party in each of at least five (5) counties.*

*NOTE: There is currently litigation pending on this section, however, the Attorney General's office has advised that section (b) is to be interpreted as it appears in the Election Code. (25 P.S. 2872b)

(c) For the office of Representative in U.S. Congress, of Senator in the General Assembly, or Judge of a Court of Record, petitions must be signed by at least two hundred registered and enrolled members of the proper party in the district.

(d) For the office of Representative in the General Assembly, petitions must be signed by at least one hundred registered and enrolled members of the proper party in the legislative district.

(e) For the office of member of the State Committee, petitions must be signed by at least one hundred registered and enrolled members of the proper party from the senatorial district, except where a senatorial district is composed of one or more counties and part of other counties, in which event the petitions must be signed by at least one hundred such electors residing in that portion of the senatorial district which is electing a member.

(f) For an office to be voted for by the electors of an entire county or city, or for district councilman in a city of the first class, petitions must be signed by at least one hundred registered and enrolled members of the proper party.

(g) For the office of inspectors of election,

petitions must be signed by at least five registered and enrolled members of the proper party.

Notice to Candidates with Reference to Filing Petitions for Nomination

All nomination petitions must be filed on or before the TENTH TUESDAY prior to the primary election in the office of the Secretary of the Commonwealth or the county board of elections, as the case may be.

Under the law, nomination petitions filed in the office of the Secretary of the Commonwealth, at Harrisburg, must be received not later than five o'clock P.M., on the last day for filing.

Petitions filed with county boards of elections must be filed not later than the ordinary closing hours for such offices on the last day for filing.

None may be filed after that hour.

For their own protection, candidates are urged to file their petitions as early as possible and then, if the petitions need amendment, there will be ample time for correction, without having to seek Court approval.

Where to File Nomination Petitions

Petitions for the offices of President of the United States, U. S. Senators and Representatives in Congress, ALL State-wide offices, Judges, Senators, District Delegates and Alternate Delegates, Representatives in the General Assembly and State Committees of the Political parties are filed with the Secretary of the Commonwealth.

ALL OTHERS are filed with the proper county board of elections.

The office in which a nomination petition is filed must issue to the person filing the nomination petition a receipt containing the date and time of filing, the name of the candidate and the office for which he/she is a candidate.

Fees for Filing Nomination Petitions for ALL Offices

All filing fees MUST accompany the nomination petitions and must be in the form of CERTIFIED CHECK or MONEY ORDER ONLY, made payable to the Commonwealth of Pennsylvania when filed with the Secretary of the Commonwealth, and in the form of certified check or money order payable to the county

board when filed with the county board of elections.

The filing fees cannot be refunded in the event of the withdrawal of any candidate named in any petition, or for any other cause whatsoever.

For the office of President of the United States, or for any public office to be filled by the electors of the State at large, the filing fee is fifty dollars (\$50.00).

For the office of Representative in U.S. Congress or Judge of a Court of Record, the filing fee is thirty-five dollars (\$35.00).

For the office of General Assembly, the filing fee is twenty-five dollars (\$25.00).

For any other office to be filed by the electors of an entire county, the filing fee is twenty-five dollars (\$25.00), with the following exceptions: jury commissioner, ten dollars (\$10.00); prison inspector, two dollars (\$2.00); County auditor in eighth class counties, five dollars (\$5.00).

For the office of district councilman in a city of the first class, the filing fee is twenty-five dollars (\$25.00).

For any office to be filled by the electors of an entire city, the following sums: a city of the first or second class, twenty-five dollars (\$25.00); a city of the second class A, fifteen dollars (\$15.00); a city of the third class, ten dollars (\$10.00).

For the office of District Delegate or Alternate District Delegate, or member of State Committee, the filing fee is ten dollars (\$10.00).

For the office of alderman, justice of the peace or constable, the filing fee is two dollars (\$2.00).

For any borough, town, township of the first class, school district or poor district office, not otherwise provided for, the filing fee is two dollars (\$2.00).

There is no filing fee for a nomination petition for any public office for which no compensation is provided by law, nor for any nomination petition for any public office in any township of the second class.

Time and Manner of Withdrawal of Candidates Before Primary

A candidate for nomination or election at any primary may withdraw his name as a candidate

by a request in writing, signed by him and acknowledged before an officer empowered to administer oaths, and filed in the office in which his nomination petition was filed. When required to be filed in the office of the Secretary of the Commonwealth, such withdrawal to be effective, must be received in the office of the Secretary of the Commonwealth, at Harrisburg, not later than five o'clock P.M., on the seventh day next succeeding the last day for filing nomination petitions in that office, and at the regular closing hour in the offices of the county boards.

No candidate may withdraw any withdrawal notice after it has been received and filed, and thereby reinstate his nomination petition.

Manner of Filling Vacancy Caused By Death of Person Named in Nomination Petition

If the candidate named in a nomination petition dies after such petition has been duly filed for any primary and before the day of the primary election, the original signers of said petition, or the majority of them may sign another petition proposing a new candidate for said office at any time prior to the printing of the ballots or ballot labels. Such petition shall have the same force and effect as the original petition, and the name of the candidate so nominated shall be substituted for that of the deceased candidate.

Withdrawal of Candidates Nominated at Primary**

Any person who has been nominated by any political party 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, or of the county board as the case may be.

Such written withdrawals must be filed at least eighty-five (85) days previous to the day of the general or municipal election and must be received in the office of the Secretary of the Commonwealth not later than five o'clock P.M. on the last day for filing the same, or by the regular closing hour in the county board offices.

No candidate may withdraw any withdrawal notice after it has been received and filed, and thereby reinstate his nomination.

Vacancy in Party Nomination by Failure to Pay Filing Fee**

Every person nominated at the primary election as the candidate of any political party for any office, other than a borough, town, township or school district office, or the office of alderman, justice of the peace, or constable, who has not paid the required fee for filing a nomination petition for such office, shall pay the amount of such fee to the Secretary of the Commonwealth, or to the county board of elections, as the case may be, at least eighty-five (85) days previous to the day of the general or municipal election at which such candidate's name would appear on the ballot. Failure to do so will result in a vacancy in such party nomination, which shall be filled in the manner provided in the case of death or withdrawal of any nominee.

Filling Vacancies Caused by Death or Withdrawal of Candidates Nominated at the Primary**

Any vacancy happening or existing after the date of the primary in any party nomination, by reason of the death or withdrawal of any candidate after nomination, or by reason of the death before or on the day of the primary election of a candidate for nomination who had received a plurality of votes of his party for the office for which he sought nomination, may be filled by a substituted nomination made by such committee as is authorized by the rules of the party to make nominations in the event of vacancies on the party ticket: Provided, however, That no substitute nomination certificate shall nominate any person who has already been nominated by any political party or by any other political body for the same office.

When such substituted nomination is made in accordance with the party rules, it is the duty of the chairman and secretary or secretaries of the party committee making the nomination to file with the Secretary of the Commonwealth or with the proper county board of elections a nomination certificate which must be signed by the chairman and secretary or secretaries of the party committee, and must set forth the following: (a) The office and district, if any, for which it is filed; (b) the cause of the vacancy; (c) the rule or rules of the political party applicable to

a substituted nomination; (d) that a quorum of the committee, caucus or convention, as provided by the party rules, duly convened, and the names of those present at said meeting, or their proxies, and that said persons are the duly appointed or elected members of said committee, caucus or convention; (e) the name, residence and occupation of the candidate duly nominated at said meeting. Every such certificate of nomination must be sworn to or affirmed by the chairman and secretary or secretaries before an officer qualified to administer oaths.

A Loyalty Oath executed by the substituted candidate must be attached to the certificate.

Such substituted nomination certificate to fill a vacancy caused by the withdrawal of a candidate nominated at the primary must be filed at least seventy-five (75) days before the day of the general or municipal election.

Substituted nomination certificates to fill vacancies caused by the death of candidates nominated at primaries must be filed at any time prior to the day on which the printing of the ballots is started, or while it is still possible to correct ballots by Court order.

(NOTE: In order to facilitate the printing of the ballots, political committees are urged to file substituted nomination certificates as early as possible.)

Casting of Lots for Position of Name on Primary Ballot*

Immediately after the last day fixed for filing nomination petitions with them, the Secretary of the Commonwealth or the county board of elections, as the case may be, must fix a day for the casting of lots for the position of names upon the primary ballot, and must give notice to the candidates to appear for that purpose. The candidates may appear in person, or by agent duly authorized by letter of attorney, signed and acknowledged by an officer empowered to take acknowledgments. If a candidate is not present in person or by representative at the time of casting of lots, it shall be the duty of the Secretary of the Commonwealth or of the county board of elections to appoint some person to represent such absentee. After lots are cast, the

* Article IX A, Pennsylvania Election Code; 1937, P.L. 1933 (Purdon's Pennsylvania Statutes Annotated, Title 25).

** Ibid; Article IX C

Secretary of the Commonwealth or the county board must establish the order in which the names of said candidates are to appear upon the primary ballot and certify the same for placing upon the official ballot.

*Nominations—Political Bodies**

Nomination of Independent Candidates by Nomination Papers

(NOTE: Nomination of this kind should not be confused with political party nominations named at primaries as a result of filing nomination PETITIONS.)

Restriction on Names

All nomination papers must specify the name of the political body which the candidates represent. The name can consist of **NOT MORE THAN THREE WORDS**. No word may be used which is identical, or similar to, any words used in the name of any existing political party, or of any political body which has already filed nomination papers for the same office or offices.

Committee to be Named

All nomination papers must contain the names and addresses of a Committee of not less than three (3) nor more than five (5) persons, authorized to fill vacancies if they occur.

Number of Signers Required

If the nomination is for an **OFFICE TO BE FILLED BY THE VOTERS OF THE ENTIRE STATE**, the minimum number of signatures required is equal to **TWO PER CENT** of the largest entire vote cast for any candidate elected to a State-wide office in the last preceding election at which State-wide candidates were voted for. (For the current year, the minimum number of signatures for State-wide office is designated by the Secretary of the Commonwealth on request.)

In the case of all other nominations, the minimum number required is equal to **TWO PER CENT** of the largest entire vote cast for any Officer **EXCEPT A JUDGE OF A COURT OF RECORD** elected at the last preceding election held in the same electoral district, but it shall in no case be less than the number required for nomination petitions for party candidates for the same office. (For the current year, consult the

Secretary of the Commonwealth for those offices for which nominations are filed with him/her. For other offices, consult your County Board of Elections.)

(NOTE: More than one candidate, and candidates for more than one office, may be nominated by one set of nomination papers, provided that all offices for which such nominations are made are either State-wide or entirely within the same electoral district in which the signers are eligible to vote.)

Signers of Nomination Papers

All signers must be qualified electors of the State or district. They may sign only as many nomination papers as there are persons to be elected and offices to be filled. Each person must personally sign his name, his place of residence, his occupation and the date of signing.

(NOTE: The name of the Borough, City or Township **MUST BE GIVEN, UNLESS THE ELECTORAL DISTRICT IS ENTIRELY WITHIN ONE MUNICIPALITY**, as well as the street address, if any. The date of signing may be expressed in words or numbers, e.g.—March 1, 1973 or 3/1/73. Different sheets must always be used for residents in different counties; and whenever more than one sheet is used, they must be fastened together and numbered consecutively.)

Affidavits

Every sheet of the nomination paper must have appended to it the affidavit of a qualified elector of the district with which the nomination paper is concerned, not necessarily a signer, and not necessarily the same person on each sheet, attesting to the validity of all signatures and residences of the signers on the nomination papers.

Each candidate named in the nomination papers need take the Candidate's affidavit on only one sheet and need have his **LOYALTY OATH** attached only to one sheet.

(NOTE: Candidates for Representative in Congress, United States Senator, President and Presidential Elector need not file Loyalty Oath.)

Circulation of Nomination Papers

Signatures can be secured **ONLY** during the period between the **TENTH** Wednesday prior to the primary and the **SEVENTH** Wednesday

prior to the primary; and the last day for Filing is the SEVENTH Wednesday prior to THE PRIMARY ELECTION.

(NOTE: In accordance with recent court rulings the above dates have been declared unconstitutional. All papers must be circulated and/or filed between the tenth Wednesday prior to the primary election and August 21, of each year. The August 21, deadline is to remain effective until the legislature amends the Election Code.)

Where to File

Nomination papers for all State-wide and Federal offices, as well as for State Senator, Representative in the General Assembly and Judges of the District Courts are filed in the office of the Secretary of the Commonwealth. For all other offices they are filed with the proper County Board of Elections. All must be RECEIVED in the proper office not later than the closing hour for that office on the last day for filing.

The office in which a nomination paper is filed must issue to the person filing the nomination paper a receipt containing the date and time of filing, the name of the candidate and the office for which he is a candidate.

Filing Fee

The filing fee for each candidate on nomination papers is the same as the filing fee required with nomination petitions for each party candidate for the same office, but in no case less than \$5.00.

Filing fee will be accepted ONLY when paid by CERTIFIED CHECK OR MONEY ORDER, made PAYABLE TO THE COMMONWEALTH OF PENNSYLVANIA or to the proper county, as the case may be. CASH OR PERSONAL CHECKS WILL NOT BE ACCEPTED.

Withdrawal of Candidates Nominated By Nomination Papers**

Any person who has been nominated by any political body by nomination papers 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 or of the county board, as the case may be.

Such written withdrawals must be filed at least eighty-five (85) days previous to the day of the General or Municipal Election and must be received in the office of the Secretary of the Commonwealth not later than five o'clock P.M. on the last day for filing the same, or by the regular closing hour in the county board offices.

No candidate may withdraw any withdrawal notice after it has been received and filed, and thereby reinstate his nomination.

**Filling Vacancies Caused by Death or
Withdrawal of Candidates Nominated
by Nomination Papers****

In case of the death or withdrawal of any candidate nominated by any political body by nomination papers, the committee named in the original nomination papers may nominate a substitute in his place by filing a substituted nomination certificate, which shall set forth the facts of the appointment and powers of the committee (naming all its members), and of the death or withdrawal of the candidate and of the action of the committee thereon, giving the name, residence and occupation of the candidate substituted thereby. The truth of these facts shall be verified by affidavit annexed to the certificate by at least two members of the committee.

In case of a vacancy caused by the death of any candidate, the substituted nomination certificate must be accompanied by a death certificate, properly certified.

No substitute nomination certificate shall nominate any person who was a candidate for nomination by any political party for any office to be filled at the ensuing November election, whether or not nominated for such office by such political party, or who has already been nominated by any other political body for any office to be filled at the ensuing November or special election.

Substituted nomination certificates to fill vacancies caused by the withdrawal of candidates nominated by Nomination Papers must be filed at least seventy-five (75) days before the day of the General Election.

Substituted nomination certificates to fill vacancies caused by the death of candidates

* Article IX B Pennsylvania Election Code; 1937, P.L. 1333 (Purdon's Pennsylvania Statutes Annotated, Title 25).

** Ibid; Article IX C

nominated by Nomination Papers must be filed prior to the day on which the printing of ballots is started, or while it is still possible to correct ballots by Court order.

Nominations—Unexpected Vacancies in Public Offices*

Nominations to Fill Certain Vacancies by Nomination Certificates and Nomination Papers

Act No. 434 of the 1953 General Assembly, effective January 1, 1954, provides methods and procedure for filling certain vacancies not heretofore included in the Election Code.

If a vacancy occurs in an elective office, including that of a judge of a court of record, at a time when such vacancy is required by the Constitution or laws of Pennsylvania to be filled at the ensuing election, BUT at a time when nominations cannot be made under any other provision of the Election Code, any nomination to fill such vacancy shall be made:

(a) by political parties in accordance with party rules for filling vacancies by nomination certificates, as provided by law;

(b) by political bodies by nomination papers, as provided by law.

No such nomination certificates or papers shall nominate any person already nominated by any political party or body for the same office or for any office to be filled at the ensuing November election, unless such person is a candidate for judge of a court of record or the office of school director in districts where that office is elected.

Time and Place to File Nomination Certificates and Papers

Nomination certificates and papers, if for State offices and judges of courts of record, shall be filed with the Secretary of the Commonwealth at least fifty (50) days prior to a general or municipal election as the case may be.

Nomination certificates and papers, if for offices in counties, cities, boroughs, towns, townships, wards, school districts, and for the offices of aldermen and justices of the peace, shall be filed with the proper county board of elections at least fifty (50) days prior to a municipal election.

Form and Content of Nomination Certificates and Papers

The form and content of nomination certificates to fill vacancies under this act shall be the same as those already required by law for filling vacancies caused by death or withdrawal of duly nominated candidates.

The form and content of nomination papers shall be the same as in any other nomination by papers in all respects except dates of filing, etc. (See previous section.)

It shall be the duty of the Secretary of the Commonwealth or the proper county board of elections, as the case may be, to examine such certificates or papers for legal sufficiency in the same manner as they would do in the case of substituted nominations or nomination papers as aforesaid, and to refuse to file them if they are manifestly defective. Such refusal may be reviewed by the Court of Common Pleas of the proper county upon an application for mandamus.

Objections to such nomination certificates and papers must be filed within three (3) days next succeeding the last day for filing them.

Withdrawals of candidates so nominated must be made in writing and acknowledged before an officer authorized to administer oaths, and filed in the appropriate office with which the nomination certificates or papers were filed within three (3) days next succeeding the last day for filing the said nomination certificates or papers.

Vacancies occurring by such withdrawal or by death may be filled by substituted nominations in the manner already provided by law. In cases of withdrawal, such substituted nominations must be filed not later than seven (7) days after the last day for filing the original certificates or papers. In case of death, such substituted nominations must be filed at any time prior to the day in which the printing of ballots is started.

Exceptions

The provisions of this act DO NOT apply to elective offices in any of the following situations:

- (1) If a method is provided by law for holding special elections for the office;
- (2) If the vacancy occurs in the office of presidential elector;

(3) If the provisions of any law require the vacancy to be filled at the next election APPROPRIATE to the office when the vacancy occurs within TWO calendar months immediately preceding a general or municipal election, as the case may be, or within TEN calendar months of such election in the case of a Judge of a Court of Record.

* Article IX E, Pennsylvania Election Code; 1937, P.L. 1333 (Purdon's Pennsylvania Statutes Annotated, Title 25).

*Special Elections**

Special Elections for United States Senator

Whenever a vacancy occurs in the office of United States Senator, the Governor shall issue a writ of election within ten (10) days after the happening of the vacancy naming the next general or municipal election, occurring at least ninety (90) days after the happening of the vacancy, as the date for the special election. Candidates to fill the unexpired term are nominated by political parties in accordance with their party rules and by political bodies by means of nomination papers. The nomination certificates and nomination papers must be filed in the office of the Secretary of the Commonwealth at least sixty days (60) days prior to the date of the special election.

Special Elections for Representative in Congress

Whenever a vacancy occurs in the office of Representative in Congress, the Governor shall issue a writ of election within ten (10) days after the happening of said vacancy naming a date for the special election. This date may be the next ensuing primary or municipal election but shall not be less than sixty (60) days after the issuance of said writ. Candidates to fill the unexpired term are nominated by political parties in accordance with their party rules and by political bodies by means of nomination papers. Nomination certificates and nomination papers must be filed in the office of the Secretary of the Commonwealth not later than fifty (50) days prior to the date of the special election.

Special Elections for Senator and Representative in the General Assembly

Whenever a vacancy occurs in either House of the General Assembly, the presiding officer of such House shall issue the writ of election fixing the date for a special election, which date may be the next ensuing primary, municipal or general election but shall be not less than sixty (60) days after the issuance of the writ. Candidates to fill the unexpired term are nominated by political parties in accordance with their party rules and by political bodies by means of nomination papers. Nomination certificates and nomination papers must be filed in the office of the Secretary of the Commonwealth not later than fifty (50) days prior to the date of the special election.

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 a vacancy in the office of Members of Council or Legislative body of any city, borough, town or township, a special election shall be held on the day fixed in the writ or provided by law, which day shall be within sixty (60) days after the issuance of the writ or the happening of the vacancy, as the case may be. Candidates to fill the unexpired term are nominated by political parties in accordance with their party rules and by political bodies by means of nomination papers. Nomination certificates and nomination papers must be filed in the office of the County Board of Elections not later than fifteen (15) days after the issuance of the writ of election.

Form of Nomination Certificate

Nomination certificates shall set forth the following:

(1) The office and district, if any, for which it is filed;

(2) The cause of the vacancy;

(3) The rule or rules of the political party, setting forth the provisions applicable to the nomination of a candidate or candidates to fill said vacancy;

(4) That a quorum of the committee, caucus or convention as provided by the party rules,

duly convened, and the names of those present at said meeting, or their proxies; that said persons are the duly appointed or elected members of said committee, caucus or convention;

(5) The name, residence and occupation of the candidate duly nominated at said meeting.

Every such certificate of nomination shall be signed by the presiding officer and the secretary or secretaries of the committee, caucus or convention, and shall be sworn or affirmed to by them before any officer qualified to administer oaths.

The candidate's loyalty oath must be attached, except for the offices of United States Senator and Representative in Congress.

Examination of Nomination Certificates and Nomination Papers by the Secretary of the Commonwealth and County Boards of Elections

It is the duty of the Secretary of the Commonwealth or the proper county board of elections, as the case may be, to pass upon the legal sufficiency of all nomination certificates and nomination papers. If said nomination certificate or nomination paper is refused for filing, an application for mandamus to compel its filing may be presented to the court of common pleas of the proper county.

Objections to Nomination Certificates and Nomination Papers

All objections to nomination certificates or nomination papers must be filed within three (3) days after the last day for filing said certificates or papers. Upon filing objections, the court shall fix a day for the hearing which shall not be later than seven (7) days after the last day for filing nomination certificates or papers.

Withdrawals of Candidates Nominated for Special Election

Any person nominated by a political party or political body may withdraw his name by a request in writing signed by him and acknowledged before a properly qualified officer and filed with the office with which the nomination certificate or papers were filed. Such withdrawal must

be filed within three (3) days after the last day for filing nomination certificates or papers.

Substituted Nomination Certificates

Where a candidate nominated for a special election has withdrawn, a substituted nomination certificate may be filed not later than seven (7) days after the last day for filing nomination certificates or papers.

Vacancies caused by the death of candidates nominated for a special election shall be filled by filing substituted nomination certificates at any time prior to the day on which the printing of ballots is started.

Certification by Secretary of the Commonwealth of Candidates for Special Elections

Not later than the thirtieth (30th) day 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, the Secretary of the Commonwealth shall certify to the proper county board or boards of elections the names and residences of all candidates whose nomination certificates or nomination papers have been duly filed, together with the names of their respective political parties or political bodies, substantially in the form of the ballots to be used.

Conduct of Special Elections

All special elections shall be conducted in all respects in accordance with the provisions relating to November elections. This provision of law includes the payment of the established filing fees for nominations made by nomination papers. There is no similar provisions for nominations made by certificate.

* Article VI B, Pennsylvania Election Code; 1937, P.L. 1333 (Purdon's Pennsylvania Statutes Annotated, Title 25).

*State Regulations for Primary and Election Expenses**

Lawful Primary and Election Expenses

No candidate or treasurer of any political committee shall pay, give or lend or agree to pay, give or lend, directly or indirectly, any money or other valuable thing or incur any liability on account of, or in respect to, any primary or election expenses whatever, except for the following purposes:

FIRST. For printing and traveling expenses and personal expenses incident thereto, stationery, advertising, postage, expressage, freight, telegraph, telephone and public messenger service;

SECOND. For the rental of radio facilities and amplifier systems;

THIRD. For political meetings, demonstrations, and conventions, and for the pay and transportation of speakers;

FOURTH. For the rent, maintenance and furnishing of offices;

FIFTH. For the payment of clerks, typewriters, stenographers, janitors, and messengers actually employed;

SIXTH. For the transportation of electors to and from the polls;

SEVENTH. For the employment of watchers at primaries and elections to the number and in the amount permitted by law;

EIGHTH. For expenses, legal counsel, incurred in good faith in connection with any primary or election;

NINTH. For contributions to other political committees.

Expense Accounts to Be Filed

Every candidate for nomination or election, and every treasurer of a political committee, or person acting as such treasurer, shall, within thirty days after every primary and election at which such candidate was voted for or with which such political committee was concerned, if the amount received or expended or liabilities incurred shall exceed the sum of one hundred fifty dollars, file a full, true and detailed account, subscribed and sworn to by him, setting forth each and every sum of money received, contributed or disbursed by him for primary or

election expenses, the date of each receipt, contribution and disbursement, the name of the person from whom received or to whom paid, and the specific object or purpose for which the same was disbursed. Such account shall also set forth the unpaid debts and liabilities of any such candidate or committee for primary or election expenses, with the nature and amount of each, and to whom owing. In the case of the treasurer of a political committee, the account shall include any unexpended balance of contributions or other receipts appearing from the last previous account filed by him, and shall also include a complete listing of all receipts and disbursements made by such committee for any purpose, including all receipts and disbursements from the publication and sale of all publications, and from the time of the last account or from the time of the formation of the political committee if no prior account has been filed. In the case of candidates for election who have previously filed accounts of their primary expenses as candidates for nomination, the accounts shall only include receipts, contributions and disbursements subsequent to the date of such prior accounts.

In spite of the above paragraph, where any amount received or contributed is not more than fifty (\$50) dollars, such amounts may be aggregated according to the date of receipt or contribution. In such cases, the name of the person from whom received or contributed need not be set forth. However, where the candidate for nomination or election, treasurer of a political committee, or person acting as a treasurer, knows or has reason to know that a person has, through multiple contributions, contributed more than a total of fifty (\$50) dollars, he must make a full, true and detailed account and report of what he knows or has reason to know.

If the aggregate receipts or disbursements and liabilities of a candidate or a political committee in connection with any primary or election do not exceed one hundred fifty dollars, the candidate or treasurer of the committee, as the case may be, must, within thirty days after the primary or election, certify that fact under oath to the officer or board with whom expense accounts are required to be filed.

If a candidate or political committee does not receive any contributions or make any disbursements or incur any liabilities, he or it is not

required to file any account or to make any affidavit, but such candidate or political committee shall be deemed for all purposes of this act to have filed an expense account showing no receipts, disbursements or liabilities for primary or election expenses.

Every expense account filed shall be accompanied by vouchers for all sums expended amounting to more than ten dollars. It is unlawful for any candidate, agent or treasurer to disburse any money received from any anonymous source.

With Whom Expense Accounts Shall Be Filed

Every account concerning primary or election expenses incurred by or in regard to candidates for office to be voted for by the electors of the State at large must be filed with the Secretary of the Commonwealth, and every account concerning expenses incurred by or in regard to candidates for other offices must be filed with the county board of elections of the county wherein the candidate resides: Provided, however, that, if any account concerns expenses in regard to candidates who do not all reside in the same county, a duplicate of such account shall be filed in the office of the county board of elections of each county in which any such candidate (not being a candidate for an office to be voted for by the electors of the State at large) resides.

If any account of any political committee concerns the primary or election expense in regard to both a candidate or candidates for an office or offices to be voted for by the electors of the State at large and also candidates for other offices, such account shall be filed with the Secretary of the Commonwealth.

Contributions to Be Made to Candidates or Treasurers

A person who is neither a candidate nor a treasurer of any political committee may not pay, give or lend, nor agree to pay, give or lend any money or any other valuable thing to, nor incur any liability for, any primary or election expense whatever in behalf of any person or persons, except a candidate or a political committee having a treasurer.

Corporation or Association Contributions Prohibited

A corporation, or unincorporated association, or an officer or agent thereof, whether incorporated under the laws of this or any other state or any foreign country, except those formed primarily for political purposes or a political committee, may not pay, give or lend, nor authorize to be paid, given or lent either directly or through any other person, or in reimbursement of any such payment, gift or loan by any other person, any money or other valuable thing belonging to such corporation or unincorporated association or in its custody or control, to any candidate or political committee for the payment of any primary or election expenses for any political purpose whatever.

Nothing shall prohibit however, direct private communications by a corporation to its stockholders and their families or by an unincorporated association to its members and their families on any subject, including non-partisan registration drives and get-out-the-vote campaigns. Further, corporations or unincorporated associations are permitted to establish and administer a separate segregated fund which is to be created by voluntary individual contributions and to be utilized for political purposes. Such a fund shall be considered a political committee for campaign expense reporting purposes under the provisions of the Pennsylvania Election Code.

"Candidate" Defined in Connection with Expense Accounts

"Candidate for nomination" shall mean a candidate at any primary for nomination to any public office to be voted for in this State, and shall not be limited to mean a person by or on behalf of whom a nomination petition has been filed in the manner provided by law, and whose name is printed on the ballots or ballot labels to be used at such primary, but shall include any person whose name is written in on the ballot by electors, or inserted by means of stamps or stickers.

"Candidate for election" shall mean a candidate for election to any public office to be voted for in this State, and shall not be limited to mean a person who has been nominated at a

primary or by a nomination certificate or nomination paper, in accordance with the provisions of the law, and whose name is printed on the ballots or ballot to be used at such election, but shall include any person whose name is written on the ballot by electors, or inserted by means of stamps or stickers.

“Political Committee” Defined in Connection with Expense Accounts

“Political committee” shall include every two or more persons, who shall be elected, appointed or chosen, or who have associated themselves or cooperated for the purpose, wholly or in part, of raising, collecting or disbursing money, or of controlling or directing the raising, collection or disbursement of money for primary or election expenses.

Treasurer of Political Committee

Every political committee shall appoint and constantly maintain a treasurer to receive, keep and disburse all sums of money which may be collected or received by such committee or by any of its members for primary or election expenses; and unless such treasurer is first appointed and thereafter maintained, it is unlawful for a political committee or any of its members to collect, receive or disburse money or incur liability for any such purpose. All money collected or received by any political committee, or by any of its members for primary or election expenses, shall be paid over and made to pass through the hands of the treasurer of such committee and shall be disbursed by him; and it is unlawful for any political committee or any of its members, to disburse any money for primary or election expenses, unless such money has passed through the hands of the treasurer.

Single Campaign Treasurer

Every candidate who authorizes a committee, or committees, to receive and disburse funds on behalf of his candidacy, shall name a sole treasurer, regardless of the number of committees authorized, to receive and disburse monies for all authorized committees. A sole treasurer may, however, delegate in writing, authority to any number of assistant treasurers to receive or disburse monies on behalf of the candidate. This

does not prohibit a candidate from receiving and disbursing money on his own behalf. Further, it does not prohibit a treasurer of a political party committee or a committee authorized to receive and distribute funds on behalf of more than one candidate from receiving or expending monies on behalf of said candidates.

Act 201—Report of Contributions

Act 201 of 1974 requires that any business entity, including but not limited to a corporation, company, association, partnership or sole proprietorship, which has been awarded non-bid contracts from the Commonwealth and its political subdivisions during the preceding calendar year, shall report by February fifteenth to the Secretary of the Commonwealth an itemized list of all political contributions known to the business entity by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner or individual owner that has been made by (1) any officer, director, associate, partner, limited partner, individual owner or members of their immediate family and (2) any employee or members of his immediate family whose political contribution exceeded one thousand dollars (\$1,000) during the preceding year. "Immediate family" means a person's spouse and any unemancipated child. (For further information see page 166.)

Authorization of Political Committee to Act for Candidates for Nomination and Election

A treasurer of any political committee may not receive or disburse any money or incur any liability for primary expenses in furtherance of the candidacy of any candidate for nomination, until such political committee has been authorized in writing by the candidate to receive and disburse money and incur liability for his primary expenses, and until a copy of such written authorization has been filed in the office of the Secretary of the Commonwealth, in the case of State-wide committees, or in the office of the county board of elections of the county in which such treasurer maintains his office, in the case of other committees.

A treasurer of any political committee may not receive or disburse any money or incur any liability for election expenses in furtherance of the candidacy of any candidate for election,

until such political committee has been authorized in writing by the candidate to receive and disburse money and incur liability for his election expenses, and until a copy of such written authorization has been filed in the office of the Secretary of the Commonwealth, in the case of State-wide committees, or in the office of the county board of elections of the county in which such treasurer maintains his office, in the case of other committees. The treasurer of any State, county, city, borough, township, ward or other regularly constituted party committee of any political party or political body, is authorized to receive and disburse money and incur liability for the election expenses of the candidates of such political party or political body, without special written authorization from such candidates.

Oath of Office

It is unlawful to administer the oath of office to any candidate elected to any public office, until the accounts and affidavits required by law to be filed in respect of the primary expenses (if such candidate was nominated at a primary) and election expenses incurred by or in regard to such candidate have been filed by the candidate and by the treasurer of every political committee authorized, under the law, to receive and disburse money and incur liability for his primary or election expenses, or which, to his knowledge, has received or disbursed money or incurred liability for his primary or election expenses, whether authorized as aforesaid or not, and a person so elected shall not enter upon the duties of his office until the said accounts and affidavits have been filed, nor shall he receive any salary or other compensation appurtenant to the office for any period prior to the filing of such accounts and affidavits.

Inspection and Preparation of Accounts and Affidavits

All expense accounts and affidavits shall be open to public inspection in the office where they are filed, and shall be carefully preserved by the officer or board in charge thereof, and shall not be removed for a period of two years after filing, except upon the order of a competent court.

Notice of Political Advertisements

It is illegal for any candidate, political committee or party acting on his behalf to place any advertisement referring to an opposing candidate which is to be broadcast or published during the 48 hours prior to an election or published in a weekly newspaper or periodical during the 8 days prior to an election without first giving a copy of such advertisement to the opponent and the County Board of Elections of the county where the advertisement is to be placed. Notice must be given in time to allow for a reply advertisement in the same publication or broadcast. See 25 P.S. §3234.

* Article XVI Pennsylvania Election Code; 1937, P.L. 1333 (Purdon's Pennsylvania Statutes Annotated, Title 25).

Federal Regulations for Primary and Election Expenses for Federal Offices

Lawful Primary and Election Expenses

In accordance with the provisions of the Federal Election Campaign Act of 1971 as amended by the Federal Election Campaign Act Amendments of 1974 and 1976, each treasurer of a political committee supporting a candidate or candidates for election to Federal office, and each candidate for election to a Federal office are required to file reports of receipts and expenditures on forms to be prescribed or approved by the Commission.

In any calendar year in which an individual is a candidate for Federal office and an election for such Federal office is held in that year, committee and candidate reports shall be filed not later than 10 days before and 30 days after the date of such election. Additional reports are required to be filed not later than the 10th day following the close of any calendar quarter in which the candidate or political committee concerned received contributions in excess of \$1,000 or made expenditures in excess of \$1,000. A year-end report is also required to be filed. All reports shall be complete as of such date as the Commission prescribes, except that any contribution of \$1,000 or more received after the 15th day, but more than 48 hours, before any election shall be reported within 48 hours after its receipt. Each report under this section shall disclose—

(1) the amount of cash on hand at the beginning of the reporting period;

(2) the full name and mailing address (occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate (including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fund raising events) within the calendar year in an aggregate amount or value in excess of \$100, together with the amount and date of such contributions.

(3) the total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under paragraph (2);

(4) the name and address of each political committee or candidate from which the reporting committee or the candidate received, or to which

that committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers;

(5) each loan to or from any person within the calendar year in an aggregate amount or value in excess of \$100, together with the full names and mailing addresses (occupations and the principal places of business, if any) of the lender, endorsers, and guarantors, if any, the date and amount of such loans;

(6) the total amount of proceeds from—

(A) the sale of tickets to each dinner, luncheon, rally, and other fund raising events;

(B) mass collections made at such events;

and

(C) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(7) each contribution, rebate, refund, or other receipt in excess of \$100 not otherwise listed under paragraphs (2) through (6);

(8) the total sum of all receipts by or for such committee or candidate during the reporting period, together with total receipts less transfers between political committees which support the same candidate and which do not support more than one candidate;

(9) the identification of each person to whom expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value in excess of \$100, the amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made;

(10) the identification of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of \$100 has been made, and which is not otherwise reported, including the amount, date, and purpose of such expenditure;

(11) the total sum of expenditures made by such committee or candidate during the calendar year, together with total expenditures less transfers between political committees which support the same candidate and which do not support more than one candidate;

(12) the amount and nature of debts and obligations owed by or to the committee, in such form as the Commission may prescribe and a

continuous reporting of their debts and obligations after the election at such periods as the Commission may require until such debts and obligations are extinguished, together with a statement as to the circumstances and conditions under which any such debt or obligation is extinguished and the consideration therefor;

(13) in the case of an independent expenditure in excess of \$100 by a political committee, other than an authorized committee of a candidate, expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (a) any information required by paragraph (9) stated in a manner which indicates whether the independent expenditure involved is in support of, or in opposition to, a candidate; and (b) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

(14) such other information as shall be required by the Commission.

The reports required to be filed shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the political committee or candidate shall file a statement to that effect.

A report or statement required by this Act to be filed by a treasurer of a political committee, a candidate, or by any other person, shall be verified by the oath or affirmation of the person filing such report or statement, taken before any officer authorized to administer oaths.

Reports to the Secretary of State

A copy of each statement required to be filed with the Federal Election Commission by this law shall be filed with the Secretary of State of Pennsylvania. In compliance with this subsection the following must be filed:

(1) reports relating to expenditures and contributions in connection with the campaign for nomination for election, or election, of a candidate to the office of President or Vice President of the United States in each State in which an expenditure is made by him or on his behalf, and

(2) reports relating to expenditures and contributions in connection with the campaign for nomination for election, or election, of a candidate to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States in the State in which he seeks election.

The purpose of this provision of the Federal Elections Campaign Act is to afford the citizens of Pennsylvania easy and ready access to the campaign expenditures and receipts of candidates running for Federal office in the Commonwealth.

Note for additional information contact:

Federal Election Commission
1325 K Street, N.W.
Washington, DC 20463

AND/OR

The Secretary of the Commonwealth
Dept. of State
302 North Office Building
Harrisburg, Pa. 17120

HATCH ACT

The Federal Law, known as "The Hatch Act," among other restrictions on political activity, prohibits interference with free elections for Federal officers and for Presidential Electors. It prohibits any political activity by certain Federal employes and certain employes and officers of any state agency or local agency of an activity financed in whole or in part by Federal loans or grants. It prohibits solicitation of campaign funds from persons receiving Federal work relief or other relief. It prohibits the promise of Federal employment as a reward for political activity. It prohibits the purchase of advertising, goods and commodities or articles of any kind, the proceeds of which are to be used for the benefit of any candidate for Federal office. It limits campaign contributions for candidates for Federal office. It prohibits persons contracting or negotiating to contract with the United States or its agencies for services, supplies, or sale of land or buildings, which contract is to be paid from Congressional appropriations, from being solicited to make or making contributions for political purposes; and it provides procedure for enforcement and penalties for violation of its provisions.

According to an opinion of the Attorney General, covering National Guard personnel when not in Federal service:

a. Members of the National Guard when not in active Federal service are not prohibited from engaging in political activities as individuals providing their connection with, or their position in, the Guard is not their sole occupation or principal means of employment.

b. Anyone whose connections with, or position in, the Guard is his sole occupation or principal means of employment is prohibited from engaging in political activity.

*Absentee Voting**

Act No. 375 of the 1968 General Assembly effected a number of important changes in Pennsylvania's Absentee Voting Law. The highlights of the law include an expanded definition of "Duties, Occupation or Business" to include leaves of absence for teaching, vacations, sabbatical leaves, and all other absences associated with the elector's duties, occupation or business—including also the elector's spouse who accompanies the elector.

The following provisions must, in all cases, be examined jointly with the earlier sections on "Registration" and "Registration by Mail."

The amendment requires the voter either to appear in person at the election board to procure an application form, or to submit by mail a personally signed request for the application form. The following classes of electors are excepted from this provision:

Electors who because of business, occupation or duties will be out of the country.

Military personnel, their spouses and dependents, and Federal Service employes and their spouses and dependents, all of whom are qualified to make application on the Federal Government Absentee Ballot Application form or on a similar form available at the board of elections. Applications on behalf of a military elector must now be made by an adult member of his immediate family. All other Federal Service applicants, including military spouses, must sign their own application.

For voters who are patients in public institutions, such as a county home or veterans' hospital, the law provides that special teams composed of one representative of each political party be designated to visit each public institution in the county to receive and list the names of persons desiring applications for absentee ballots. The teams shall give such lists to the Board of Elections which shall mail to each individual patient so listed an application for an absentee ballot. The County Board of Elections (County Commissioners) shall then appoint teams of three members, each Commissioner to appoint one member of each team, to travel to each public institution on the Friday preceding the election to conduct the election at such

institution by absentee ballot. After the votes are cast, such teams shall collect the absentee ballots and return them unopened to the Election Board for delivery to the District Election Boards at the respective polling places and to be so counted by them at the close of the polls on election day together with the ballots of the other absentee voters.

The law also stipulates that no absentee ballot will be counted which is received by the Board of Elections later than 5 P.M. on the Friday before the election. The law also provides that such ballots must be delivered either by mail or by the absentee voter in person.

(NOTE: IN PRESIDENTIAL ELECTIONS ANY BALLOTS RECEIVED AFTER 5:00 P.M. ON THE FRIDAY BEFORE THE ELECTION BUT BEFORE THE CLOSING OF THE POLLS ON ELECTION DAY ARE VALID ONLY FOR PRESIDENTIAL AND VICE-PRESIDENTIAL VOTES.) SEE FEDERAL VOTING RIGHTS ACT AMENDMENTS OF 1970, PAGE 170.)

Concerning the counting of the absentee ballots, the amendment provides that the absentee ballots shall be delivered along with the election supplies, to the respective District Election Board; that the Election Board at the polling place count such absentee ballots immediately at the close of the polls on election day.

Absentee voters who are back in their county of residence on election day, or who have recovered from their illness on election day, are now required to appear at the polling place to vote. A Court Order is no longer required.

With respect to challenging absentee ballots or absentee ballot applications, the law provides that a deposit of ten dollars (\$10.00) be submitted by the challenger for each such challenge made. This deposit must be in cash at the time of the challenge and is payable to the Judge of Elections (if the ballot is challenged), or to the Board of Elections (if the application is challenged).

The law further provides that any person who shall violate any of the provisions of the Absentee Voting Law shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding \$1,000,

or, to undergo imprisonment of not more than one year, or both, in the discretion of the Court.

Retained are the full benefits of the "Federal Voting Assistance Act of 1955" under which Congress requested all States to give spouses and dependents of servicemen the right to register by mail concurrent with the time of voting their absentee ballot. This provision also qualified overseas Federal personnel, members of the Merchant Marines, voters in services attached to and serving with the Armed Forces (Red Cross, U.S.O., etc.), and the spouses and dependents of the above.

Eligibility of Absentee Voters

As a general rule, the same eligibility exists for an absentee voter as for a polling place voter, i.e., he must be registered and must be a constitutionally qualified elector. The constitutional qualifications are:

Elector must have attained the age of 18 the day after the election or primary to be eligible to vote at the election. He must have been a citizen of the United States for at least one month; a resident of Pennsylvania for at least thirty days, and a resident of his election district for at least thirty days.

All absentee voters must be registered electors except those in Military Service and Veterans who are bedridden or hospitalized outside the county of their residence. Pennsylvania now permits absentee registration.

Who May Vote by Absentee Ballots

(1) Members of the armed forces whether registered or not and hospitalized or bedridden veterans OUTSIDE the county of residence, whether registered or not (no change from prior law).

(2) Spouses and dependents of members of the armed forces residing with or accompanying them and absent from the county of residence, IF REGISTERED.

(3) Members of the Merchant Marine, and their spouses and dependents residing with or accompanying them and absent from the State or county of residence, IF REGISTERED.

(4) Persons in a religious or welfare group attached to and serving with the armed forces and their spouses and dependents residing with

or accompanying them, who are absent from the State or county of residence, IF REGISTERED.

(5) Civilian employes of the United States outside the territorial limits of the United States and the District of Columbia and their spouses and dependents residing with or accompanying them, IF REGISTERED.

(6) Persons who because of illness or physical disability are unable to attend their polling place or operate a voting machine and obtain assistance by distinct and audible statements, IF REGISTERED;

(7) Persons who are absent during the entire period the polls are open for voting because of duties, occupation, business or vacation, IF REGISTERED;

(8) Spouses or dependents accompanying persons employed by the Commonwealth or the Federal Government within the territorial limits of the United States and the District of Columbia in the event such employe's duties, occupation or business require him to be absent from the Commonwealth or county of residence, IF REGISTERED. (Note: For Federal Elections, see page 170 and for mail registration see page 25.)

How to Apply for Official Absentee Ballots

The Election Code sets forth the steps required to apply for an absentee ballot. The requirements differ depending on whether you are a military elector, a federal service employe (including a military spouse or dependent), a hospitalized or bedridden veteran outside the county of his residence, a business person, a sick or disabled person, or a patient in a public institution within the county.

Hereinafter is a list of such categories. Kindly ascertain your category and follow the instructions thereunder. Remember, a separate application must be made prior to each primary and each election unless you are on a disabled electors list (see page 71.)

Category I. Those in military service. Registration is not required. Must be a constitutionally qualified elector. Must file an Official Military Application form, or the Federal Form No. 76 distributed by the United States Department of Defense; application may be submitted by any adult member of the immediate family

only. Application may be made at any time up until 5:00 P.M. of the Friday before the election.

Caution: Although not restricted by application deadlines, the provisions in the law now require that the voted ballot must be received by the Board of Elections no later than 5 P.M. of the first Friday before the primary or election (except for presidential ballots). Therefore, applications should be made in sufficient time to permit the mailing to, and the return of, the absentee ballot to meet this Friday deadline; otherwise the ballot would be void.

A military elector who is home on election day and who has not voted an absentee ballot may, if registered, appear at his district polling place and vote. In the event such military elector is not registered, he must procure an Emergency Court Order in order to vote at his district polling place.

Category II. Federal Service Employees (which include the following): 1. Any spouse or dependent of a military elector. 2. Any elector (or spouse or dependent thereof) who is in the service of Merchant Marine (if serving outside the Great Lakes or Inland Waterways); a religious or welfare agency officially attached to and serving with the Armed Forces; civilian employment of the U. S. Government outside the territorial limits of the United States.

Must be registered. May register by mail. Usual registration deadlines do not apply (applications however must be received by 5:00 P.M. on the Friday before the election). Must file on Official Military Application form, or Federal Form No. 76 distributed by the U. S. Department of Defense. Must sign own application. May apply at any time, not restricted by application deadlines.

Note: Federal employees and Merchant Marines who are stationed within the territorial limits of the United States are covered in Category IV under the same provisions as civilians unavoidably absent from county on election day due to duties, occupations or business.

The law now requires that the absentee ballot forwarded in response to such application must be voted and received back in the office of the Board of Elections not later than 5 P.M. of the first Friday before the primary or election (except for presidential ballots). Therefore,

applications should be made in sufficient time to permit the mailing to, and the return of, the absentee ballot to meet this Friday deadline, otherwise the ballot will be void.

Category III—Veterans who are bedridden or hospitalized outside the county of their residence. Registration is not required. Must mail a personally signed request in order to procure an application. An official veteran's application will then be forwarded to the veteran, who must execute it and return it to the Board of Elections. May apply at any time, not restricted to application deadlines. The new law now requires that the absentee ballot forwarded in response to such application must be voted and received back in the office of the Bureau of Elections not later than 5 P.M. of the first Friday before the primary or election except for presidential ballots. Therefore, applications should be made in sufficient time to permit the mailing to, and return of, the absentee ballot to meet this Friday deadline, otherwise the ballot will be void. Presidential ballots can be accepted up until the closing of the polls on election day.

Category IV—Civilians Absent From County of Residence on the day of the primary or election on account of duties, occupation or business. (The Pennsylvania General Assembly has defined the words "duties, occupation or business" to include leaves of absence for teaching, vacations, sabbatical leaves, and all other absences associated with the elector's duties, occupation or business, and also to include an elector's spouse who accompanies the elector.)

Must have been registered in the same manner as a polling place voter. May make an application for an absentee ballot by submitting (in person or through the mail) a letter to the county board of elections in the county which his voting residence is located. The letter must be signed by the applicant and contain his name and place of residence. The voter should execute this application and return it either in person or by mail as soon as possible in order to meet the application deadline of 5 P.M. of the Tuesday before the primary or election.

Although the deadline for filing the official application remains the same, i.e., 5 P.M. of the

first Tuesday prior to the primary or election, the law requires that the absentee ballot forwarded in response to such application must be voted and received back in the office of the Board of Elections not later than 5 P.M. of the first Friday before the primary or election (except for presidential ballots). Therefore, applications should be made in sufficient time to permit the mailing to, and the return of the absentee ballot to meet this Friday deadline, otherwise the ballot will be void.

Category V—Physically sick or disabled (except patients in public institutions). Must be registered. May be registered by mail or by a visiting registrar on or before the registration deadline of 30 days before the primary or election. Written request for absentee registration must be made to the Registration Commission within a reasonable time before the registration deadline.

Must request an application form (1) either by appearing in person at the office of the Board of Elections to sign for the application form, or (2) by mailing a personally signed request for an application form or (3) by appearing on a permanently disabled elector list (see below). In the event the application form is not executed at the office of the Board of Elections by the voter in person, the Board, upon receipt of the signed, mailed request, will forward an application form to the voter at the address stated in the request. The voter should execute this application form and return it either in person or by mail as soon as possible in order to meet the application deadline of 5 P.M. of the Tuesday before the primary or election. (Presidential ballots will be accepted up until the closing of the polls on election day.)

The application must be signed by the voter. However, if the voter is unable to sign he is excused from signing upon making a statement witnessed by one adult person. If the shut-in, sick or disabled voter does not have an attending physician to sign his application attesting to his illness or physical disability, then he may submit his application with the declaration and signature of a registered elector of his election district who is unrelated to him by blood or marriage. If the voter requires assistance in

voting his absentee ballot, he must submit with his application a statement setting forth the precise nature of his disability and that he will still suffer from such disability at the time of voting. This statement must be acknowledged before an officer qualified to take acknowledgments of deeds. The voter selects an adult to assist him in voting. The adult person rendering the assistance executes a declaration to that effect. If the disability is permanent and the voter will thereafter at ensuing primaries or elections require assistance, that fact must be recorded on his permanent registration voting card. The Registration Commission will supply a form for that purpose if such a fact is not already entered on the registration card.

Although the deadline for filing the Official Application Form remains the same, i.e., 5 P.M. of the first Tuesday prior to the primary or election, the law now requires that the absentee ballot forwarded in response to such application must be voted and received back in the office of the Board of Elections not later than 5 P.M. of the first Friday before the primary or election (except for presidential ballots). Therefore, applications should be made in sufficient time to permit the mailing to, and the return of the absentee ballot to meet this Friday deadline. Otherwise, the ballot will be void.

Permanently Disabled Electors List

Any qualified registered elector, including any qualified bedridden or hospitalized veteran, who because of illness or physical disability is unable to attend his polling place on the day of primary or election or operate a voting machine and state distinctly and audibly that he is unable to do so, may with a physician's certificate of disability attached to the absentee ballot application be placed on a permanently disabled absentee ballot list file. An absentee ballot application shall be mailed to every such person for each primary or election so long as he does not lose his voting rights by failure to vote as otherwise required by law. Such person will not be required to file a physician's certificate of disability with each application, but must file a written statement asserting continuing disability every two years in order to maintain his eligi-

bility to vote. Should any such person lose his disability he shall inform the county board of elections.

Category VI—Patients in Public Institutions. Must be registered. May be registered by mail or by a visiting registrar on or before the registration deadline of 30 days before the primary or election. (Written request for absentee registration must be made to the Registration Commission within a reasonable time before the registration deadline.)

The law provides that special teams composed of one representative of each political party be designated to visit each public institution in the county to receive and list the names of such persons desiring applications for absentee ballots. The teams shall give such lists to the Board of Elections which shall mail to each individual patient so listed an application for an absentee ballot. The County Board of Elections (County Commissioners) shall then appoint teams of three members, each Commissioner to appoint one member of each team, to travel to each public institution on the Friday preceding the election to conduct the election at such institution by absentee ballot. After the votes are cast, such team shall collect the absentee ballots and return them unopened to the Board of Elections for delivery to the District Election Boards at the respective polling places and to be so counted by them at the close of the polls on election day together with the ballots of the other absentee voters.

Emergency Applications. If an emergency arises (unexpected illness or business trip) after the deadline of Tuesday, 5 P.M. of the week preceding the primary or election, an Emergency Application may be obtained from the Board of Elections, either in person, by mail, or by messenger. On these forms, the fact of the emergency is attested to before a Notary Public (or any person empowered to take acknowledgments of deeds). Although the law sets the deadline of 5 P.M. of the Friday before the primary or election for the filing of emergency applications, it also requires that the absentee ballot must be voted and received back in the office of the Board of Elections not later than 5 P.M. of the first Friday before the primary or

election (with the exception of presidential ballots). Therefore, emergency applications should be made in sufficient time to permit the return of the absentee ballot to meet this Friday deadline. Otherwise the ballot will be void.

Date of Application for Absentee Ballot

Applications for absentee ballots from persons designated in groups (1), (2), (3), (4) and (5) may be made at any time prior to the primary or election.

Applications for absentee ballots from persons designated in groups (6), (7) and (8) shall be received in the office of the county board of elections not earlier than fifty (50) days before any 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 if an elector is so physically disabled or ill that he is unable to file his application before the first Tuesday prior to any primary or election or becomes ill or disabled after the said first Tuesday and is unable to appear at his polling place, or any elector's business, duties or occupation will cause him to be absent on the day of any primary or election unexpectedly and without having had knowledge thereof before the first Tuesday prior to any primary or election, such elector can execute an Emergency Application at any time prior to five o'clock P.M. on the Friday preceding any primary or election.

Such Emergency Application, in the case of illness or physical disability, shall contain a supporting affidavit from the attending physician stating that the elector's condition was such that he could not apply before the aforesaid Tuesday or that the illness or disability occurred after the aforesaid Tuesday.

An Emergency Application from an elector unexpectedly called away from his place of residence after the first Tuesday prior to any primary or election must contain the elector's supporting affidavit of all of the facts.

Approval of Application for Absentee Ballot

County boards of elections, upon receipt of any application filed by a qualified elector not required to be registered, shall ascertain from the information on such application, district reg-

ister, 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 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 Civilian Absentee Voters' File.

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.

County boards of elections, upon receipt of any application filed by a qualified elector who is entitled under the provisions of the Permanent Registration Law to absentee registration prior to or concurrently with the time of voting 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 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 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 Civilian Absentee Voters' File.

County boards of elections, upon receipt of any application of a qualified elector required to be registered, 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 P.M. on the first Friday prior to the election. When so approved, the registration commission shall cause an absentee voter's temporary registration card to be inserted in the district register on top of and along with the permanent registration card. The absentee voter's temporary registration card shall be in 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 under section "Voting by Absentee Electors." Provided, however, that the duties of the county boards of elections and the registration commissions with respect to the insertion of the absentee voter's temporary registration card of any elector from the district register shall include only such applications and emergency applications as are received on or before the first Tuesday prior to the primary or election. In all cases where applications are received after the first Tuesday prior to the primary or election and before five o'clock P.M. on the first Friday prior to the primary or election, the county board of elections shall determine the qualifications of such applicant by comparing the information set forth on such application with the information contained on the applicant's duplicate registration card on file in the General Register (also referred to as the Master File) in the office of the Registration Commission and shall cause the name and residence (and at primaries the party enrollment) to be inserted in the Military, Veterans'

and Emergency Civilian Absentee Voters' File. In addition, the local district boards of elections shall, upon canvassing the official absentee ballots, examine the voting check list of the election district of said elector's residence and satisfy itself that such elector did not cast any ballot other than the one properly issued to him under his absentee ballot application. In all cases where the examination of the local district board of elections discloses that an elector did vote a ballot other than the one properly issued to him under the absentee ballot application the local district board of elections shall thereupon cancel said absentee ballot and said elector shall be subject to the penalties as hereinafter set forth.

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.

Absentee Electors' Files and Lists

County boards of elections shall maintain at their offices a file containing the duplicate absentee voter's temporary registration cards of every registered elector to whom an absentee ballot has been sent. Such duplicate absentee voter's temporary registration cards shall be filed by election districts and within each election district in exact alphabetical order and indexed. The registration cards so filed shall constitute the Registered Absentee Voters File for the Primary or Election of (date of primary or election) and shall be kept on file for a period commencing the Tuesday prior to the day of the primary or election until the day following the primary or election or the day the county board of elections certifies the returns of the primary or election, whichever date is later. Such file shall be open to public inspection at all times, subject to reasonable safeguards, rules and regulations.

County boards of elections shall post in a conspicuous public place at their offices 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 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 Civilian Absentee Voters' File for the Primary or Election of (date) and shall be posted for a period commencing the Tuesday prior to the day of the primary or election until the day following the primary or election or the day on which the county board of elections certifies the returns of the primary or election, whichever date is later. Such file shall be open to public inspection at all times, subject to reasonable safeguards, rules and regulations. This posted list shall not contain any military address or reference to any military organization.

Upon written request, the county board shall furnish a copy of such list to any candidate or party county chairman.

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.

Official Absentee Voters' Ballots

In districts in which paper ballots are used, the ballots for use by such absentee electors shall be the official ballots printed for use by the electors voting in person at the polls: Provided, however, that the county boards 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 boards 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.

In districts in which voting machines are used, and in those districts in which paper ballots are used and the county boards of elections therein do not print official absentee ballots, the ballots for use by such absentee electors shall be prepared sufficiently in advance by the county boards 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 official ballots.

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 electors 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 electors lists containing the names of all the candidates named in nomination petitions or who have been regularly nominated, for the use of such electors in preparing their ballots.

Envelopes for Official Absentee Ballots

The county boards of elections 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 elections 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, list of candidates, the uniform instructions in form and substance as prescribed by the Secretary of the Commonwealth and nothing else. Envelopes for electors previously designated in groups (1) to (5) 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. There shall be printed in the upper right corner of each such envelope, in a box, the words "Free of U. S. Postage Including Air Mail". All printing on the face of each such envelope shall be in red and there shall be printed 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.

The aforesaid envelope addressed to the elector may contain absentee registration forms

where required, and shall contain detailed instructions on the procedures to be observed in casting an absentee ballot as prescribed by the Secretary of the Commonwealth, together with return envelope upon which is printed the name and address of the registration commission of the proper county. This envelope shall in all other respects be identical with the one described in the preceding paragraph.

Delivering or Mailing Ballots

The county boards of elections, upon receipt of an application filed by any qualified elector designated in groups (1) to (5) (see page 62 and 63) inclusive shall 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 election, commence to deliver or mail official absentee ballots to all such electors whose applications have been approved. As additional applications of such electors are received the board shall deliver or mail official absentee ballots to such additional electors within forty-eight hours after approval of their applications.

The county boards of elections, upon receipt and approval of an application filed by any elector designated in groups (6), (7) and (8) (see page 63) 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.

Voting by Absentee Electors

At any time after receiving an official absentee ballot, but on or before 5 o'clock P.M. on the Friday prior to the primary or election (or before the closing of the polls for presidential elections), 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. He shall 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 elections and the local district of the elector. The elector shall then fill out, date and sign the declaration printed on such envelope. Such envelope shall then be securely sealed and the elector shall send same by mail postage prepaid (except where franked) or deliver it in person to said county board of elections.

Provided, however, that any elector, spouse of the elector, or dependent of the elector, designated in groups (4) and (5) as qualified to vote by absentee ballot, shall be required to include on the form of declaration a supporting declaration 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 and is unable to sign his declaration because of illness or physical disability shall be excused from signing, upon making a declaration, 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)

If any 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 if any such elec-

tor shall have recovered from his illness or physical disability sufficiently to permit him to present himself at the proper polling place for the purpose of casting his ballot, such absentee ballot cast by such elector shall be declared void.

Any such elector 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 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.

.....
(Signature of Elector)

.....
(Date)

.....
(Local Judge of Elections)

An elector who has received an absentee ballot under the emergency application provision, 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.

Assistance in Voting by Certain Electors

Any elector designated in group (6) and qualified to vote an official absentee ballot 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 acknowledgment of deeds. Such statement shall be in substantially the following form:

**Statement of Absentee Elector
Requiring Assistance**

I hereby
(Name of voter requiring assistance)

state that I require assistance in marking the official absentee ballot that will be issued to me for the primary or election to be held

....., 19.....,
(Date)

for the following reason:

.....
(Insert nature of disability)

.....
(Signature or mark of elector)

.....
(Date of signature or mark)

Commonwealth of Pennsylvania }
County of } ss

On this day of 19.....

before me the undersigned officer personally appeared

..... known to me (or satisfactorily proven) to be the person whose signature or mark appears on the within instrument and acknowledged 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 is required to fill out, date and sign the declaration in the form as set forth below. Such declaration form shall be returned to the county board of elections in the mailing envelope addressed to the county board of elections, within which the small "official absentee ballot" is returned.

Declaration of Person Rendering Assistance

I an
(Name of Person rendering assistance)

adult person 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)

Certain Electors Voting Absentee Ballots in Districts of Residence

Whenever any qualified elector in actual military service is present in his voting district of residence on any primary, special, municipal or general election day and has not already voted in such election, he may apply in person at the office of the county board of elections of the county of his residence and he shall then and there execute his application for an official absentee ballot.

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 boards 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 forth under section "Approval of Application for Absentee Ballot." 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".

Upon receiving an official absentee ballot and envelopes therefor he shall in secret in the office of the county board of elections vote the ballot and execute the declaration as prescribed. The elector shall then securely seal the second envelope and hand it to the chief clerk of the county board of elections, who shall securely keep same until the county board meets to canvass official absentee ballots.

Canvassing of Official Absentee Ballots

The county boards of elections, upon receipt of official absentee ballots in such envelopes, shall safely keep the same in sealed or locked containers until they distribute same to the appropriate local election districts in a manner prescribed by the Secretary of the Commonwealth.

The county board of elections shall then distribute the absentee ballots, unopened, to the absentee voter's respective election district concurrently with the distribution of the other election supplies. Absentee ballots shall be canvassed immediately and continuously without interruption until completed after the close of the polls on the day of the election in each election district. The results of the canvass of the absentee ballots shall then be included in and returned to the county board with the returns of that district. No absentee ballot shall be counted which is received in the office of the county board of election later than 5 o'clock P.M. on the Friday immediately preceding the primary or November election except for the presidential ballots, which will be accepted up

until the closing of the polls on election day. Watchers shall be permitted to be present when the envelopes containing official ballots are opened and when such ballots are counted and recorded.

Whenever it shall appear by due proof that any absentee elector who has returned his ballot in accordance with the provisions of law 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.

At such time the local election board shall then further examine the declaration on each envelope not so set aside and shall compare the information thereon with that contained in the "Registered Absentee Voters File," the absentee voters' list and the "Military Veterans and Emergency Civilians Absentee Voters File." If the local election board is satisfied that the declaration is sufficient, and the information contained in the "Registered Absentee Voters File," the absentee voters' list and the "Military Veterans and Emergency Civilians Absentee Voters File," verifies his right to vote, the local election board shall announce the name of the elector and shall give any watcher present an opportunity to challenge any absentee elector upon the ground or grounds (1) that the absentee elector is not a qualified elector; or (2) that the absentee elector was within the county of his residence on the day of the primary or election during the period the polls were open, except where he was in military service or except in the case where his ballot was obtained for the reason that he was unable to appear personally at the polling place because of illness or physical disability; or (3) that the absentee elector was able to appear personally at the polling place on the day of the primary or election during the period the polls were open in the case his ballot was obtained for the reason that he was unable to appear personally at the polling place because of illness or physical disability. Upon challenge of any absentee elector, as set forth herein, the local election board shall mark "challenged" on the envelope, together with the reason or reasons therefor, and the

same shall be set aside for return to the county board, unopened, pending decision by the county board, and shall not be counted. All absentee ballots not challenged for any of the reasons provided herein shall be counted and included with the general return of paper ballots or voting machines, as the case may be as follows. Thereupon, the local election board shall open the envelope of every unchallenged absentee elector in such a manner as not to destroy the declaration executed thereon. All of such envelopes on which are printed, stamped or endorsed the words "Official Absentee Ballot" shall be placed in one or more depositories at one time and said depository or depositories well shaken and the envelopes mixed before any envelope is taken therefrom. If any of these envelopes shall contain any extraneous marks or identifying symbols other than the words "Official Absentee Ballot," the envelopes and the ballots contained therein shall be set aside and declared void. The local election board shall then break the seals of such envelopes, remove the ballots and record the votes in the same manner as district election officers are required to record votes. With respect to the challenged ballots, they shall be returned to the county board with the returns of the local election district where they shall be placed, unopened, in a secure, safe and sealed container in the custody of the county board until it shall fix a time and place for a formal hearing of all such challenges and notice shall be given where possible to all absentee electors thus challenged and to every attorney, watcher or candidate who made such challenge. The time for the hearing shall not be later than seven (7) days after the date of said challenge. On the day fixed for said hearing, the county board shall proceed without delay to hear said challenge 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 challenges 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.

Any person challenging an application for an absentee ballot or an absentee ballot for any of the reasons provided shall deposit the sum of ten dollars (\$10.00) in cash with the local election board. In cases of challenges made to the local election board and with the county board in cases of challenges made to the county board for which he shall be issued a receipt for each challenge made, which sum shall only be refunded if the challenge is sustained or if the challenge is withdrawn within five (5) days after the primary or election. If the challenge is dismissed by any lawful order, then the deposit shall be forfeited. All deposit money received by the local election board shall be turned over to the county board simultaneously with the return of the challenged ballots. The county board shall deposit all deposit money in the general fund of the county.

Notice of the requirements for persons who have obtained an absentee ballot and find themselves able to go to the polls on the primary or election day (set forth in "Voting by Absentee Electors") shall be printed on the envelope for the absentee ballot.

Public Records

All official absentee ballots, files, applications for such ballots, and envelopes on which the executed declarations appear, and all information and lists, are 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 Defense Department because of military security.

Violations of Provisions Relating to Absentee Electors' Ballots

If any person shall sign an application for absentee ballot or declaration of elector on the forms prescribed, knowing any matter declared therein to be false, or shall vote any ballot other than one properly issued to him, or vote or attempt to vote more than once in any election for which an absentee ballot shall have been issued to him, or shall violate any other provisions of the laws relating to absentee voting, 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, 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 the laws relating to absentee voting, or shall reveal or divulge any of the details of any ballot cast in accordance with the provisions of law, or shall count an absentee ballot knowing the same to be contrary to the provisions of law, or shall reject an absentee ballot without reason to believe that the same is contrary to the provisions of law, 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.

* Article XIII, Pennsylvania Election Code; 1937, P.L. 1333 (Purdon's Pennsylvania Statutes Annotated, Title 25).

Conduct of Elections

When Elections Are Held*

1. The "General Election" is the election which is held in all even-numbered years on the Tuesday following the first Monday of November.

2. The "Municipal Election" is the election which is held in all odd-numbered years on the Tuesday following the first Monday of November.

3. The "Primary Election" is the election held on the third Tuesday of May in all years, except in presidential years, when it is held on the fourth Tuesday of April.

Voting Hours**

At all primaries and elections the polls shall be opened at 7 o'clock A.M. Prevailing Time, and shall remain open continuously until 8 o'clock P.M. Prevailing Time. All persons standing in line at the time the polls close must be permitted to vote.

Election Officers***

The election board in every district consists of a judge of election and (2) inspectors of election. They are elected at Municipal elections and serve for a term of four years, beginning the first Monday of January following their election. In paper ballot districts each inspector shall appoint one clerk to serve at the election. In voting-machine districts one clerk shall be appointed by the minority inspector to serve at the election. In addition thereto, in each district in which more than one voting machine is used, the county board of elections shall appoint a voting machine inspector for each additional machine to be used in such district.

Each elector may vote for one inspector and the majority inspector in any district is the one who received the highest number of votes at the election. The minority inspector is the one who received the second highest number of votes at the election.

Preliminary Duties**

All election officers are required to be at the polling place at least thirty (30) minutes before 7 o'clock A.M., so that the board may organize and take care of the preliminary details. The

election officers shall thereupon in the presence of each other take and subscribe in duplicate to the respective oaths of office as required by law. The minority inspector or a magistrate, alderman or justice of the peace shall administer the oath of office to the judge of election, who then shall administer the oath to the inspectors, clerks and machine inspectors. The oaths must be signed in duplicate by the persons so sworn at the time the board is being organized and before the electors are permitted to vote and must be attested by the officer who administered the oath. Any election officer who shall act as such without first being duly sworn, or any judge or minority inspector who refuses or fails to administer an oath in the manner required, shall be guilty of a misdemeanor and subject to a fine and imprisonment.

Filling Vacancies on Election Boards**

If a vacancy occurs on an election board prior to the date of any primary or election, it shall be filled by appointment by the Court of Common Pleas of the proper county. In the case of such an appointment by the Court the person so appointed shall serve for the unexpired term of the person so succeeded.

Vacancies on election boards occurring on election day shall be filled as follows:

1. If any judge of election shall not appear at the polling place by 7 o'clock A.M., the majority inspector shall appoint a judge who is qualified to act;
2. If any majority inspector shall not appear at said hour, the judge of election shall appoint as majority inspector a person who is qualified to act;
3. If any minority inspector shall not appear at said hour, the person who received the second highest vote for judge of election at the preceding municipal election shall serve as minority inspector, if available and if qualified. If such person is not available or not qualified, the electors of the district then present shall, under the supervision of the judge of election, elect one of their number who is qualified to fill the vacancy;
4. If any clerk shall not appear at said hour, the inspector who appointed the clerk shall

appoint a qualified person to fill the vacancy;

5. If any machine inspector shall not appear at said time, the judge of election shall notify the county board of elections, who shall immediately appoint a qualified machine inspector to fill the vacancy;
6. If, for any reason any vacancy shall not have been filled by 7:30 A.M., the qualified electors of the district then present shall elect a qualified person or persons to fill such vacancies.

Any person elected or appointed at the polling place to fill a vacancy on the day of an election shall serve **ONLY FOR THAT ELECTION**. He does not serve for the unexpired term of the previously elected officer whose vacancy he is filling.

(NOTE: In Counties of the Third Class, the Court of Common Pleas may appoint additional clerks at the polling places where needed, if requested to do so by the county board of elections. In all such cases a clerk from **EACH** of the two political parties must be appointed.)

Qualifications of Election Officers***

Election officers shall be qualified, registered electors of the district in which they are elected or appointed. No person shall be qualified to serve as an election officer who shall hold, or shall within two months have held, any office, appointment or employment in or under the Government of the United States or of this State, or of any city, county, borough, township, incorporated town, school district, poor district or of any municipal board, commission or trust in any city, save only justices of the peace and aldermen, notaries public and persons in the militia service of the State; nor shall any election officer be eligible to any civil office to be voted for at a primary or election at which he shall serve, except that of an election officer.

Organizing the Board**

After the election board has been sworn, the ballot box which has been delivered to them shall be opened, and all ballots and other papers which may be found therein shall be destroyed. Then the ballot box shall be locked securely and not, under any circumstances, be opened again until after the polls are closed.

One card of instructions and one card of penalties shall be posted in each voting booth, and three or more cards of instructions and penalties and five or more specimen ballots shall be posted in the voting room outside the guard rail (at primaries at least five specimen ballots of each party shall be posted). Cards of instructions, penalties, and specimen ballots shall be distributed to any electors who request them, as long as the supply lasts.

The instructions and penalties should be read carefully by the election board, who also should see that each booth is properly curtained and supplied with a pencil, indelible pencil or ball point pen.

The election officers shall publicly open the packages containing the ballots and supplies. If there is any shortage the county board of elections should be notified immediately. Among other contents will be blank voters' certificates with the district registers containing the permanent registration cards.

THE VOTERS' CERTIFICATES ARE TO BE HANDLED BY ELECTION OFFICERS ONLY. NO OTHER PERSON SHOULD BE PERMITTED TO HANDLE OR DISTRIBUTE VOTERS' CERTIFICATES. THE ELECTION OFFICERS WILL BE HELD RESPONSIBLE FOR ALL VOTERS' CERTIFICATES WHICH HAVE BEEN DELIVERED TO THEM.

Without any exception, ALL certificates must be returned to the county election board with the district register.

Assignment of Duties of the Board**

The judge of election shall assign the duties of the election board.

He shall designate one of the inspectors to take charge of the district register and to make the required entries therein. In paper ballot districts the other inspector shall have charge of the receipt and deposit of ballots in the ballot box, the judge or one of the clerks shall issue the ballots to electors after they are found entitled to vote, and the other clerk shall have charge of the voters' certificates and shall file them as they are received and approved.

In districts in which voting machines are

used, the other inspector or clerk shall have charge of the voters' certificates, and the judge shall have special charge of the operation of the voting machine. However, the judge may make other arrangements for the division of the duties imposed on the election board, so long as each election officer and clerk is assigned some specific duty to perform. If more than one voting machine is used, the judge shall assign one machine inspector to have charge of the operation of each machine. The judge shall assign two members of the election board or clerks to keep two numbered lists of voters during the progress of the voting.

Any election officer, clerk or machine inspector may be assigned by the judge of election to assist another officer, clerk or machine inspector in the performance of his duties, or to perform them for him during his temporary absence or disability.

IF AT ANY STAGE OF THE ELECTION THE OFFICERS ARE IN DOUBT AS TO ANY QUESTION OF LAW OR PROCEDURE, THEY SHOULD CALL THE COUNTY ELECTION BOARD OR DEPARTMENT OF STATE, BUREAU OF ELECTIONS IN HARRISBURG, AT ONCE.

Voting Regulations**

Until the polls are closed, no person shall be allowed in the polling place outside of the enclosed space at any primary or election, except the watchers, voters (not exceeding ten at any one time) who are awaiting their turn to vote, and peace officers, when necessary for the preservation of the peace. No elector shall be allowed to occupy a voting compartment or voting machine booth already occupied by another, except when giving assistance as provided by law.

Not more than twice as many electors waiting to vote as there are voting compartments in use in the district shall be admitted within the enclosed space at any one time. Thus, if there are five voting booths, ten persons may be inside the enclosed space awaiting their turn to vote; if there are six booths, twelve persons, etc. Of course, no elector shall be permitted to enter inside the enclosed space until he shall be found to be entitled to vote.

An elector, except an election officer, clerk, machine inspector or overseer, shall not be allowed to re-enter the enclosed space after he has once left it, except to give assistance as provided by law.

A person, when within the polling place, may not electioneer or solicit votes for any political party, political body, or candidate. Written or printed matter may not be put up within the polling place, except as required by law.

All persons, except election officers, clerks, machine inspectors, overseers, watchers, persons in the course of voting, persons lawfully giving assistance to voters, and peace and police officers, when permitted by law, must remain at least ten (10) feet distant from the polling place during the progress of the voting.

When the hour for closing the polls arrives, all electors who have already qualified and are inside the enclosed space, must be permitted to vote; and, in addition thereto, all those qualified electors who are in the polling place outside the enclosed space, waiting to vote, and all those voters who are in line either inside or outside of the polling place waiting to vote must be permitted to do so if found qualified, but no other person shall be permitted to vote.

It is the duty of the judge of election to secure the observance of these regulations, to keep order in the voting room, and to see that no more persons are admitted within the enclosed space than are permitted by law. The judge of election may call upon any constable, deputy constable, police officer, or other peace officer, to aid him in the performance of these duties.

Manner of Applying to Vote**

A person shall not be permitted to vote unless a registration card bearing his name appears on the district register, except by an order of the Court of Common Pleas, directing the board to permit a person to vote. Such order of Court must be obeyed.

(NOTE: The following persons may petition the Court of Common Pleas for an order of reinstatement during the period the polls are open on the day of any primary or election (except in Philadelphia):

Persons who were duly registered in the county but unavoidably failed to file a re-

moval notice or reinstatement card; persons needing assistance in voting who unavoidably failed to make application within the time prescribed by law; veterans who were discharged from service in the armed forces too late to register.

Any commissioner, chief clerk, registrar or clerk may also file a petition setting forth that a particular voter has been denied the right to vote by reason of an error by the registration commission.)

An elector who desires to vote shall announce his name distinctly and audibly to the election board. He shall sign a voter's certificate, giving his residence, and hand the same to the election officer in charge of the district register. The officer locates the elector's registration card and compares the elector's signature on the certificate with his signature on the registration card. If the signature on the voter's certificate appears to be genuine, the elector is then permitted to vote. If the signature does not appear to be genuine, the elector should be challenged as to identity, and before being permitted to vote, he must produce evidence and make a supporting affidavit attesting his identity. After the elector is found qualified, the officers having charge of the numbered lists of voters enter the name of the voter, and at primaries a letter or abbreviation designating the party in whose primary the elector votes. The officer having charge of the district register enters on the reverse side of the registration card of each voter, in the columns provided for the purpose, the date of the election or primary, the number of the stub of the ballot issued to him, and at primaries a letter or abbreviation designating the party in whose primary the elector votes, and the initials of the election officer having charge of the district register, in the column provided for that purpose.

(NOTE: When special elections for public officers or on referendum questions are held in conjunction with a primary, all duly qualified voters who are registered and enrolled as other than members of duly recognized statewide political parties are entitled to vote on such offices and questions, even though they may not vote in a party primary. It is the responsibility of county boards of elections to provide separate paper ballots for this purpose in counties which use

paper ballots, and also in counties which use voting machines if they are unable to lock all party primary rows simultaneously.)

A person who applies to vote shall not be permitted by an election officer to see the signatures recorded as his in the district register until after he shall have signed his name to the voter's certificate.

The officer having charge of the voter's certificate must insert the information required on each certificate and sign his name or initials; and if the elector's signature on said certificate is not readily legible, the election officer must print the elector's name on the certificate over the signature. If, because of disability, the elector was unable to sign his registration card and is unable to sign a voter's certificate, he must establish his identity to the satisfaction of the board, and one of the election officers shall prepare a certificate for him, upon which the facts as to such disability shall be noted and attested by the signature of such election officer.

It is a criminal offense to fail to record correctly the voting information given by each voter on the voter's certificate and on the reverse side of his registration card. This information must be given in detail for every voter.

Voting by Paper Ballot**

After an elector has been found qualified, he shall be given a ballot and permitted to enter the voting booth. After marking his ballot, he shall refold it before leaving the booth, and exhibit the number on his ballot to the judge or one of the inspectors. If it is the same number as was issued to him, he shall be authorized to remove the stub and deposit the ballot in the box.

Be certain that no ballot is deposited in the ballot box with the number stub attached. Such ballot is completely void and must not be counted.

Voting by Machine**

Where voting machines are used, the election officers may instruct each elector before he enters the machine booth in the operation of the machine, and shall give the elector opportunity personally to operate the model. In election districts using full scale models listing the actual ballot labels for the primary or election

as the case may be, any elector who desires a demonstration on such full-size scale model shall have the right to select any registered elector who is legally entitled to be inside the polling place under the provisions of this act to give such elector a demonstration. If any elector, after entering the machine booth and before closing it, asks for further instructions, any election officer may give him such instructions, and shall then retire before the elector closes the booth or votes. The election officer may not suggest or request that the elector vote for any particular ticket or candidate, or for or against any particular question.

At primary elections, before an elector is admitted to the machine booth, the machine shall be adjusted by the election officer in charge of it, so that the elector will only be able to vote for the candidates of the party in which he is registered and enrolled.

At primaries, the elector votes for candidates individually, by operating the handle adjacent to which the name of such candidate is placed.

At Municipal or General Elections, the elector may similarly vote for candidates individually, or he may vote a straight political party ticket in one operation by operating the separate straight political party lever if the machine has such lever.

To vote for any person whose name does not appear upon the voting machine as a candidate, the elector should ask an election official for instructions.

As soon as the elector has adjusted the voting machine so that it will record his vote for candidates and on the various questions submitted, he shall operate the recording mechanism and forthwith leave the booth.

IN PARTISAN PRIMARIES NO PERSON IS ENTITLED TO VOTE AS A MEMBER OF ANY PARTY UNLESS HE IS REGISTERED AND ENROLLED IN THE DISTRICT REGISTER AS A MEMBER OF SUCH PARTY. THIS ENROLLMENT IS CONCLUSIVE AS TO HIS PARTY MEMBERSHIP AND IS NOT SUBJECT TO CHALLENGE.

Challenge of Voters**

A challenge is the test of a person's right to vote. A person is not entitled to vote at any

primary or election unless his registration card appears in the district register. However, even though his registration card is in the district register, any person may be challenged by any qualified elector, election officer, overseer or watcher, as to his identity, as to his continued residence in the election district, as to any alleged violation of the law pertaining to the signing of the voter's certificate or as to any alleged violation of the law prohibiting bribery at elections. If an elector is challenged as to identity or residence, he must produce at least one qualified elector of the election district as a witness who shall make affidavit of the elector's identity or continued residence in the election district. If challenged as to any violation of the law pertaining to the signing of a voter's certificate, or the law prohibiting bribery at elections, the elector shall not be permitted to vote until he shall have made a written affidavit, on the forms provided, that the matter of the challenge is untrue.

The inspectors of election shall investigate and pass upon the qualifications of all persons claiming the right to vote at any primary or election, and if the inspectors shall disagree upon the right of any person to vote, the judge of election shall decide the question. If the judge is unable to decide, then the overseers of election, if they be agreed, shall decide the question.

Overseers***

On petition for cause of five or more duly registered electors of any election district, it is the duty of the Court of Common Pleas to appoint two electors of the said district each of a different political party, as overseers of election to supervise the proceedings and to make report of same to the Court.

Overseers shall be sworn or affirmed by the judge of elections to the faithful discharge of their duties, and they must sign the oath in duplicate. They shall have the right to be present inside the enclosed space during the entire proceedings, including the counting of votes and making out of returns. They may keep a list of voters, may challenge any voter and interrogate him and his witnesses under oath on his right to vote. Whenever the members of the election

board differ in opinion and the overseers are agreed, the overseers decide the question.

Overseers are required to sign the election returns of the district, or to write thereon the reasons for refusal to sign, and should immediately report to the Court any fraud of which they have knowledge.

Any person interfering with the carrying out of the lawful performance of the duties of the overseers is subject to the penalties provided by law.

Watchers***

Each candidate at any primary is entitled to appoint two watchers in each election district in which he is voted for. Each political party and each political body which has nominated candidates shall be entitled to appoint three watchers, at any general, municipal or special election in each election district in which its candidates are to be voted for.

All watchers must be qualified registered electors of the district in which they are authorized to act.

Only one watcher for each candidate at primaries, or for each party or political body at general, municipal or special elections, shall be allowed to remain in the polling place at any one time prior to the closing of the polls. All watchers must remain outside the enclosed space. After the closing of the polls, and while the ballots are being counted or voting machines canvassed, all watchers are permitted to be in the polling place outside the guard rail. Each watcher shall be provided with a certificate from the county board of elections, stating his name and the name of the candidate, party, or political body he represents and is required to show his certificate when requested to do so. Watchers are permitted to keep a list of voters and are entitled to challenge any person making application to vote.

Act No. 453 of 1963 further amends the law concerning watchers to provide that watchers may be appointed to serve in an election district other than the district of residence, provided that they are residents of the same municipality (city, borough or township) in which the district where they are authorized to act is located. Watchers so appointed can ONLY be appointed on petition to the proper Court of Common

Pleas. The petition must show that the watcher to be appointed is a qualified voter of the municipality in which the district is located and that he is a law-abiding citizen of good repute. The Court shall consider ALL factors relevant to the petition before granting or refusing it.

No candidate or committee of a political party or political body, nor any other person, shall pay a watcher more than twenty (\$20.00) dollars per diem.

It is a criminal offense for any person, by violence or intimidation, to threaten or drive away or to prevent from doing his duty, any watcher who is legally permitted to be present at any polling place.

Police Officers**

A police officer in commission, whether in uniform or in citizen's clothes is not permitted to be within one hundred (100) feet of any polling place during the conduct of any primary or election, except in the exercise of his privilege of voting, or for the purpose of serving warrants or unless called upon by the election officer to preserve the peace.

Assistance in Voting**

A voter shall not be permitted to receive any assistance in voting at any primary or election, unless there is recorded upon his registration card his declaration that, because of illiteracy, he is unable to read the names on the ballot or on the voting machine labels, or that he has a physical disability which renders him unable to see or to mark the ballot or operate the voting machine, or to enter the voting compartment or voting machine booth without assistance. The exact nature of such disability must be recorded on his registration card, and the election officers must be satisfied that at the time of the election he still suffers from the same disability. Before he shall be permitted to receive assistance, such voter shall state distinctly and audibly under oath or affirmation, which shall be administered to him by the judge of election, the reason why he requires assistance.

Any elector who is entitled to receive assistance in voting shall be permitted by the judge of election to select a registered elector of the election district to enter the voting compartment

or voting machine booth with him to assist him in voting, such assistance to be rendered inside the voting compartment or voting machine booth.

In every case of assistance, the judge of election shall forthwith enter in writing a book to be furnished by the county board of elections, to be known as the "Record of Assisted Voters": (1) the voter's name; (2) a statement of the facts which entitle him to receive assistance; and (3) the name of the person furnishing the assistance. The Record of Assisted Voters shall be returned by the judge of election to the county board of elections with the other papers, as hereinafter specified.

An elector who unlawfully receives assistance, or any election officer who shall be guilty of permitting unlawful assistance in voting, shall be guilty of a misdemeanor, and shall be subject to a fine not to exceed \$1,000 or imprisonment of not more than one (1) year, or both.

Violation of Secrecy in Voting—Penalties†

SECRECY IN VOTING MUST BE MAINTAINED AT ALL TIMES. It is a criminal offense for any person to unfold or pry into any other person's ballot before such ballot is deposited in the ballot box, for the purpose of discovering the manner in which said ballot has been marked. It is also a criminal offense for an elector to allow any other person to see his ballot or the face of the voting machine voted by him, or to cast or attempt to cast any other than the official ballot which has been given him by the election officer. It is also an offense for any elector to permit another person to accompany him into the voting compartment or voting machine booth or to mark his ballot or prepare the voting machine for him, unless he has complied with the requirements of the law as to assistance, and unless the disability which he declared at the time of registration still exists. It is also an offense for a person to state falsely that he is unable, because of illiteracy, to read the names on the ballot, or that he is unable to mark the ballot by reason of physical disability. It is also an offense for any person to be present in the voting booth while another person is voting, or to mark the ballot of another person, except in strict accordance with the provisions

pertaining to assistance, or for any person giving assistance to attempt to influence the vote of the elector he is assisting, or to mark a ballot in any way other than that requested by the voter whom he is assisting, or to disclose to anyone the contents of any ballot which has been marked with his assistance, except when required to do so in a legal proceeding.

A PERSON OTHER THAN AN ELECTION OFFICER OR CLERK SHALL NOT REMOVE ANY BALLOT FROM ANY BOOK OF OFFICIAL BALLOTS. It is unlawful to remove more than one ballot from a ballot book at any one time. If a voter spoils a ballot, he may return it to the election officer to be marked "spoiled," whereupon he is entitled to receive another ballot. In such case, the election officer must be sure to change the ballot number recorded as the voter's in the district register and on the voter's certificate.

Time Allowed to Vote**

An elector may not remain in the voting compartment an unreasonable length of time, and, in **NO EVENT, FOR MORE THAN THREE (3) MINUTES.** If a voter refuses to leave the booth after three minutes, he shall be removed by the election officers. However, an elector may be granted a longer time to vote if other electors are not waiting to do so.

Closing the Polls**

The judge of election must close the polling place promptly at 8 o'clock P. M. Prevailing Time. All persons standing in line at the time the polls close must be permitted to vote.

After the polls are closed the only persons permitted in the polling place while the votes are being counted are the following: judge of election, inspectors, clerks, overseers, watchers, and peace officers. Watchers and peace officers must remain outside the enclosed space unless it is necessary to enter to preserve the peace.

(See also Voting Regulations, page 94.)

Processing Absentee Ballots††

Act No. 375 of 1968 provides that the county boards of election shall distribute the absentee ballots to the appropriate local election districts in a manner prescribed by the Secretary of the Commonwealth.

Since there are 67 counties to consider and approximately 67 different problems relating to this procedure, the following general procedures shall prevail for the primary and election. The county board of election shall distribute the absentee ballots to the election district officers in the following priority: to the Judge of Elections; if not available, to the Majority Inspector; if not available, to the Minority Inspector. The method of distribution shall be such as to insure accountability for the ballots, to insure that the ballots are received by the election board, and to insure that the election board is adequately informed in processing the absentee ballots.

We offer the following suggestions:

That the local election districts be informed that not all of the ballots that have been mailed to electors and whose names appear on the absentee electors list posted in the polling place are likely to be returned, so that even though a person's name appears on the absentee electors list, his ballot may not have been used or returned for counting.

That where no ballots have been issued to electors in a particular district, the local election district officers be so informed.

Military voters need not be registered, and in counting this type of ballot, the local election district officers will not find a registration card or temporary registration card in the district binder.

It is suggested that the county board of election screen the return envelopes for the proper affidavits prior to the distribution to the local boards. We suggest you do not send questionable balloting material to the local boards.

The absentee voting law provides that "absentee ballots shall be canvassed immediately and continuously without interruption until completed after the close of the polls." Therefore, before opening the ballot box, or in districts where voting machines are used before taking the count from the voting machine, the absentee ballots must be counted. The local election board shall proceed as follows:

1. Void the absentee ballot of any elector who had appeared at the polling place in person, signed the affidavit on his temporary registration card and voted on the voting machine.

Mark such ballot envelope "VOID" and return it with election returns.

2. Void the absentee ballot of any elector who has died prior to the opening of the polls. Mark such ballot envelope "VOID—DECEASED" and return it with election returns.

3. Check the registration cards of all other absentee voters to make sure that they have not already voted at the polling place. If the election board finds that the absentee voter has already voted (i.e., voting information is recorded on his registration card, name appears on the numbered list of voters and a signed voter's certificate is on file) and such voter did not identify himself as an absentee voter at the time he voted on the voting machine, and did not sign the affidavit on his temporary (green/other color) registration card, mark such ballot envelope "CANCELLED" and return it with election returns.

4. Check the absentee voters' list furnished by the bureau of elections to make sure that the names of the absentee voters whose ballots you are about to tally appear on such list. If the name does not appear, call the county bureau of elections immediately. Make certain that you cross out the names of the absentee voters whose ballots you have "voided" or "cancelled."

5. Compare the signature of the absentee voter on his absentee ballot envelope with the signature on his registration card to assure sufficient identity of voter. If the voter was unable to sign, his mark, together with the signature and address of a witness, should appear on the affidavit on the back of the absentee ballot envelope.

6. If satisfied that the absentee ballot declaration is sufficient to verify the absentee elector's right to vote, then announce the name of such voter in order to give any watcher present the opportunity to challenge.

Challenges may be made on the grounds that the absentee voter is not a qualified elector of the election district; or the absentee voter (who has claimed necessary absence) was in fact within the county of residence during the time the polls were open (military excepted); or the absentee voter (who has claimed illness or physical disability) was in fact physically able to come to the polls.

A deposit of ten dollars (\$10.00) in cash for each absentee ballot challenged must be submitted by the challenger. Challenger shall be given a deposit receipt. Any ballot so challenged shall be marked "CHALLENGED," a carbon copy of the deposit receipt shall be attached, together with the challenge affidavit, and shall be returned to the county bureau of elections in the proper envelope along with the election returns. Within seven (7) days after the date of the challenge, hearings will be held. The deposit will be refunded if the challenge is withdrawn within five (5) days, or if the challenge is sustained; otherwise, deposit will be forfeited.

7. After announcing the name of the absentee voter, and hearing no challenge, the envelope is then opened in such manner as not to destroy the declaration thereon. The inside envelope marked "official absentee ballot" shall then be extracted and left unopened. When all the inside envelopes have been extracted, they shall be shuffled together to avoid identification. If any of these "official absentee ballot" envelopes are unsealed or contain any extraneous matter or identifying symbols other than the words "official absentee ballot," the envelopes and the ballots are to be set aside, marked "VOID" and returned to the county board of elections with the election returns. (If assistance is received in voting the absentee ballot, the assistance affidavit ONLY should be enclosed, but outside the absentee ballot envelope.)

8. The valid official absentee ballot envelopes are then opened, the ballots removed and tallied, and the results entered under the candidates' names on the return sheets provided by the Bureau of Elections.

Counting the Vote—Paper Ballots**

Before any ballot box is opened, the number of ballots issued to electors (at primaries, the number issued to the electors of each party), as shown by the stubs, and the number of ballots (at primaries, the number of ballots of each party) spoiled and returned by voters and cancelled, must be announced to all present in the voting room, and entered on the general return sheets. The election officers must then compare the number of electors voting, as shown by the ballot stubs, with the number of names marked

as voting in the district register, the voters' certificates, and the numbered lists of voters, and must announce the result and enter on the return sheets the number of electors who have voted. If any differences exist, they shall be reconciled, if possible, otherwise they shall be noted on the return sheets. Then the district register, the voters' certificates, the numbered lists of voters and the stubs of all used ballots, together with all unused ballots, and all spoiled and cancelled ballots, and all rejected voters' certificates, shall be placed in separate containers which are provided, which shall be sealed.

(Note to Election Officers:—The supply box will contain all the necessary envelopes and containers for returning the different papers. Read the instructions on the envelopes and be sure that each item is placed in the proper envelope or container.)

The ballot boxes shall then be opened and all ballots taken out (and at primaries separated according to political parties). The ballots shall then be counted one by one, and a record made of the total number cast (and at primaries of the total number cast for each party). Then the judge, under the scrutiny of the minority inspector (or the minority inspector under the scrutiny of the judge), in the presence of the other officer, clerks and overseers, and within the hearing and sight of the watchers, shall read aloud the names of the candidates marked or inserted on each ballot (at primaries the ballots of each party being read in sequence), together with the office for which the person is a candidate, and he answers to any questions submitted. The majority inspector and clerks shall carefully enter each vote as read, and keep account of the same in ink on triplicate tally papers (triplicate tally papers for each party at primaries), all three of which shall be made at the same time. Ballots, after being removed from the box, shall be kept within the unobstructed view of all persons in the voting room until replaced in the box.

No person while handling the ballots shall have in his hand any pencil, pen, stamp, or other means of marking or spoiling any ballot. The election officers shall proceed to canvass and compute the votes cast, and shall not adjourn or postpone the computation until it has been fully completed.

When the vote cast for the different persons named upon the ballots and upon the questions, if any, appearing thereon, shall have been fully recorded in the tally papers and counted, the election officers shall duly certify to the number of votes cast for each person (upon the respective party tickets at primaries), and shall prepare in ink two (2) general returns, showing, in addition to the entries made thereon as aforesaid, the total number of ballots received from the county board (the total of each party at primaries), the number of ballots cast (the number of each party at primaries), the number of ballots (of each party at primaries) declared void, and the number of ballots spoiled and cancelled, and any blank ballots cast, as well as the votes cast for each candidate. At elections, the number of votes cast for each candidate by each political party or political body of which such candidate is a nominee shall be separately stated: Provided, That the number of votes received by each set of candidates upon "straight party tickets" shall be entered opposite the names of the respective candidates in a column immediately adjoining upon the left, which column shall be of convenient width and shall be headed "number of votes received upon straight party tickets." In an immediate column to the left thereto, the number of votes received by each candidate upon all ballots other than "straight party tickets" including all ballots known as "split tickets" shall be entered, such column to be of convenient width and shall be headed "number of votes received other than upon straight party tickets." The number of votes received by each candidate as shown in the column headed "number of votes received upon straight party tickets" shall then be added, together with the number of votes received by each candidate as shown in the column headed "number of votes received other than upon straight party tickets" and thereupon, the total number of votes received by each candidate shall be entered in a column on the extreme right-hand side of the return sheets, which column shall be of convenient width and shall be headed "total number of votes."

In returning votes for persons whose names are not printed on the ballot, the election officers shall record such names EXACTLY as they

were written, stamped or applied to the ballot by sticker.

Manner of Counting Ballots**

A ballot which is so marked as to be capable of identification shall not be counted. Any ballot that is marked in blue, black or blue-black ink in fountain pen or ball point pen, in black lead pencil or indelible pencil shall be valid and counted, provided that all markings on the ballot are made by the same pen or pencil.

Any ballot marked by any other mark than a cross (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 (✓) is irregular in form. Any erasure, mutilation or defective marking of the straight party columns 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 such block, but shall not invalidate the votes cast on the remainder of the ballot, if otherwise properly marked. A ballot indicating a vote for any person whose name is not printed on the ballot, whether 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 a cross (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 that office block void. If an elector shall mark his ballot for more persons for any office than there are candidates to be voted for such office, or if for any reason it is 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 but shall be preserved with the other ballots.

At November elections, a cross (X) or check

(√) marked in the square opposite the name of a political party or political body in the party column shall be counted as a vote for every candidate of that party or body, including its candidates for presidential electors, except for those offices as to which the voter has indicated a choice for individual candidates of the same or another party or body in any office block, in which case the ballot for such office block shall be counted only for the candidates thus individually marked, notwithstanding the fact that the voter has made a mark in the party column, and even though in the case of an office for which more than one candidate is to be voted for, he has not individually marked for such office the full number of candidates for which he is entitled to vote.

Decisions concerning questionable marks on ballots, or defacing or mutilation of ballots, and the count to be recorded thereon, shall be made by the inspectors of election. If the inspectors shall disagree, the judge shall decide the question. If the judge is unable to decide, then the overseers, if they agree, shall decide the question.

Signing and Disposition of Returns, District Register and Voting Check List; Posting; Return of Ballot Boxes**

Immediately after the vote has been counted in districts in which paper ballots are used, all of the general returns shall be signed by the election officers and clerks and certified by the overseers, if any. If any election officer, clerk or overseer shall refuse to sign or certify the general returns, he shall write his reasons therefor upon the general return sheets. One of said returns shall be immediately posted for the information of the public outside the polling place, and one shall be entrusted to the judge for delivery to the county board with the package of unused ballots, etc., in an envelope provided for that purpose. The election officers shall then replace all the ballots cast, so counted and canvassed, in the ballot boxes, including those declared void, spoiled, and cancelled, together with one set of tally papers, one numbered list of voters, sealed as aforesaid, and one oath of each election officer, and lock and seal each ballot box so that nothing can be inserted therein un-

til it be opened again; and the judge and minority inspector shall immediately deliver the ballot boxes to the custody of the county board, and the county board shall not compute any returns from any election district until said ballot boxes and unused ballots are delivered. The election officers shall record the number of votes cast for each person on an official specimen ballot, shall sign the same and immediately post it outside the polling place for the information of the public.

The minority inspector shall retain one complete set of tally papers, and carefully preserve the same for a period of at least one year. The remaining tally papers, affidavits of voters and others, including oaths of election officers, and one general return sheet shall be placed in separate envelopes, to be provided for that purpose, and sealed as soon as the count is finally completed. All of such envelopes and one numbered list of voters, previously sealed as aforesaid, shall be entrusted to the judge of election to be immediately delivered to the county board.

Immediately upon completion of the count and tabulation of the votes cast, the district register and the voting check list shall be locked and sealed, and returned forthwith by the judge of election to the custody of the proper registration commission.

Counting the Vote—Voting Machines**

As soon as the polls are closed and the last voter has voted, the election officers shall immediately lock and seal the operating lever or mechanism on all machines.

The officers, clerk and overseers, if any, shall then sign a certificate for each machine stating that it has been locked against voting and sealed; stating also the number shown on the public counter, the number on the seal which has been attached, the number registered on the protective counter, and the number or other designation of the voting machine. They shall then compare the number shown on the public counter with the number of names written in the numbered lists of voters, the district register and the voting check list.

These certificates shall be returned by the judge of election to the county board with the other certificates and return sheets.

If the type of voting machine used requires the counters to be seen to canvass the vote, the election officers, in the presence of the watchers and all other persons lawfully within the polling place, shall then make them visible. If the voting machine is equipped to print paper proof sheets, the election officers shall then print enough copies (but not less than four in any case) to give one to each member of the election board overseer, candidate, watcher, representative of a newspaper, and other persons lawfully present who request same.

The judge and inspectors shall then read off distinctly the designation (number and letter) on each counter for each candidate's name, the result shown by the counter numbers, the votes recorded for each write-in candidate, and the result for and against each question voted on. (The counters shall not be read along the party columns or rows, but always along the office columns or rows, completing the canvass for each office before proceeding to the next.)

The vote shall be entered on the required number of return sheets and certified and signed in the same manner in all respects as described for canvassing paper ballots.

The vote for each machine used shall be ascertained and recorded in like manner, and a statement of the results shall immediately be posted outside the polling place and the return sheets, etc., delivered as provided by law.

Returns Open to Public Inspection†††

The general returns from the districts which have been returned unsealed shall be open to public inspection at the offices of the county boards as soon as they are received from the judges of election. None of the sealed returns delivered by the judges to the county boards shall be opened by ANY person except by order of the county board or the court of common pleas.

Compensation of Election Officers***

In all counties, the compensation of judges, inspectors, clerks and machine inspectors shall be fixed by the county board of elections of the county at not less than the following: judges of election, forty-five dollars (\$45.00); inspectors, machine operators and clerks, forty dollars (\$40.00); and not more than the following: judges of election, sixty dollars (\$60.00); inspectors and clerks, fifty-five dollars (\$55.00); and machine operators, fifty-five dollars, (\$55.00); for each primary and election. The county board of elections may, in its discretion, establish different per diem rates within the above mentioned minima and maxima based on the number of votes cast for the following groups: 150 votes or less, 151 to 500 votes, 501 to 1000 votes, over 1000 votes.

For transmitting returns of primaries and elections and the ballot box or boxes, all judges of election shall be entitled to receive the additional sum of two dollars and fifty cents (\$2.50) and, **except in counties of the first class**, shall also be entitled to receive five cents (\$.05) per mile for mileage, as full compensation for said services.

In counties of the **second class and second class A**, the county board of elections may require the minority inspector of elections to accompany the judge of elections in transmitting returns of primaries and elections, in which case the judge of elections and minority inspector of elections shall each be entitled to receive the sum of three dollars and fifty cents (\$3.50) as full compensation for said services.

For transmitting returns of primaries and elections and the ballot box or boxes in counties of the **third, fourth, fifth, sixth, seventh and eighth** classes, all judges of election shall be entitled to receive the additional sum of three dollars and fifty cents (\$3.50) as full compensation for said services.

For transmitting the ballot box or boxes together with the judge of election as herein provided, the minority inspector of election shall be entitled to an additional sum of two dollars and fifty cents (\$2.50) in counties of the **first** class, and in **all other** counties the additional sum of three dollars and fifty cents (\$3.50) as full compensation for said services.

For transmitting the ballot box or boxes together with the judge of election as herein provided in counties of the **third, fourth, fifth, sixth, seventh and eighth** classes, the minority inspector of election shall be entitled to an additional sum three dollars and fifty cents (\$3.50) as full compensation for said services.

The person furnishing transportation to the judge of election and the minority inspector in transmitting returns and ballot boxes, shall be entitled to ten cents (10¢) per mile circular from the polling place to the county courthouse. The name of such person shall appear on the voucher of the judge of election.

Note: When a primary and special election or a special and general or municipal election take place on the same day, they shall be construed as one election for the purpose of receiving compensation.

Computation of Votes and Canvassing of Returns†††

Each county board of elections shall arrange for the computation and canvassing of returns of votes cast at each primary and election at its office or at some other convenient public place at the county seat with adequate accommodations for the watchers and attorneys authorized by law to be present.

Each county board shall give at least one week's previous notice by newspaper publication in at least two and not more than three newspapers of general circulation as defined in the "Newspaper Advertising Act" of 1929, P. L. 1784, of the time and place when and where official canvass will begin. At least one of these newspapers shall represent the majority party

and at least one the minority party. The county boards shall also keep copies of such advertisement posted at their offices during that period.

The public computation and canvass shall begin at 9:00 A.M. on the Friday following the primary, municipal or general election and shall continue from day to day until completed.

Return Board Qualifications†††

If any member of a county board is a candidate for nomination or election to public office he shall not act as a member of said board for the computation of returns but the other members, if qualified, and if both are not members of the same political party, shall act.

In case there are not at least a majority of the members of said board so qualified, two or more judges of the court of common pleas shall be designated by said court to act as a return board provided that neither of them is a candidate for any nomination or election to public office. If there is only one judge of such court in such county, or if less than two judges are qualified and able to act, any judge who is qualified may act alone.

If there is no judge qualified, the following county officers in the order named, not being candidates for any nomination or election to any public office, shall act as the return board: the prothonotary, sheriff, county treasurer, clerk of the orphans' court, clerk of oyer and terminer and quarter sessions court, register of wills, and the recorder of deeds.

If none of the above officers can qualify, the president judge of the court of common pleas in such county shall make a written request to the Chief Justice of the Supreme Court of Pennsylvania for the assignment of a judge from another judicial district who shall act as the return board.

The county solicitor shall serve as counsel for the return board in each county and shall receive no additional compensation therefor in addition to his compensation as county solicitor.

* Article VI, Pennsylvania Election Code: 1937, P.L. 1333 (Purdon's Pennsylvania Statutes Annotated, Title 25).

** Ibid, Article XII

*** Ibid, Article IV

† Ibid, Article XVIII

†† Ibid, Article XIII

††† Ibid, Article XIV

PROCEDURES FOR AMENDING
THE CONSTITUTION OF PENNSYLVANIA
IN ACCORDANCE WITH THE
FOLLOWING:

Article XI

Proposal of Amendments by the General Assembly and Their Adoption

Section 1. Amendments to this Constitution may be proposed in the Senate or House of Representatives; and if the same shall be agreed to by a majority of the members elected to each House, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and the Secretary of the Commonwealth shall cause the same to be published three months before the next general election, in at least two newspapers in every county in which such newspapers shall be published; and if, in the General Assembly next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each House, the Secretary of the Commonwealth shall cause the same again to be published in the manner aforesaid; and such proposed amendment or amendments shall be submitted to the qualified electors of the State in such manner, and at such time at least three months after being so agreed to by the two Houses, as the General Assembly shall prescribe; and, if such amendment or amendments shall be approved by a majority of those voting thereon, such amendment or amendments shall become a part of the Constitution; but no amendment or amendments shall be submitted oftener than once in five years. When two or more amendments shall be submitted they shall be voted upon separately.

(a) In the event a major emergency threatens or is about to threaten the Commonwealth and if the safety or welfare of the Commonwealth requires prompt amendment of this Constitution, such amendments to this Constitution may be proposed in the Senate or House of Representatives at any regular or special session of the General Assembly, and if agreed to by at least two-thirds of the members elected to each House, a proposed amendment shall be entered on the journal of each House with the yeas and nays taken thereon and the official in charge of

statewide elections shall promptly publish such proposed amendment in at least two newspapers in every county in which such newspapers are published. Such amendment shall then be submitted to the qualified electors of the Commonwealth in such manner, and at such time, at least one month after being agreed to by both Houses as the General Assembly prescribes.

(b) If an emergency amendment is approved by a majority of the qualified electors voting thereon, it shall become part of this Constitution. When two or more emergency amendments are submitted they shall be voted on separately.

The Home Rule Charter and Optional Plans Law

On April 4, 1972 the General Assembly passed what may be for Pennsylvania municipalities the single most significant statute ever enacted in the history of the Commonwealth. Governor Milton Shapp signed the bill into law nine days later. Known as the "Home Rule Charter and Optional Plans Law," the act (No. 62 of 1972) grants to every municipality in the state the capability to organize itself in order to meet the complex demands confronting local communities. While the mass media is likely to focus on activities at the federal level, most of the services essential to daily life are performed by local government. Sewage disposal, water supply, fire prevention, crime control, and the preservation of public safety represent just some of the indispensable functions which local governments perform. Since the role they play is so vital in the everyday lives of all citizens, municipalities must have the organization and operational flexibility to perform the services expected of them in the 1970's. The Home Rule Charter and Optional Plans Law is a major step in the direction of providing municipalities with this capacity.

Note:

For Further Information Please Contact:
The Local Government Commission
633 Main Capitol Building
Harrisburg, Pa.

The Department of Community Affairs
2nd Floor South Office Building
Harrisburg, Pa.

ADDENDUM

**Major Requests, Attorney
General's Opinions, and
Directives Concerning
Elections.**

**REQUEST #1: *Residence of College Students
for Voting Purposes***

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF STATE

HARRISBURG, PA. 17120

MARCH 15, 1971

SECRETARY OF THE COMMONWEALTH

**The Honorable J. Shane Creamer
Attorney General
Main Capitol Building
Harrisburg, Pa.**

Dear Attorney General Creamer:

In view of the decision by the National Bureau of the Census, Department of Commerce, to count college students as residents of the municipality where they live during the school year, we would appreciate an opinion on the legality of registering these students to vote in the district where they live during the school year.

The U.S. Census Bureau has confirmed to this office that the 1970 Census counted college students as residents of the municipality where they live during the school year. The Bureau explained that this decision is in line with its policy of considering a person as residing wherever he spends most of the year. Since a student spends eight or nine months of the year in the municipality where his college is located, he is supporting, and is being supported by, that community rather than his parents' community.

It is our interpretation that this policy of the Census Bureau can be used to support an argument for the executive, legislative, or judicial re-examination of the Pennsylvania Election Code. Specifically, the Act of Assembly, June 3, 1937, P.L. 1333, Act #320, Section 703, providing:

For the purpose of registration and voting, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while employed in the service, either civil or military, of this

State or of the United States, nor while engaged in the navigation of the waters of the State or of the United States, or on the high seas, nor while a student of any institution of learning, nor while kept in any poorhouse or other asylum at public expense, nor while confined in public prison, except that any veteran who resides in a home for disabled and indigent soldiers and sailors, operated and maintained by the Commonwealth of Pennsylvania, and who possesses all the qualifications for voting, may gain a residence for registration and voting at the home for disabled and indigent soldiers and sailors. The provisions of this amendment shall not be construed to affect the voting rights of bedridden or hospitalized veterans who choose to vote as absentee electors by the use of veteran's official ballots.

This is in direct conflict with the official policy of the Census Bureau.

The Census Bureau policy vs. the present interpretation of P.L. 1333 could lead to the following ramifications:

A. Cities with large student populations will be over represented in the State Legislature.

The Census is used to reapportion the State Legislative and Congressional Delegation according to changing population distributions, so if students are counted as residents, but not permitted to vote, serious distortions will result. For example, the student body of Penn State University is large enough to effect that region's representation in Harrisburg. If these students can not vote in State College, Pennsylvania, the relatively small number of "permanent" residents of that town will be given a disproportionately large voice in Harrisburg.

Under the present law, the Penn State students may vote at their parents' place of residence, but under the 1970 census they have not been counted as residents there, so the number of votes cast might exceed the official adult population and these extra votes are not represented in Harrisburg. This is in direct conflict with the U.S. Supreme Court's "One Man, One Vote" decision and will lead to serious problems this year with legislative and congressional reapportionment.

B. Cities with large student populations receive more than their fair share of tax money.

Assuming that there are more out-of-town students attending Philadelphia Colleges and Universities than there are native Philadelphians attending schools elsewhere, Philadelphia could be receiving more than its fair share of tax money which is determined by population distributions. While the number of students in Philadelphia may be insignificant compared to the total population of the city, certainly this is not the case in towns like State College, Pennsylvania and Slippery Rock, Pennsylvania, as noted in the following examples:

State College is permitted to count Penn State students as residents when applying for state and Federal funds to support local schools, perhaps the students should also be permitted to help decide how the funds are to be used by voting in local elections. Centre County moved from Sixth to Fifth in County Classification as a result of the 1970 Census, with a population gain of over 20,000 residents. By this change in classification, all County Row-Officers will receive an increase in salary, the new office of Controller shall be established, along with other obvious benefits to the residents of the County. The students who by their residence in the County effected this change in classification will receive no benefits under present interpretation.

Another example has taken place in Slippery Rock, Pennsylvania, where HUD funds for housing for senior citizens were greatly reduced from the amount requested from the local officials because of the 1960 Census figures showing that the population of 2,100 residents did not justify the amount requested. The local county officials now expect the full amount of Federal funds requested to be granted due to the 1970 Census which shows a population figure of 4,900 citizens since the Bureau of the Census counted the students at Slippery Rock College as being permanent residents of the area.

C. If Students are transient residents, Student Bodies are not.

A common complaint of "permanent" residents of college towns is that students have no real interest in the area because they live there for a few years at most. A response to this

position is that while any given student will probably not be enrolled for more than four years, as long as the institution exists that student's place will be filled by someone with substantially similar interests. The student body of any college or university exists from year to year as a more or less constant entity contributing to the surrounding community financially, culturally, and intellectually. Students tutor or teach in local schools and work in local businesses. Students, therefore, could be considered not as individual transients but as a class of permanent residents who are supported by the community and who contribute to it. As such, they are effected by local political decisions and have continuing interest in the operation of the community and the state.

D. Groups of non-student transients are permitted to register and vote.

It should also be noted that several groups of non-student transient residents are permitted to vote. It is common knowledge that employees of many large corporations are regularly transferred from one office to another often after only one or two years in each location. Even within the University Community, professors and administrators frequently move from school to school. A recent survey at Brown University showed that not a single member of the administration had been at the school as long as a graduating senior, four years. Yet these transient residents are permitted to register and to vote after fulfilling the residency requirements of P.L. 1333, one year in the State and 60 days in the election district if they come from another State.

Attached please find a copy of a Statement of Intent which the Centre County Board of Elections requires students and only students to fill out. It is our feeling that this form and others like it may lean heavily against the student's constitutional rights.

We are aware that a decision rendered in behalf of students being permitted to register and to vote could be stubbornly fought in the courts by many County Boards of Elections. A negative decision, though, not permitting these students to register could lead to serious problems with regard to the validity of the Census figures being used to reapportion our

legislative and congressional delegations, Federal funds for Pennsylvania, changes in county classification, etc.

Thank you very much for your cooperation. If my office can be of any assistance to you, please contact the Deputy Secretary of the Commonwealth, Ronald J. Pettine.

Very truly yours,
C. DeLORES TUCKER,
Secretary of the Commonwealth

STATEMENT OF INTENT

It is the policy of the Centre County Board of Elections to permit students at Pennsylvania State University, or their wives to register to vote in the County of Centre, Pennsylvania, providing they can satisfactorily complete the following statement:

I, _____, do hereby affirm that I:

1. Am not in Centre County merely to be a student at the Pennsylvania State University.
2. Do hereby relinquish my residence in the County of _____, State of _____, and intend to be a permanent resident of the County of Centre, Pennsylvania.
3. Do otherwise, meet the necessary age and residency requirements of the Pennsylvania Election Code.
4. Am prepared to assume the tax obligations of a resident of the County of Centre, Pennsylvania.

I do hereby swear that the above statements are true and correct.

Signed _____

Subscribed and sworn to before me this _____

day of _____ 197 .

Note: Anyone living in a University dormitory or a fraternity house cannot intend it as a permanent address and therefore cannot register.

OPINION #1: *Residence of College Students
for Voting Purposes*

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
HARRISBURG, PA. 17120
SEPTEMBER 9, 1971

J. SHANE CREAMER
ATTORNEY GENERAL

The Honorable C. DeLores Tucker
Secretary of the Commonwealth
Department of State
308 Main Capitol
Harrisburg, Penna. 17120

Dear Secretary Tucker:

You have requested an opinion as to whether the laws of the Commonwealth of Pennsylvania permit college students attending colleges and universities in Pennsylvania to register to vote where their university or college is located.

You are advised by this opinion that, subject to certain durational residency citizenship requirements established by the Constitution of the Commonwealth of Pennsylvania, Pa. Const. Article 7, Section 1 hereinafter discussed, that college students are permitted under State law to register to vote in the locality at which they are attending a college or university.

As of 1970 there were some 390,000 students enrolled in public and private, two and four year colleges and universities located within the Commonwealth of Pennsylvania. These figures, of course, do not include those students enrolled in vocational and technical institutions. *The 1970 Pennsylvania Statistical Abstract*, pages 142-143. From the time the students are first enrolled at their college or university they are engaged in the vocation of pursuing and obtaining an academic degree or some other form of recognition by the academic community. The time the student will reside in the academic community is indefinite in that his period of

residency will extend over the time needed by the student to fulfill the requirement for his academic degree and, in that once having obtained a degree, he may seek additional academic credentials at the same institution. In addition to the student's commitment and intention to spend an indefinite period of time at the university or college of his choice, the student also establishes a number of permanent relationships (permanent in the sense that the relationship will last for an indefinite period of time), with various local institutions, businesses and persons. In most instances, students open bank accounts and charge accounts at local banks and retail establishments, enter into leases with local landlords and in many instances pay local taxes and are employed by local businessmen. Students also live in a variety of dwellings in the area of the college or university of their choice. These dwellings range from the typical on-campus dormitory to the private home owned by a married student. To all of these dwellings the students bring their personal possessions for use during the period of their studies. Students may or may not intend to return, upon termination of their studies, to their last residence prior to enrollment.

Of crucial significance also is the fact that the general elections fall on the Tuesday next following the first Monday in November, a date which comes in the middle of the first semester of the school year. Because of their studies and because no recesses or vacations are scheduled at that time students are unable to return or seriously hindered in returning, to the locality where their parents live to register and to vote. Therefore, should students be compelled to vote in the localities where their parents live, they will be forced to utilize the cumbersome procedure of the absentee ballot. The experience of electors utilizing this procedure where they are compelled to do so (e.g. servicemen stationed overseas) demonstrates that only a small percentage of the persons compelled to vote by absentee ballot exercise their franchise by this means.

The 26th Amendment to the Constitution of the United States provides:

“The right of citizens of the United States, who are 18 years of age or older, to vote

shall not be denied or abridged by the United States or by any state on account of age.”

As the report of the United States Senate regarding the 26th Amendment clearly indicates, it is the spirit and intention of this Amendment to remove any procedures which would substantially hamper or impose special burdens on persons 18 years and older in the exercise of the franchise guaranteed by this Amendment.

“Moreover, forcing young voters to undertake *special* burdens—obtaining absentee ballots or traveling to one centralized location in each city for example in order to exercise their right to vote might well serve to persuade them from participating in the election. This result and the election procedure that created are at least consistent with the purpose of the Voting Rights Act, which sought to encourage greater political participation on the part of the young; segregation might even amount to denial of their 14th Amendment right to equal protection of the laws in the exercise of the franchise.” Senate Judiciary Committee, Senate Report No. 92-96, 92nd Congress, First Session (emphasis supplied).

It is obviously a violation of the spirit of the Amendment to compel students to utilize the cumbersome, absentee ballot procedure. Secondly, it is a clear violation of the provisions of the Amendment to impose greater burdens on young people seeking to exercise their franchise than are otherwise imposed on older citizens seeking to exercise their franchise. In two cases arising in other states, *Wilkins v. Bentley*, _____ Mich. _____ (1971) and *Tabilio v. Mihaly*, _____ CA 2d _____ (1971) Courts in California and Michigan declared certain statutes imposing special burdens on young people in the exercise of their franchise unconstitutional. In the Michigan case a statute creating the presumption that a student is not a resident of the campus town where the college of his choice was located was declared unconstitutional and in the California case an Attorney General’s opinion barring unmarried persons under the age of 21 from estab-

lishing a residence for voting purposes different from their parents was held violative of California law and the United States Constitution. Attorney General's opinions which have been issued from the States of Massachusetts, Florida, Idaho, Georgia, Louisiana and Washington hold that no special barriers can be erected to the exercise of the franchise by younger citizens.

Article 7, Section 1 of the Pennsylvania Constitution establishes, among other requirements, durational residency and citizenship requirements for electors. These requirements are that the elector shall have been a citizen of the United States at least one month, he shall have resided in the State 90 days immediately preceding the election and he shall have resided in the election district for at least 60 days immediately preceding the election.*

The Election Code, 25 P.S. §2813 and §2814, establishes rules for determining residency in the Commonwealth and the election district for voting purposes.

Section 2813 of Title 25 in part provides:

“For the purpose of registration and voting, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of the absence, while employed in the service, either civil or military, of this State or of the United States . . . nor while a student of any institution of learning. . . .”

Section 2814 of Title 25 further provides:

“In determining the residence of a person desiring to register or vote the following rules shall be followed so far as they may be applicable:

* In addition to the durational residency requirements of Article 7, Section 1 requires that every citizen be 21 years of age in order to vote. As a result of ratification of the 26th Amendment to the United States Constitution this provision is no longer valid. However, invalidation of the 21 year old age requirement of Section 1, on the basis of well accepted rules of statutory construction, does not render the durational residency requirements of that Section invalid. Moreover, Act 29, 71 Session, recently enacted into law and repealing in part §2811 of the Election Code, 25 P.S. §2811, extends the franchise to persons 18 years old or older subject to the same durational citizenship and residency requirements of Article 7, Section 1.

(a) That place shall be considered the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

(b) A person shall not be considered to have lost his residence who leaves his home and goes into another state or another election district of this State for temporary purposes only, with the intention of returning.

(c) A person shall not be considered to have gained a residence in any election district of this State into which he comes for temporary purposes only, without the intention of making such election district his permanent place of abode.

(d) The place where the family of a married man or woman resides shall be considered and held to be his or her place of residence, except where the husband and wife have actually separated and live apart, in which case the place where he or she has resided for two months or more shall be considered and held to be his or her place of residence. . . .”

Two questions are raised by the foregoing statutory provisions. Firstly, do these statutory provisions by operation and court interpretation establish special categories of electors who may have the option of choosing between one of two residences for voting purposes. Secondly, do students who reside in their campus towns obtain a residence under the rules established by these provisions. The answer to the first question is critical in that if it has been certain electors have the choice of maintaining a residence for voting purposes at one of at least two locations, then Pennsylvania law has established a special category of electors for purposes of facilitating the exercise of their franchise. If such a category of voters is established under present law, serious constitutional questions are presented, if by operation of the same law, students, who occupy a similar situation are not permitted to make such a choice. The answer to the first question, in light of the constitutional questions raised, of course, bears directly on the answer to the second question.

In the case of *Newport Township Election Contest*, 384 Pa. 474, 121 A.2d 141 (1956) votes in a municipal election of State employees who lived in state owned housing facilities and who, under State law, were required to move from these facilities, upon termination of State employment were challenged. The Supreme Court of Pennsylvania, in denying the challenges held:

“A person employed by the Commonwealth may, if he sees fit, establish his domicil and gain residence at his place of employment by taking the proper and appropriate steps to do so—as these voters did.” (384 Pa. at 478, emphasis supplied)

In so ruling, the Court permitted State employees to choose between one of two residences for voting purposes, i.e., the residence where he lives during the period of his employment or the residence where he lived prior to State employment and to which he intends to return upon termination of his employment. Permitting this choice has been the practice in this State. In an Attorney General's opinion by Attorney General Margiotti, 225 A.G. Op. 1937, the predecessor provision of 25 P.S. 951—18(g) which provides that “state employees shall be registered as of the district wherein he or she shall have resided immediately prior to entering such service”, was construed to be directory and not mandatory on State employees. Such a construction meant that State employees, if they chose to register at their prior residence, were to be registered but, just as explicitly, meant that they could register at their place of employment if such was their choice.

In addition to State employees, who are permitted by operation of Pennsylvania law a choice of voter residence, Federal law appears to confer the same options on military personnel stationed at or in military installations. In *Carlington v. Rash*, 380 U.S. 89 (1965), the Supreme Court invalidated a provision of the Texas Constitution which barred servicemen from voting at their residence on or near a military installation and required them to vote at their last residence prior to entering the service. In so holding, the Court stated:

“We deal here with matters close to the core of our constitutional system. ‘The right . . .

to choose,' that this Court has been so zealous to protect, means, at the least, that States may not casually deprive a class of individuals of the vote because of some remote administrative benefit to the State. By forbidding a soldier ever to controvert the presumption of non-residence, the Texas Constitution imposes an invidious discrimination in violation of the Fourteenth Amendment. '[T]here is no indication in the Constitution that . . . occupation affords a permissible basis for distinguishing between qualified voters within the State.''' (at page 96, citations omitted)

There is also a provision of Federal Law, 50 U.S.C. 1453, which recommends that states permit military personnel to vote in the state where his or her military installation is located. The obvious result of the above cited Federal law, as with the instance of State employees, is to permit military personnel the choice of registering to vote at the place where they are serving the tour of duty or at their last residence prior to military service to which residence they intend to return after their tour of duty.

There is little distinction, if any, for voting residency purposes between State employees and military personnel on the one hand and students on the other. Each class moves to a place away from a place where he or she has customarily maintained a home. Each moves for the purpose of pursuing a vocation be it state employment, military service or studies. Each intends to remain for an indefinite period of time or, in a legal sense, "permanently"—in the case of a State employee until he or she resigns, is removed from office or there is a change of administration, in the case of military personnel until his or her tour of duty is completed, cessation of hostilities or discharge from the service, and in the case of a student until his degree requirements are fulfilled, he is terminated from enrollment or withdraws voluntarily. With regard to either the State employee, the serviceman or student, he or she may intend to return to the last residence prior to employment, military service or pursuing studies at a college or university.

As pointed out previously, to discriminate between students on the one hand and State employees and military personnel on the other by barring students the choice of one or another voting residence would violate the clear intent of the 26th Amendment and recent case law on the subject. It follows from well established tenets of statutory construction that the question of whether students meet the standards of residing set forth in Sections 2813 and 2814 of the Election Code must be decided in light of these constitutional considerations.

In construing Section 2813 of Title 25, the intent of that provision is to eliminate the factor of "presence" at an institution of learning for purposes of obtaining a residence for voting. The case of *Newport Township Election Contest, supra.*, decided this point directly. There the Pennsylvania Supreme Court stated:

"To give these provisions [Section 2813] the construction and application to facts contended for contestants [those parties claiming that the votes of the State employees were valid] would be to lead to an absurd and unreasonable result. They were not intended to nor do they, preclude establishment of a domicile where the State employee works. They mean only what they state—that their residence cannot be changed merely by reason of their employment. As stated in 29 C.J.S., Elections, Section 24, page 48, the fact, however, that a person does not gain or lose residence merely by reason of his presence or absence while in the service of the government does not preclude him from otherwise gaining a residence at the place so employed." (384 Pa. at page 478).

Having eliminated the factor of presence for purpose of a voting residence the rules for determining residence established in Section 2814 become critical. The operative language of Section 2814 is contained in clauses (a) and (b). As quoted at page 5 of this opinion, clause (a) defines voter residence as a fixed habitation to which the person intends to return whenever he is absent. The student who takes up a residence in his college town has acquired a habitation, i.e., a place where he pursues his vocation and

keeps his personal possessions. See *Lesker Case*, 377 Pa. 411, 418, 105 A. 2d 376 (1954). In view of the fact that he intends to pursue his vocation for an indefinite period of time, his habitation becomes "fixed" or "permanent" and hence by being "permanent" it is presumed that he intends to return whenever he is absent. See *Lower Oxford Contested Election*, 1 Chester Co. 253 (1875) in which the Court defined permanency as not meaning "absolute permanency" and *Parrish v. Hainlen*, 124 Col. 229, 236 P. 2d 115 (1951) where the Colorado Supreme Court defined "permanency" in terms of an indefinite period of time necessary to pursue a vocation or an objective.

Clause (b) of Section 2814, on its face may properly be applied to the situation where a student takes up residence at a college or university and intends to return to his last prior residence upon completion of his studies. This clause, preserves to the student, as is the case with State employees and military personnel, the option of maintaining a voter residence at his last prior residence.

By construing the Sections 2813 and 2814 in the foregoing manner the constitutional problems previously described are obviated. By this interpretation, a student will have the same choice of voter residence as the State employee and serviceman.

It is necessary at this point to call your attention to a very early Pennsylvania Supreme Court case, *Fry's Election Case*, 71 Pa. 302 (1872). That case involved an election contest which challenged validity of votes cast by college students at their college residence. At the time that that decision was rendered, the provisions of Section 2813 and Section 2814 of Title 25 had not been enacted. However, there was a provision of the Constitution of 1838 applicable to that case which was similar to the present 2813. As noted above, Section 2813 and, of course, the analogous earlier constitutional provision, merely state that presence in a campus town is not a factor to be considered for determining residency. At the time that the *Fry's Election Case* was decided there were, however, no rules, similar to those contained in present Section 2814, which established criteria for determining residence for voting purposes. In the

absence of such rules, the Court in *Fry's Election Case* was compelled to resort to the restrictive concept of "domicil" to determine whether the college students in that case obtained a residence for voting purposes. With constitutional changes, including ratification of the 26th Amendment, and then enactment of the statutory provision, Section 2814, since the decision in the *Fry's Election Case*, it is clear that the rules for determining residence for voting purposes are not based on the restrictive "domicil" test. Rather these rules as discussed above, are based on practical considerations of alternative means to exercise the franchise and the intention of the elector and his ties to the community in which he seeks to exercise the franchise. For the foregoing reasons we find that the decision in *Fry's Election Case* is distinguishable and does not govern present conditions.

Very truly yours,
J. SHANE CREAMER,
Attorney General

JSC/lk

**DIRECTIVE #1: *Residence of College Students
for Voting Purposes***

PENNSYLVANIA
OFFICE OF THE
SECRETARY OF THE COMMONWEALTH
HARRISBURG

SEPTEMBER 10, 1971

To: All County Boards of Election:
Reference: Enclosed Attorney General's Opinion—Registration of College Students

I am enclosing for your information a copy of an Opinion I received this date from Attorney General J. Shane Creamer which is self-explanatory. The Opinion in essence states:

“You are advised . . . that college students are permitted under State law to register to vote in the locality at which they are attending a college or university.”

As the State's Chief Election Officer, I authorize and direct you to immediately begin registering all college students in accordance with this Opinion.

Very truly yours,
C. DELORES TUCKER,
Secretary of the Commonwealth

REQUEST #2: *Extension of the Registration Deadline for College Student Registration*

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
HARRISBURG, PA. 17120

SECRETARY OF THE COMMONWEALTH

SEPTEMBER 10, 1971

The Honorable J. Shane Creamer
Attorney General
Main Capitol
Harrisburg, Pennsylvania 17120

Dear General Creamer:

Thank you very much for your opinion, construing Sections 2813 and 2814 of the Election Code, with regard to the registration of students. Because of the date when this opinion was received and the large number of students wishing to avail themselves of it, voting registrars throughout the State have been inundated with applications for registration.

Section 623-17, with regard to first class cities, and Section 951-17 with regard to the remaining political sub-divisions seem to indicate that registration should close fifty (50) days prior to an election. These sections, however reflect

other circumstances in which the registration rolls may remain open until thirty-five (35) or even thirty (30) days prior to an election. With regard to the up and coming November elections, an application of the fifty (50) day rule would require closing registration September 18, 1971.

As a practical matter, the rights of student voters, enumerated in your most recent opinion, will be "rights without remedies", if the period for registration is not extended. Accordingly, we would appreciate your opinion, with regard to the feasibility of extending for a reasonable period, the time within which students may register.

Very truly yours,
C. DELORES TUCKER,
Secretary of the Commonwealth.

OPINION #2: *Extension of the Registration Deadline for College Student Registration*

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
HARRISBURG, PA. 17120
SEPTEMBER 13, 1971

J. SHANE CREAMER
ATTORNEY GENERAL

The Honorable C. DeLores Tucker
Secretary of the Commonwealth
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania

Dear Secretary Tucker:

You have requested an opinion as to whether local election officials shall keep open registration offices for purposes of voter registration beyond September 13, 1971. This request is prompted by my opinion issued September 9, 1971, in which opinion I ruled that students of colleges and universities may register to vote at the locality of their college or university.

You are advised that local registration officials shall keep open voter registration offices to permit students to register to vote for a reasonable period of time beyond September 13, 1971.

Section 623-17 of the Election Code, 25 P. S. § 623-17, applies to cities of the first class and sets forth time periods for registration of various classes of electors:

“The [Registration] Commission or any commissioner, employee or clerk . . . shall . . . [within fifty days of the next election] . . . receive personal applications from persons who claim that they are entitled to be registered as electors of the city and who appear for registration.”

An almost identical provision applies to localities other than cities of the first class, 25 P. S. § 951-16.

In a case directly on point, *Wenner's Appeal*, 54 D. & C. 223 (1945), the Court of Common Pleas of Lehigh County ruled that predecessor provisions to the above cited provisions were directory and not mandatory and required registration officials to keep offices open for the purpose of registering veterans who had returned from active service in World War II but who did not return before the date of fifty days preceding the next election.

The Court stated:

“The act does not expressly forbid registration on the excepted days and we believe that the merits of veterans' claims to the right to vote far outweigh any inconvenience that may result from their late registration and that their votes thus cast will surely count in the election and that, therefore, their apparent right to vote will not be a mere idle gesture. No one questions the right of this group to a share in our government, and therefore, although higher courts might later declare our decision to be an erroneous interpretation of the Registration Act, we will nevertheless not have permitted anyone to vote who did not possess a constitutional right to do so. Furthermore, our solution of the problem places the responsibility squarely on this court and will not subject others to any penalties.

“One cannot expect veterans to register on the date of their discharge or before becoming oriented to civilian responsibilities. The particular veteran involved in this appeal was discharged after September 15, 1945, the date when the registration books had closed, but we believe the privilege of registration should also be granted to all veterans discharged on or after September 1, 1945, and that registration of veterans discharged after September 1, 1945, should be kept open up to election day itself. We have no doubt that this decision will cause inconvenience to the registration commission and board of elections, but will present no problems that are impossible of solution.”

The facts before the Court in *Wenner's Appeal*, supra, do not differ in any material respect from the facts upon which this opinion is based. The Attorney General's lengthy ruling of September 9, 1971, came four days before September 13, 1971, the day on which election officials had scheduled to close registration offices under the guidelines established by relevant statutes. Theretofore a great deal of confusion existed with regard to whether students were permitted to register to vote at the locality of their college or university. In almost every instance election officials had denied students permission to register. With the opinion of September 9, 1971, it is now clear that Pennsylvania law permits, and the United States Constitution compels registration of students to vote at the locality of their college or university. To preserve and further the fundamental right to vote under these circumstances and in light of the opinion in *Wenner's Appeal*, supra, it is appropriate to extend the period of time to register to vote for a reasonable period beyond September 13, 1971.

This advice, of course, leaves it to official discretion to determine what is a reasonable period of time beyond September 13, 1971. The general criteria for the exercise of this discretion is what period of time, on the basis of present information, is adequate to permit all students so desiring to register in time for the election in November, 1971. Specific time periods are sug-

gested in the statutes dealing with the registration periods which time periods may be helpful in deciding this question.

For instance in registering for special elections, the registration rolls are scheduled to close 30 days prior to the special election, permitting an extension of time to 20 days beyond the close of the rolls and in primary elections, the rolls are closed five days before the primary election indicating that a 45 day extension is permitted. See Sections 623-17(a) and 951-16(a) supra. Similarly, for persons who become citizens of the United States within the two month period immediately preceding an election, the registration rolls may be kept open until thirty (30) days prior to the election. See Section 623-17(a). Finally, in *Wenner's Appeal*, supra, the Court ordered that applications for registration be accepted until the day before the election.

Very truly yours,
J. SHANE CREAMER,
Attorney General

REQUEST #3: *Reapportionment Plan*

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
HARRISBURG, PA. 17120

SECRETARY OF THE COMMONWEALTH

DECEMBER 1, 1971

The Honorable J. Shane Creamer
Attorney General
Department of Justice
Room 239, Main Capitol
Harrisburg, Pennsylvania 17120

Dear General Creamer:

On November 17, 1971, the Legislative Reapportionment Commission filed with me, in the Department of State, the Preliminary Reapportionment Plan for the General Assembly.

This plan was filed under the provisions of the Constitution of Pennsylvania, Article II, Section 17(c),

“ . . . The Commission shall file a preliminary reapportionment plan with such elections officer. . . . ”

Dr. Leo Levin, Chairman of the Legislative Reapportionment Commission, in an official statement filed along with the Preliminary Reapportionment Plan, said,

“ During the next thirty (30) days, the Preliminary Plan will be on file at the Office of the Secretary of the Commonwealth for public inspection, and during this same thirty (30) day period, the Secretary of the Commonwealth will publish full details in newspaper advertisements, reaching the public in all districts of Pennsylvania. ”

Article II, Section 17(h) of the Constitution of Pennsylvania states,

“ . . . Any reapportionment plan filed by the Commission, or ordered or prepared by the Supreme Court upon the failure of the Commission to act, shall be published by the Elections Officer once in at least one newspaper of general circulation, in each Senatorial and Representative District. . . . ”

I hereby request an Official Opinion of the Attorney General advising me of my Constitutional responsibilities, pertaining to the publishing of the Preliminary Legislative Reapportionment Plan.

Sincerely yours,
C. DELORES TUCKER,
Secretary of the Commonwealth

cc: THE GOVERNOR

OPINION #3: *Reapportionment Plan*

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
HARRISBURG, PA. 17120
DECEMBER 3, 1971

J. SHANE CREAMER
ATTORNEY GENERAL

Honorable C. DeLores Tucker
Secretary of the Commonwealth
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania

Dear Secretary Tucker:

You have requested our opinion on your constitutional responsibilities pertaining to the publishing of the preliminary legislative reapportionment plan.

The method for reapportioning the Legislature is provided for in Article II, Section 17 of the Constitution of Pennsylvania of 1968. Subsection (c) provides that the Legislative Reapportionment Commission shall file a preliminary reapportionment plan with the Secretary of the Commonwealth who under the law is the "elections officer of the Commonwealth."

Subsection (c) further provides that the Commission shall have thirty days after filing the preliminary plan to make corrections in the plan. In addition the Constitution states:

"Any person aggrieved by the preliminary plan shall have the same thirty-day period to file exceptions with the commission in which case the commission shall have thirty days after the date the exceptions were filed to prepare and file such with elections officer a revised reapportionment plan."

It should be noted that the constitutional scheme contemplates exceptions to the preliminary plan being filed by "any person." It is clear that the reference to "any person" in Sub-

section (c) was intended by the framers of the Constitution to mean any member of the public.

Subsection (h) of Article II, Section 17 provides in relevant part as follows:

“Any reapportionment plan filed by the commission, or ordered or prepared by the Supreme Court upon the failure of the commission to act, shall be published by the elections officer once in at least one newspaper of general circulation in each senatorial and representative district . . .”

The normal purpose of a publication clause is to ensure that the public has notice of some contemplated official action. In this case it appears clear that the framers of the Constitution intended that the public be aware of a reapportionment plan in order to have an opportunity to voice objection to it, or, in the language of the Constitution, “file exceptions” to it.

Although there may be some ambiguity in Subsection (h) arising from the use and placement of the phrase “any reapportionment plan,” it is my opinion that the framers of the Constitution meant to ensure that *any* reapportionment plan, be it preliminary, revised, final, or court ordered, should be published to the extent necessary to keep the public informed. The right of the public to know and be kept informed of governmental action, particularly action affecting the franchise, is especially important.

Accordingly, you are advised that the Constitution requires that you publish the preliminary reapportionment plan in accordance with the specifications of Article II, Section 17(h).

Sincerely,
J. SHANE CREAMER,
Attorney General

REQUEST #4:
Durational Residency Requirements

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
HARRISBURG, PA. 17120

SECRETARY OF THE COMMONWEALTH

The Honorable J. Shane Creamer
Attorney General
Department of Justice
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania

Dear General Creamer:

I have received a copy of the Opinion of the Supreme Court of the United States in *Dunn v. Blumstein*, where the Court concluded that Tennessee's durational residence requirements were unconstitutional (1) because they impermissibly interfered with the right to vote, and (2) because they created a "suspect" classification penalizing some Tennessee residents because of recent interstate movement.

Involved here are the provisions of the Tennessee Constitution, as well as portions of the Tennessee Code. Article IV, Section 1, of the Tennessee Constitution, provides in pertinent part:

"Right to vote—Election precincts . . .—
Every person of the age of twenty-one years, being a citizen of the United States, and a resident of this State for twelve months, and of the county wherein such person may offer to vote for three months, next preceding the day of election, shall be entitled to vote for electors for President and Vice-President of the United States, members of the General Assembly . . ."

Section 2-201, Tennessee Code Annotated, provides:

"Qualifications of voters—Every person of the age of twenty-one (21) years, being a

citizen of the United States and a resident of this State for twelve (12) months, and of the county wherein he may offer his vote for three (3) months next preceding the day of election, shall be entitled to vote . . .”

As you are aware, Article VII, Section 1, of the Constitution of the Commonwealth of Pennsylvania, provides:

“Every citizen twenty-one years of age, possessing the following qualifications, shall be entitled to vote at all elections subject, however, to such laws requiring and regulating the registration of electors as the General Assembly may enact.

1. He or she shall have been a citizen of the United States at least one month.

2. He or she shall have resided in the State ninety (90) days immediately preceding the election.

3. He or she shall have resided in the election district where he or she shall offer to vote at least sixty days immediately preceding the election . . .”

In my opinion, the provisions of the Pennsylvania Constitution relate closely to the case in point, since the court also held that a 30 day residency requirement was an adequate period to insure the State’s interests.

The Voting Rights Act Amendments of 1970 sets forth a State residency requirement to vote for President and Vice President of the United States at thirty days. The Commonwealth of Pennsylvania is obliged to comply with this very necessary federal law, though by complying, the Commonwealth and its various political subdivisions must initiate very cumbersome procedures for this November’s election, which will involve two separate voting operations. One ballot will contain the names of all candidates seeking office from the Presidency through all State and local offices. A second ballot must be provided for those citizens of the United States who have resided in the Commonwealth of Pennsylvania for less than ninety days or in their voting district for less than sixty days. This ballot will only contain the names of the candidates for President and Vice President of the United States.

In view of *Dunn v. Blumstein*, I am requesting an opinion as to the constitutionality, based on federal law, of the provisions of the Pennsylvania Constitution as it relates to durational residency requirements. If, in your judgment, however, it would be prudent for the Attorney General not to give an opinion on this federal question, I request that you take whatever action necessary to test Pennsylvania's constitutional provisions dealing with durational residency requirements in the federal courts as soon as practicable in order to assure meaningful participation of all citizens of the United States who happen to reside in the Commonwealth of Pennsylvania this November.

Thank you.

Sincerely yours,
C. DeLores Tucker

OPINION #4:
Durational Residency Requirements

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
HARRISBURG, PA. 17120
MAY 5, 1972

J. SHANE CREAMER
ATTORNEY GENERAL

The Honorable C. DeLores Tucker
Secretary of the Commonwealth
Department of State
Commonwealth of Pennsylvania
Room 302, North Office Building
Harrisburg, Pennsylvania 17120

Dear Secretary Tucker:

You have, by letter dated April 14, 1972, requested my opinion as to the effect of the case of *Dunn v. Blumstein* on the durational residency qualifications for electors in Pennsylvania.

You are hereby advised that, as a result of the decision of the United States Supreme Court,

in *Dunn v. Blumstein*, 40 L.W. 4269 (March 21, 1972), the present durational residency requirements for qualification of electors in Pennsylvania are unenforceable. You are further advised that, as Chief Election Officer of the Commonwealth of Pennsylvania, you are to instruct local election officials to disregard the following presently existing durational residency requirements in registering and qualifying citizens of Pennsylvania to vote:

Article VII, §I (2) (3), of the Constitution of the Commonwealth of Pennsylvania insofar as it requires a ninety-day-durational residency in the State and a sixty-day durational residency in the election district as a prerequisite to voting.

25 P.S. §2811 (2), (3) insofar as it requires durational residency of one year in the State and sixty days in the election district as a prerequisite to voting.

25 P.S. §1362 insofar as it requires durational residency of six month prior to an election as a qualification to voting in a borough election.

In the case of *Dunn v. Blumstein, supra*, Plaintiff, being denied the right of registering as a voter in Tennessee, challenged provisions of the Tennessee Constitution and Tennessee Statutes requiring durational residency of 12 months in the State and 3 months in the county as preconditions to voting. See Article IV, Section I of the Tennessee Constitution and Section 2-201, Tennessee Code Annotated. The Supreme Court of the United States stated that durational residency requirements denying some citizens the right to vote are unconstitutional, unless necessary to promote a compelling State interest. The Court found Tennessee's challenged residency provisions unconstitutional as the State had failed to establish a compelling need for such requirements to assure voter knowledgeability or a common interest of voters, nor could the length of Tennessee's durational residency requirements be justified on the grounds of prevention of voter fraud. In drawing the latter conclusion, the Court stated:

“Thirty days appears to be an ample period of time for the State to complete what-

ever administrative tasks are necessary to prevent fraud—and a year, or three months, too much. This is the judgment of Congress in the context of Presidential elections.” 40 L.W. at 4275.

On the basis of the foregoing ruling by the Supreme Court of the United States, it is clear that the present durational residency requirements in Pennsylvania cannot be enforced. As a result local election officials may not bar citizens and residents of Pennsylvania from voting for failure to meet presently existing durational residency requirements and you, as chief official of this Commonwealth, are advised to so instruct relevant local authorities.

Sincerely yours,
PETER W. BROWN,
Deputy Attorney General

J. SHANE CREAMER,
Attorney General

DIRECTIVE #4:
Durational Residency Requirements

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
HARRISBURG, PA. 17120

SECRETARY OF THE COMMONWEALTH

TO: County Boards of Election

FROM: C. DeLores Tucker
Secretary of the Commonwealth

As Chief Election Official of the Commonwealth of Pennsylvania, I hereby instruct all election officials as follows:

1. As indicated in the Attorney General's Opinion to me dated May 5, 1972, the decision of the Supreme Court of the United States in

the case of *Dunn v. Blumstein*, 40 L.W. 4269 (March 21, 1972), has rendered unenforceable all existing State or local durational residency requirements limiting the right of an individual to vote in any election. Thus, a period of durational residency within the State or any local district therein cannot now be considered as a prerequisite for voter registration. Any voter, who is otherwise qualified and affirms that he or she will be a resident of the State of Pennsylvania on the date of the next election, must be permitted to register. Accordingly, the following provisions of Pennsylvania law cannot be enforced by any election official:

Section I (2) (3), Article VII, of the Constitution of the Commonwealth of Pennsylvania insofar as it requires a ninety-day durational residency in the State and a sixty-day durational residency in the election district as a prerequisite to voting.

25 P.S. 2811 (2, 3) insofar as it requires durational residency of one year in the State and sixty days in the election district as a prerequisite to voting.

25 P.S. 1362 insofar as it requires durational residency of six months prior to an election as a prerequisite to voting in a borough election.

And any other Voting Laws or Regulations presently existing in Pennsylvania which require a period of durational residency as a prerequisite to the right to vote.

Additionally, the following provisions of Pennsylvania law are unenforceable and must be modified as instructed:

25 P.S. 951-17(a) insofar as it requires an affidavit of durational residency in Pennsylvania and in the election district as a precondition to voter registration.

25 P.S. 623-20(a) insofar as it requires an affidavit of durational residency in Pennsylvania and in the election district as a precondition to voter registration.

Any such Registration Affidavits provided for in Pennsylvania law must be altered or made anew so as to eliminate any requirement of durational residency within the Commonwealth

or any local district therein. Thus, the Registration Affidavit provided for in 25 P.S. 623-19(a) and 25 P.S. 951-17(a) should be made to read as follows:

REGISTRATION AFFIDAVIT

STATE OF PENNSYLVANIA }
COUNTY OF } ss

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

Signature of Voter

Subscribed and sworn to
before me this
day of _____, 1972.

Signature of Registrar

Any Registration Affidavit provided for in 25 P.S. 1801, 25 P.S. 623-20.2 or elsewhere must be similarly altered or made anew to eliminate any requirement of durational residency within the State of Pennsylvania or any local district therein.

2. The requirement that an individual be a citizen of the United States for one month prior to an election, as provided in Section I(1), Article VII, of the Constitution of the Commonwealth, is unaffected by *Dunn v. Blumstein, supra*, and must be enforced as a prerequisite to voter registration.

3. The closing date of voter registration as provided in the Election Code, 25 P.S. 623.17 and 25 P.S. 951-16 is unaffected by the Attorney General's Opinion of May 5 and must be enforced until notice otherwise is received.

4. As a result of the 1970 Federal Voting Rights Amendment, P.L. 91-285, 84 Stat. 314, and subsequent court decisions, the Common-

wealth is under a Federal mandate to make several changes in Pennsylvania Election Code provisions before the Legislature are several bills which will fundamentally alter existing regulations relating to such matters as absentee balloting, absentee registration, and the closing date of voter registration. As Chief Election Official of the Commonwealth, I will instruct all election officials of the nature of any such changes as they become effective.

C. DELORES TUCKER,
Secretary of the Commonwealth

By:

RONALD J. PETTINE
Deputy Secretary of Commonwealth

JAMES A. GREEN
Commissioner of Elections

Dated: May 11, 1972

REQUEST #5: *A Request for an Opinion to the Deputy Attorney General from the Secretary of Education Concerning the Establishment of Registration Center in Schools and Colleges*

July 26, 1972

TO: Mr. Mark P. Widoff
Deputy Attorney General

FROM: John C. Pittenger
Secretary of Education

Attached is a letter sent to the County Commissioners which is self explanatory. A letter also went to school officials requesting their cooperation. A question of the legality of setting up registration centers in schools and colleges has arisen. Please advise.

Attachment

Attached Letter

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION
P. O. BOX 911
HARRISBURG, PA. 17126
JULY 18, 1972

THE SECRETARY

To: County Commissioners

Dear Commissioner:

The enfranchisement of young people between the ages of eighteen and twenty presents to both school and election officials a great challenge to involve students in the political process through the exercise of the vote.

Our statistical estimates indicate that more than 185,000 public high school students and 300,000 college students in Pennsylvania will be eligible to vote in November.

The Department of Education has received many inquiries from students and teachers about what we can do to prepare students for this important responsibility. They have also sought our help in getting field registrars into their schools to encourage registration and to have voting machines available for demonstration purposes.

On behalf of these students, I would urge you not only to make it possible for them to learn the mechanics of voting, but to take the initiative in setting up registration centers in schools and colleges.

Sincerely,
JOHN C. PITTEMBERG

cc: Chief School Administrators
Intermediate Unit Executive Directors
Community College Presidents
College and University Presidents

**OPINION #5: *Establishment of
Registration Centers in Schools and Colleges***

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
HARRISBURG, PA. 17120

J. SHANE CREAMER
ATTORNEY GENERAL

**Public Schools, State and Community Colleges
Are Lawful Locations for Voter Registration**

August 16, 1972

To: Honorable John C. Pittenger,
Secretary of Education.

You have asked whether it is lawful to set up voter registration centers in public schools and colleges throughout the Commonwealth in order to facilitate voter registration for young people who are eligible to vote for the first time.

You are advised that such action is lawful under §16(c)(d)(e) of the Act of April 29, 1937, P.L. 487, as amended (25 P.S. §951-16(c)(d)(e));

(c) The county election board shall cause any polling place to be open, in proper order for use, as a place of registration, on each day when such polling place may be desired by the registration commission or required by the provisions of this act for use as a place of registration; and the county commissioners shall provide for the payment of all rentals for such polling places upon proper vouchers by the treasurer of the county.

“(d) The board of public education or school directors of each school district shall furnish suitable space in any public school building under its jurisdiction or control, and shall cause the room or space to be open and in proper order for use as a place of registration on each day when such room or space may be desired

by the registration commission for use as a place of registration in accordance with the provisions of this act: Provided, That such use shall not interfere with instruction for the conduct of which such board of public education or school directors shall be responsible.

“(e) The proper city of the second class, city of the second class A, city of the third class, borough, town and township authorities shall furnish suitable space in any city of the second class, city of the second class A, city of the third class, borough town or township hall or other municipal building under their jurisdiction or control, and shall cause the room or space to be open and in proper order for use as a place of registration on each day when such room or space may be desired by the commission for use as a place of registration: Provided, That such use shall not interfere with the use for which such room or space is primarily designed.”

It is obvious, from a reading of subsection (d) of the above-quoted law, that any public school can be used for voter registration. One of the reasons the Legislature enacted this law was undoubtedly to facilitate voter registration for those in the school. This desire will be greatly enhanced by making available field registrars and voting machines for the purpose of demonstrating their use. Encouraging registration is obviously in keeping with the spirit of the statute quoted above.

It is equally clear that state colleges and community colleges, being lawful locations for polling places under §527 of the Act of June 3, 1937, P.L. 133, as amended (25 P.S. §2727) (County Board of Election shall, wherever possible, select for polling places schoolhouses, municipal buildings and other *public places*)—are also lawful locations for registration centers under subsection (c) of the above-quoted statute. Furthermore, community colleges may be available as polling places under subsection (e) because of their relationship to their “local sponsor-political subdivision” under the Community College Act of August 24, 1963, P.L. 1132 (24 P.S. §5201 *et seq.*). See especially 24 P.S. §5202 (2).

It is, therefore, perfectly lawful for registration centers to be set up in public schools and colleges and you are so advised.

J. SHANE CREAMER,
Attorney General

[Pa. B. Doc. No. 72-1775. Filed September 8, 1972,
9:00 a.m.]

DIRECTIVE #6:
*Eligibility of Communist Party for
Ballot Position in General Election*

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
HARRISBURG, PA. 17120

SECRETARY OF THE COMMONWEALTH

TO: The County Boards of Elections
FROM: C. DeLores Tucker
Secretary of the Commonwealth

Pursuant to the Order of The Honorable John Morgan Davis, Judge, United States Federal District Court, Eastern District of Pennsylvania, I hereby amend the previous certification by including the individual candidates and the appropriate party label of the Communist Party.

Following is the Order of the Federal Court:

ORDER

“The Defendant shall forthwith certify said individual candidates and take appropriate administrative procedures to ensure that those candidates who have qualified under the Pennsylvania Election Code shall be placed on the ballot as individuals and the appropriate party label shall be affixed with the placement of a party lever adjacent to the party column, or party box on paper ballots, for the General Election to be held on November 7, 1972.”

You will note that the Defendant in the above Order is C. DeLores Tucker, Secretary of the Commonwealth of Pennsylvania; the individual candidates, as described in the Order, are the candidates of the Communist Party; and the appropriate party label, as described, is the party label of the Communist Party.

Since these individual candidates have qualified under all other aspects of the Pennsylvania Election Code, you are hereby instructed to place them on the ballot for the General Election to be held on November 7, 1972.

Attached hereto is the amended certification.

C. DELORES TUCKER,
Secretary of the Commonwealth

By the Secretary:

RONALD J. PETTINE
Deputy Secretary of the Commonwealth

Dated: September 14, 1972

PARTY COLUMN

To Vote a Straight Party Ticket, Mark a Cross (X) or Check Mark (✓) in this Column.

DEMOCRATIC	
REPUBLICAN	
CONSTITUTIONAL	
SOCIALIST WORKERS	
COMMUNIST	

Attorney General's Opinion
OPINION #7
Voting Rights of the Mentally Ill

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

HARRISBURG, PA. 17120

JULY 12, 1973

ISRAEL PACKEL

ATTORNEY GENERAL

Honorable C. DeLores Tucker
Secretary of the Commonwealth
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania 17120

Dear Secretary Tucker:

Recent litigation in the Commonwealth of Pennsylvania¹ had led to concern and confusion as to the voting rights of the mentally ill and the mentally retarded who reside in this State. Inquiries from your office and from concerned citizens have focused on two problems:

1. Can a person who is an inmate of an institution for the mentally ill or the mentally retarded claim that institution as his legal residence for purposes of voter registration in the voting district in which that institution is located?

2. Under the Constitution and laws of this Commonwealth, can a mentally ill or a mentally retarded person be denied the right either to register to vote or to vote merely because he or she is known to be undergoing treatment for a mental disability or is known to be residing in an institution for the treatment of the mentally disabled?

The answer to question #1 is clear. In the recent opinion of the Commonwealth Court in *Commonwealth v. Parkhouse, et al.*, 969 C.D. 1972, the defendants contended that Section 703 of the Pennsylvania Election Code, 25 P.S. §2813, constituted a bar to individuals who were attempting to qualify as registered electors of Montgomery County by claiming Norristown State Hospital as their place of residence. Section 703 provides, in relevant part, as follows:

¹ *Commonwealth v. Parkhouse, et al.*, 969 C.D. 1972; *Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania*, 334 F. Supp. 1257 (1971).

For the purpose of registration and voting, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence . . . while kept in any poorhouse or other asylum at public expense.

Citing *Newport Township Election Contest*, 384 Pa. 474, 121 A. 2d 141 (1956), the court concluded on page 3 of the Opinion that “. . . the defendants should not refuse to open the door of the registration bureau . . . simply because they (the registrants) are currently living at the Norristown State Hospital as patients of said hospital.”

Therefore, it is my opinion, and you are so advised, that no person who resides at an institution for the mentally ill or mentally retarded in the Commonwealth who otherwise meets the residency requirements of Section 704 of the Election Code (25 P.S. §2814) can lawfully be denied the right to register as a qualified elector in the voting district in which the institution is located.

As to question #2, it is my opinion, and you are so advised, that there is no legal basis in this Commonwealth upon which a mentally retarded or mentally ill person can be disenfranchised solely because he or she is undergoing treatment for a mental disability or is known to reside in an institution for the treatment of the mentally disabled.

Article 7, §1 of the Pennsylvania Constitution sets forth the qualifications of electors in Pennsylvania.² Briefly, they are U.S. citizenship, Pennsylvania residence, and residency in the election district. Mental health or competency is not a prerequisite to the right to vote.

² Article 7, §1—Every citizen, eighteen years of age, possessing the following qualifications, shall be entitled to vote at all elections, subject, however, to such laws requiring and regulating the registration of elections as the General Assembly may enact. 1. He or she shall have been a citizen of the United States at least one month. 2. He or she shall have resided in the state ninety (90) days immediately preceding the election. 3. He or she shall have resided in the election district where he or she shall offer to vote at least sixty (60) days immediately preceding the election, except that if qualified to vote in an election district prior to removal of residence, he or she may, if a resident of Pennsylvania, vote in the election district from which he or she removed his or her residence within sixty (60) days preceding the election.

No other provision of the Constitution nor of any state law requires any specified degree of mental health or mental competence as a precondition to the right to vote. The Legislature's silence on this issue may well be an indication of its desire to avoid the inequities, irregularities, and complexities that would surely arise if one attempted to establish arbitrary levels of mental ability or competence below which a person would be disenfranchised. For example, what standard of incompetence is applicable? A person unable to tend to his own business and financial affairs may need a guardian. But that same person may still be quite able to make a considered choice of a candidate.

Nevertheless, it has been argued that the definitional section of the Election Code (25 P.S. §2602(w)(12)) and the section on absentee ballots (25 P.S. §3146.1) express the Legislature's intent in this area. Enacted pursuant to Article 7, §14 of the Constitution,³ both of these sections, in identical language, provide the following:

Provided, however, that the words "qualified absentee elector" shall in nowise be construed to include persons confined in a . . . mental institution . . .

Article XIII, *Voting by Qualified Absentee Electors*, is the title of that section of the Election Code devoted to absentee ballots. Beginning with 25 P.S. §3146.1 through 3146.9, this article contains detailed information on absentee balloting including such things as voter qualifications (3146.1), manner of application (3146.2), date of application (3146.2a), type of envelopes (3146.4), and grounds for challenges (3146.8). These few examples illustrate that absentee voting is a highly regulated process which carefully scrutinizes all attempts to cast an unqualified ballot. These procedures are, of course, necessary to prevent abuses. They do not, however, purport to regulate all voting in Pennsyl-

³ The Legislature shall, by general law, provide a manner in which and the time and place at which, qualified electors who may, on the occurrence of any election, be absent from the State or county of their residence, because their duties, occupation or business require them to be elsewhere or who, on the occurrences of any election, are unable to attend at their proper polling places because of illness or physical disability, may vote, and for the return and canvass of their votes in the election district in which they respectively reside.

vania, just the limited right to cast an absentee ballot. Thus, the legislative intention to deny an absentee ballot, which is a qualified right, to all persons confined in mental institutions does not mean that all mentally retarded or mentally ill persons of varying disabilities can be denied the right to vote at the place of their residence. Neither the Constitution nor the Statutes of Pennsylvania provide for such a result. Additionally, the few courts which have considered the issue of mental competency for voting have either dealt with an absentee ballot situation (*In re 223 Absentee Ballots*, 81 York 137, 431 Pa. 178, 245 A. 2d 265 (1967)), or with a case in which mental competency was not an issue, but which was mentioned in passing by the court without explanation or substantiation. *Thompson v. Ewing*, 1 Brewst. 67 (1861).

It is our suggestion that this opinion be distributed to all local election officials for immediate implementation in an effort to insure that all qualified voters of Pennsylvania have an equal opportunity to cast their ballots in subsequent elections.

Very truly yours,
LARRY B. SELKOWITZ,
Deputy Attorney General
ISRAEL PACKEL,
Attorney General

Note: In addition to this opinion, the United States District Court for the Western District of Pennsylvania in *McGill v. Alton* issued a consent decree ordering that all persons confined to mental institutions must be considered "qualified absentee electors".

Attorney General's Opinion

OPINION #8

*Voting Rights of Pretrial Detainees and
Convicted Misdemeanants*

COMMONWEALTH OF PENNSYLVANIA

OFFICE OF ATTORNEY GENERAL

HARRISBURG, PA. 17120

SEPTEMBER 11, 1974

ISRAEL PACKEL

ATTORNEY GENERAL

Honorable C. Delores Tucker

Secretary of State

303 Main Capitol Building

Harrisburg, Pennsylvania 17120

Dear Secretary Tucker:

Recent litigation in the Commonwealth of Pennsylvania¹ and rulings by the United States Supreme Court have led to concern and confusion as to the voting rights of untried pretrial detainees and convicted misdemeanants who are confined in penal institutions within the State. Inquiries from your office and from County election officials have raised the question of whether or not such classes of individuals may register and vote by absentee procedures proscribed under the Pennsylvania Election Code.

It is our opinion and you are hereby advised that untried pretrial detainees and convicted misdemeanants must be afforded the right to register and vote by officials responsible for administration of the election laws in the Commonwealth of Pennsylvania.

It is self-evident that all persons who are incarcerated are denied the mobility to register and vote in person at the proper polling places. However, under the Election Code, an individual who is absent from his election district may exercise his franchise as a "qualified absentee elector" provided, however, "that the words 'qualified absentee elector' shall in nowise be construed to include persons confined in a penal institution." 25 P.S. § 2602(W)(12), 25 P.S. § 3146.1. A preliminary reading of this provision of the Code would lead to the inescapable conclusion that convicted misdemeanants and pretrial detainees are effectively precluded from exercising the fundamental right of registration and voting.

¹*Goosby v. Osser, et al.*, (No. 71-2380, E.D. Pa. 1974).

Indeed, just such an interpretation of the law has, until recently, resulted in excluding those classes of individuals confined in prison from participating in the election process. In January of this year, the United States Supreme Court held that where a State provides for the absentee registration and voting of certain classes of individuals but denies the same opportunity to pretrial detainees and convicted misdemeanants then the schematic exclusion of such individuals is in violation of the Equal Protection Clause of the United States Constitution. *O'Brien v. Skinner*, 414 U.S. 524 (1974).

Pennsylvania law provides for absentee registration and voting by numerous categories of voters who may be unable to appear in person at the polls. The Commonwealth permits absentee registration and voting by, *inter alia*, those who are unable to appear personally because of illness or physical disability, or those whose duties, occupation or business take them out of the election district of their residence. Absentee ballots are even available to those who are on vacation outside the country on election day. 25 P.S. § 623-20.2; 25 P.S. § 623-20.3; 25 P.S. § 2602(W) (1 *et seq.*); 25 P.S. § 3146.1; 25 P.S. § 951-18.1; and 25 P.S. § 951-18.2.

It is clear, therefore, that the Commonwealth permits certain categories of individuals to register and vote absentee while prohibiting pretrial detainees and convicted misdemeanants from participating in person or through the use of absentee procedures in the election process. Where the State both physically prevents a class of individuals from going to the polls and denies them alternative means of casting their ballots, then the denial of absentee registration and absentee ballots is effectively an absolute denial of the franchise to these persons. The Supreme Court in *O'Brien, supra*, held that where an electoral scheme discriminates between categories of qualified voters that results in the absolute disenfranchisement of convicted misdemeanants and persons awaiting trial but unable to make bail, then the system denies

those individuals the equal protection of the law guaranteed by the Fourteenth Amendment.²

Moreover, pretrial detainees and convicted misdemeanants should be allowed to exercise their right to vote by absentee ballot to preserve fundamental fairness within the democratic process. There is no justifiable interest served on behalf of the State by limiting the franchise to those individuals who are free from institutional constraints.³ Indeed, the Election Code permits a convicted felon who has served his sentence or who is free on probation or parole to appear personally and register and vote but denies this fundamental right to a person whose guilt or innocence has not been determined by a court of law and who is confined awaiting trial. This restriction on the exercise of one of a citizens' most protected rights defaces the time honored maxim that one is innocent until proven guilty and accordingly, possesses all fundamental rights until such a determination. It also operates in an unconstitutionally discriminatory manner to deny a fundamental right to a class of individuals solely on the basis of confinement in a state institution.

Finally, it is essential to the process of rehabilitating individuals confined in penal institutions that they be returned to their roles in society as fully participating citizens upon

² In comparing the Pennsylvania Election Code to the provisions of the New York Election Code that were challenged in the *O'Brien* case, the Supreme Court stated that the Commonwealth's electoral scheme also operated as an absolute bar to voting by all prison inmates:

"More recently in *Goosby v. Osser*, 409 U.S. 512 (1973), the Court again considered the problem of inmate voting and concluded that, unlike the voting restrictions in the *McDonald* case, the statute there in question was an absolute bar to voting because of a specific provision that 'persons confined in a penal institution' were not permitted to vote by absentee ballot. It is clear, therefore, that the appellants here, like the petitioners in *Goosby*, bring themselves within the precise fact structure that the *McDonald* holding foreshadowed." 414 U.S. at 529, 530.

³ It should be emphasized that this Opinion does not embrace the very substantial constitutional problems of the statutory disenfranchisement of convicted felons, whether or not they are confined in prison, as was decided in *Richardson v. Ramirez et al.*, 42 L.W. 517, ___ U.S. ___ (1974). The Court's ruling in *O'Brien* limited relief to convicted misdemeanants and pretrial detainees and, thereby, the application of this Opinion.

completion of their period of confinement. The disenfranchisement of misdemeanants is the antithesis of the paramount goals of modern penology.⁴

The rule announced in this opinion is also consistent with the established policy of the Commonwealth to promote the extension of the franchise to those Pennsylvania citizens who have traditionally suffered encumbrances on their right to exercise voting privileges. See, *Sloane v. Smith*, 351 F. Supp. 1299 (E.D. Pa. 1972) (college students); *Commonwealth v. Parkhouse, et al.*, (unreported Commonwealth Court Opinion, 969 C.D. 1972) (mental patients); *Arroyo v. Tucker*, 372 F. Supp. 764 (E.D. Pa. 1974) (Spanish speaking persons); *Goosby v. Osser*, (No. 71-2380, E.D. Pa. 1974) (pretrial detainees).

Accordingly, you are hereby formally advised and instructed that in accordance with the holding of the United States Supreme Court in *O'Brien v. Skinner, supra*, all convicted misdemeanants and pretrial detainees shall, heretofore, be entitled to register and vote during the period of confinement in a penal institution.⁵ Those provisions of the Pennsylvania Election Code which exclude "persons confined in a penal institution" from qualifying as absentee electors shall only apply to inmates convicted for felonies. 25 P.S. § 2602(W)(12); 25 P.S. § 3146.1.

You are further advised that the procedure for registering and voting by persons confined in penal institutions shall be in accordance with the provisions of the Pennsylvania Election Code. As will be set forth in detail below, these

⁴ The National Advisory Commission on Criminal Justice Standards and Goals reports that:

"Loss of citizenship [including] the right to vote . . . inhibits reformative efforts. If corrections is to reintegrate an offender into a free society, the offender must retain all attributes of citizenship. In addition, his respect for law and the legal system may well depend, in some measure, on his ability to participate in that system. Mandatory denials serve no legitimate public interest. National Advisory Commission on Criminal Justice Standards and Goals, Report on Corrections, Standard 16.17 (1973 p. 593).

⁵ A determination of whether or not the crime for which an individual has been convicted is a misdemeanor, shall be based upon the classification of crimes contained in the 1972 Pennsylvania Crimes Code, 18 C.P.S.A. § 106.

procedures are sufficiently flexible to enable election officials, based on the resources, needs and particular problems of their respective counties and communities, to provide a number of alternative procedures by which pretrial detainees and convicted misdemeanants are to be registered and to vote.

Registration of inmates whose place of residence is outside of the election district within which the institution is located shall be accomplished by the making of a written request to the Election Commissioners in the manner provided for persons in the Military Service. 25 P.S. § 623-20.2; 25 P.S. § 951-18.1. Registration of inmates whose place of residence is within the same election district as the institution may be made either by the provisions regarding persons in the military, or by having election officials send a team of traveling registrars to the institution pursuant to 25 P.S. § 623-17; and 25 P.S. § 951-16.

As to voting by absentee ballot, an inmate whose residence is not in the same election district within which the institution is located, shall make an application for and subsequently vote by absentee ballot in the manner provided for persons in the military service. 25 P.S. § 3146.2(a), (b) and (c). An inmate whose place of residence is within the same election district as the institution may vote by absentee procedures provided in 25 P.S. § 3146.2(2)(b) and (c); or the election officials may conduct the election at the prison in the same manner that is provided for patients in public institutions. 25 P.S. § 3146.2(f) and (g). The inmates' residency for voting purposes shall be deemed to be their official residence prior to incarceration and not the institution where they are confined.

Sincerely yours,
DAVID L. KURTZ,
Deputy Attorney General
ISRAEL PACKEL,
Attorney General

DIRECTIVE #9

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF STATE

HARRISBURG, PENNSYLVANIA 17120

SECRETARY OF THE COMMONWEALTH

GUIDELINES FOR COMPLIANCE

with

ACT 201 of 1974

published by

Department of State

February 14, 1975

The following interpretations may be utilized as guidelines for compliance with Act 201 of 1974:

1. "Business Entity"—A rational and appropriate distinction may be made between enterprises operated for profit and those for nonprofit. The word "business" connotes being operated for profit. The purpose of Act 201 is to require disclosure of political contributions which could have been made with the object of obtaining financially remunerative nonbid contracts from governmental bodies. Nonprofit organizations would not normally benefit from such contracts, and are hereby deemed to fall outside the scope of the legislative intent.

Only those business entities doing business in the Commonwealth shall be required to report. Parent companies of subsidiaries doing business in the Commonwealth but which do not do business here themselves shall also be excluded, even where a director of the parent corporation also serves on the board of directors of the subsidiary. In that case, that director's knowledge is relevant only as it pertains to contributions of other directors of the subsidiary.

With the exception of the business official authorized under the Business Corporation Law or analogous laws to sign the report on behalf of the business entity, there shall be no duty of any other business official to inquire as to the making of any political contributions by other business officials or employees.

2. "Awarded Nonbid Contracts"—This phraseology is broadly inclusive, since the discretionary element in awarding such contracts provides the potential for abuse which Act 201 is

attempting to uncover. Accordingly, the term "nonbid contract" includes all service purchase contracts, especially those for professional services, as well as those other nonbid contracts let by virtue of some selection process or exercise of governmental discretion.

Excluded are services performed by business entities which may automatically participate in programs subject to governmental regulation; e.g., pharmacies participating in the paid prescription plan, lottery ticket salesmen, including banks.

Similarly, public utility service, while on a nonbid basis, cannot be viewed as being "awarded," since a utility exercises an actual or virtual monopoly within its service area, and its rates are not negotiated between the Commonwealth as a customer and the utility, but are subject to regulation.

A bank acting as a state depository is not required to file unless it has been designated as such in 1974. Banks cashing welfare checks for a small handling charge are excluded, since this function is performed as a public service and the concept of an award or selection process is absent here.

Banks which have been awarded consultant-ship or financial management contracts or have had such contracts renewed in 1974 are required to file. Renewal shall mean continuation of such a contract by virtue of any affirmative action taken by the contracting governmental body with respect to the continued existence of the contract.

3. "Commonwealth"—This term shall include all departments, bureaus, commissions, agencies or other offices of the executive, legislative or judicial branches of state government. Also included shall be those independent agencies or commissions like the General State Authority and the Turnpike Commission, since a great many nonbid contracts are awarded by these governmental bodies. In addition, municipal authorities have been held to be agencies or instrumentalities of the Commonwealth, and business entities contracting with such bodies must also file.

Excluded, however, are any interstate authorities such as the Delaware River Port Authority and the Delaware River Basin Commission, since they are not solely Commonwealth bodies, and

since representatives of other states would be in a position to oversee the award of any nonbid contracts.

4. "Political Subdivision"—Although the statutory language uses the conjunction "and," it would be completely contrary to the purposes of Act 201 to require nonbid contracts be awarded to a business entity by both the Commonwealth and a subdivision before the entity must report. Accordingly, a nonbid contract just with a political subdivision shall suffice.

The definition of political subdivision shall include that set forth in the Statutory Construction Act (any county, city, borough, incorporated town, township, school district, vocational school district and county institution district).

5. "Preceding Calendar Year"—Since the first report under Act 201 is due in 1975, the preceding calendar year with respect to the award of nonbid contracts and the donation of political contributions is 1974.

6. "Political Contribution"—This term shall be defined as: a donation of money or other valuable thing to a candidate for nomination or election, or to a political committee, for the purpose of defraying primary or election expenses, as the foregoing terms are defined at § 1601 of the Election Code, 25 P.S. § 3221.

Act 201 shall be interpreted to apply to all offices, federal or state, for which votes are cast by Pennsylvania electors. This would therefore exclude contributions made to candidates in other states.

7. "Knowledge Possessed"—The whole tenor of the Act suggests that the standard is actual knowledge of the persons specified. It is their actual knowledge which is viewed as constructive knowledge of the business entity.

8. Clause 1—No dollar minimum applies to a contribution made by the business officers specified herein.

9. Clause 2—The \$1,000 minimum shall apply to this clause alone. Moreover, the term "political contribution" here is a generic term used to describe the act of donation to political campaigns by an identifiable social unit, the family. Accordingly, this clause shall be interpreted to refer to one or more donations by members of the unit which in the aggregate exceed \$1,000. This means that not only is an individual's contributions aggregated, but the

contributions of all the members of the family as well. Otherwise, the intent of the Act could be frustrated by spreading one contribution in excess of \$1,000 among the members of the family so that each individual contribution would be less than \$1,000.

10. "Unemancipated Child—This term shall mean a person below the age of 18 receiving at least one-half of his support (which could include room and board) from a parent or guardian.

These guidelines, while far from exhaustive, may serve to answer some of the questions raised as a result of the ambiguities of Act 201 (see page 56).

THE FEDERAL VOTING RIGHTS ACT
AMENDMENTS OF 1970*

* Republished from *Guide to Absentee Voting in Presidential Elections: in the United States and Overseas*; Chamber of Commerce of the United States, 1972.

An Act

To extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Voting Rights Act Amendments of 1970".

Voting Rights
Act
Amendments
of 1970.

SEC. 2. The Voting Rights Act of 1965 (79 Stat. 437; 42 U.S.C. 1973 et seq.) is amended by inserting therein, immediately after the first section thereof, the following title caption:

"TITLE I—VOTING RIGHTS"

84 STAT. 314.
84 STAT. 315.

SEC. 3. Section 4(a) of the Voting Rights Act of 1965 (79 Stat. 438; 42 U.S.C. 1973b) is amended by striking out the words "five years" wherever they appear in the first and third paragraphs thereof, and inserting in lieu thereof the words "ten years".

Use of tests or
devices,
prohibition.

SEC. 4. Section 4(b) of the Voting Rights Act of 1965 (79 Stat. 438; 42 U.S.C. 1973b) is amended by adding at the end of the first paragraph thereof the following new sentence: "On and after August 6, 1970, in addition to any State or political subdivision of a State determined to be subject to subsection (a) pursuant to the previous sentence, the provisions of subsection (a) shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1968, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per cen-

tum of the persons of voting age residing therein were registered on November 1, 1968, or that less than 50 per centum of such persons voted in the presidential election of November 1968.”

SEC. 5. Section 5 of the Voting Rights Act of 1965 (79 Stat. 439; 42 U.S.C. 1973c) is amended by (1) inserting after “section 4(a)” the following: “based upon determinations made under the first sentence of section 4(b)”, and (2) inserting after “1964”, the following: “or whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the second sentence of section 4(b) are in effect shall enact or seek to administer any voting qualifications or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968.”

SEC. 6. The Voting Rights Act of 1965 (79 Stat. 437; 42 U.S.C. 1973 et seq.) is amended by adding at the end thereof the following new titles:

“TITLE II—SUPPLEMENTAL PROVISIONS”

“APPLICATIONS OF PROHIBITION TO OTHER STATES

“SEC. 201. (a) Prior to August 6, 1975, no citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State, or local election conducted in any State or political subdivision of a State as to which the provisions of section 4(a) of this Act are not in effect by reasons of determinations made under section 4(b) of this Act.

Supra.

“(b) As used in this section, the term ‘test or device’ means any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

“Test or device.”

“RESIDENCE REQUIREMENTS

84 STAT. 315.

84 STAT. 316.

FOR VOTING

“SEC. 202. (a) The Congress hereby finds that the imposition and application of the durational residency requirement as a precondition to voting for the offices of President and Vice-President, and the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections—

“(1) denies or abridges the inherent constitutional right of citizens to vote for their President and Vice-President:

“(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines;

“(3) denies or abridges the privileges and immunities guaranteed to the citizens of each State under article IV, section 2, clause 1, of the Constitution;

“(4) in some instances has the impermissible purpose or effect of denying citizens the right to vote for such officers because of the way they may vote;

“(5) has the effect of denying to citizens the equality of civil rights, and due process and equal protection of the laws that are guaranteed to them under

USC prec.
title 1.

the fourteenth amendment; and

“(6) does not bear a reasonable relationship to any compelling State interest in the conduct of presidential elections.

“(b) Upon the basis of these findings, Congress declares that in order to secure and protect the above-stated rights of citizens under the Constitution, to enable citizens to better obtain the enjoyment of such rights, and to enforce the guarantees of the fourth amendment, it is necessary (1) to completely abolish the durational residency requirement as a precondition to voting for President and Vice-President, and (2) to establish nationwide, uniform standards relative to absentee registration and absentee balloting in presidential elections.

Durational
residency
requirement,
abolishment.

Absentee
registration
and balloting
standards,
establishment.

“(c) No citizen of the United States who is otherwise qualified to vote in any election for President and Vice-President shall be denied the right to vote for electors for President and Vice-President, or for President and Vice-President, in such election because of the failure of such citizen to comply with any durational residency requirement of such State or political subdivision; nor shall any citizen of the United States be denied the right to vote for electors for President and Vice-President, or for President and Vice-President, in such election because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election, if such citizen shall have complied with the requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election.

“(d) For the purposes of this section, each State shall provide

by law for the registration or other means of qualification of all duly qualified residents of such State who apply, not later than thirty days immediately prior to any presidential election, for registration or qualification to vote for the choice of electors for President and Vice-President or for President and Vice-President in such election; and each State shall provide by law for the casting of absentee ballots for the choice of electors for President and Vice-President, or for President and Vice-President

84 STAT. 317.

by all duly qualified residents of such State who may be absent from their election district or unit in such State on the day such election is held and who have applied therefor not later than seven days immediately prior to such election and have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election.

“(e) If any citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any election for President and Vice-President has begun residence in such State or political subdivision after the thirtieth day next preceding such election and, for that reason, does not satisfy the registration requirements of such State or political subdivision he shall be allowed to vote for the choice of electors for President and Vice-President, or for President and Vice-President, in such election, (1) in person in the State or political subdivision in which he resided immediately prior to his removal if he had satisfied, as of the date of his change of residence, the requirements to vote in that State or political subdivision, or (2) by absentee ballot in the State

or political subdivision in which he resided immediately prior to his removal if he satisfies, but for his nonresident status and the reason for his absence, the requirements for absentee voting in that State or political subdivision.

“(f) No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice-President shall be denied the right to vote for the choice of electors for President and Vice-President, or for President and Vice-President in such election because of any requirement of registration that does not include a provision for absentee registration.

“(g) Nothing in this section shall prevent any State or political subdivision from adopting less restrictive voting practices than those that are prescribed herein.

“State.”

“(h) The term ‘State’ as used in this section includes each of the several States and the District of Columbia.

“(i) The provisions of section 11(c) shall apply to false registration, and other fraudulent acts and conspiracies, committed under this section.

“JUDICIAL RELIEF

“SEC. 203. Whenever the Attorney General has reason to believe that a State or political subdivision (a) has enacted or is seeking to administer any test or device as a prerequisite to voting in violation of the prohibition contained in section 201, or (b) undertakes to deny the right to vote in any election in violation of section 202, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title

28, United States Code, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate. An action under this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2282 of title 28 of the United States Code and any appeal shall be to the Supreme Court.

62 Stat. 935.

62 Stat. 968.

“PENALTY

“SEC. 204. Whoever shall deprive or attempt to deprive any person of any right secured by section 201 or 202 of this title shall be fined not more than \$5,000, or imprisoned not more than five years, or both.

84 Stat. 318.

“SEPARABILITY

“SEC. 205. If any provision of this Act or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such determination.

“TITLE III—REDUCING VOTING AGE TO EIGHTEEN IN FEDERAL, STATE, AND LOCAL ELECTIONS

“DECLARATION AND FINDINGS

“SEC. 301 (a) The Congress finds and declares that the imposition and application of the requirement that a citizen be twenty-one years of age as a precondition to voting in any primary or in any election—

“(1) denies and abridges the inherent constitutional rights of citizens eighteen years of age but not yet twenty-one years of age to vote—a particularly unfair treatment of such citizens in

view of the national defense responsibilities imposed upon such citizens;

“(2) has the effect of denying to citizens eighteen years of age but not yet twenty-one years of age the due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment of the Constitution; and

“(3) does not bear a reasonable relationship to any compelling State interest.

“(b) In order to secure the constitutional rights set forth in subsection (a), the Congress declares that it is necessary to prohibit the denial of the right to vote to citizens of the United States eighteen years of age or over.

USC prec.
title 1.

Denial of
right to vote,
prohibition.

“PROHIBITION

“SEC. 302. Except as required by the Constitution, no citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any primary or in any election shall be denied the right to vote in any such primary or election on account of age if such citizen is eighteen years of age or older.

“ENFORCEMENT

“SEC. 303. (a) (1) In the exercise of the powers of the Congress under the necessary and proper clause of section 8, article I of the Constitution, and section 5 of the fourteenth amendment of the Constitution, the Attorney General is authorized and directed to institute in the name of the United States such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the purposes of this title.

“(2) The districts courts of the United States shall have jurisdiction of proceedings instituted pursuant to this title, which shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing and determination thereof, and to cause the case to be in every way expedited.

Jurisdiction.

62 Stat. 968.

“(b) Whoever shall deny or attempt to deny any person of any right secured by this title shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

Penalty.

84 STAT. 319.

“DEFINITION

“SEC. 304. As used in this title the term ‘State’ includes the District of Columbia.

“State.”

“EFFECTIVE DATE

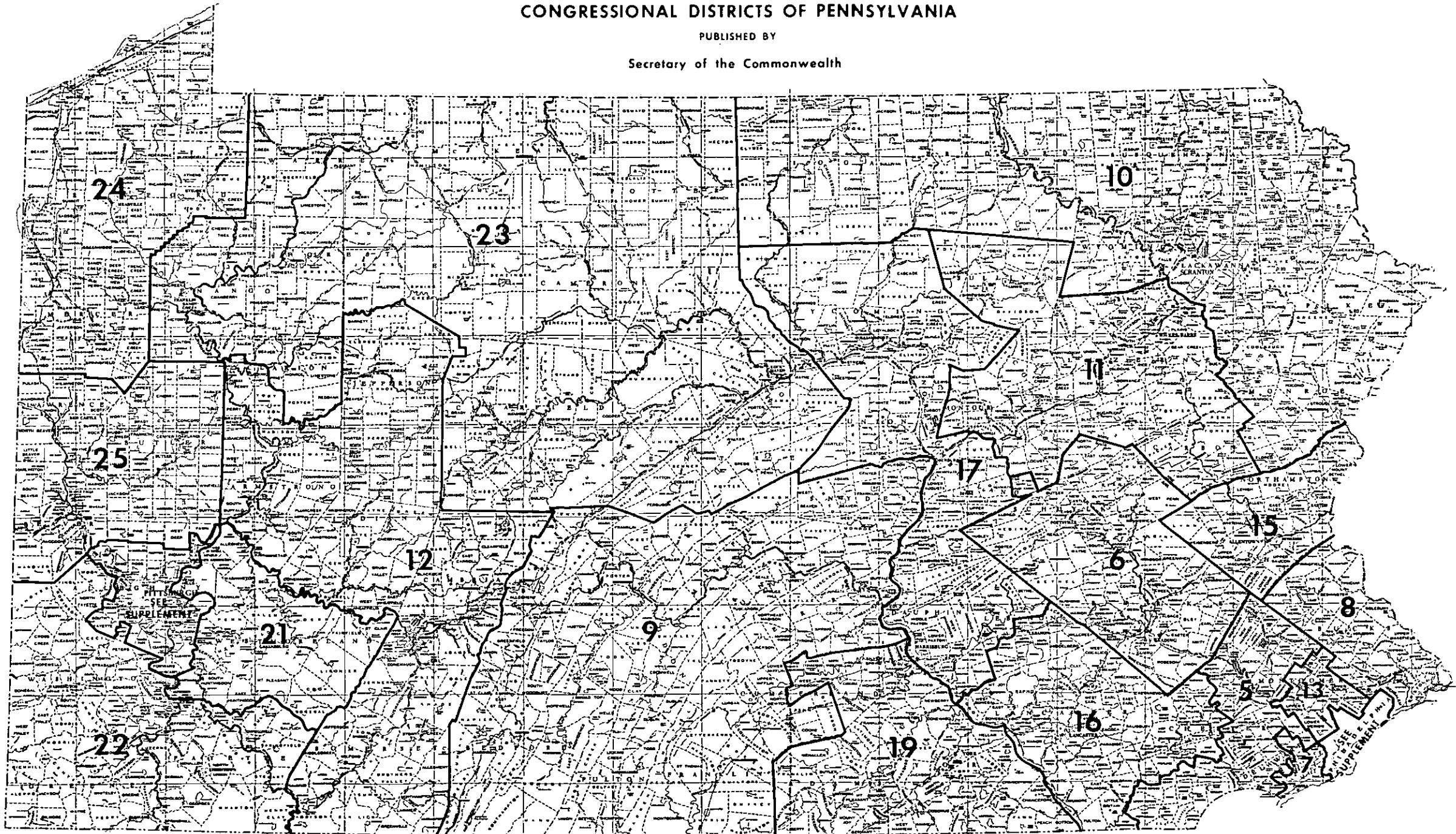
“SEC. 305. The provisions of title III shall take effect with respect to any primary or election held on or after January 1, 1971.”

Approved June 22, 1970

REAPPORTIONMENT PLAN
OF THE
CONGRESSIONAL DISTRICTS OF PENNSYLVANIA

PUBLISHED BY

Secretary of the Commonwealth



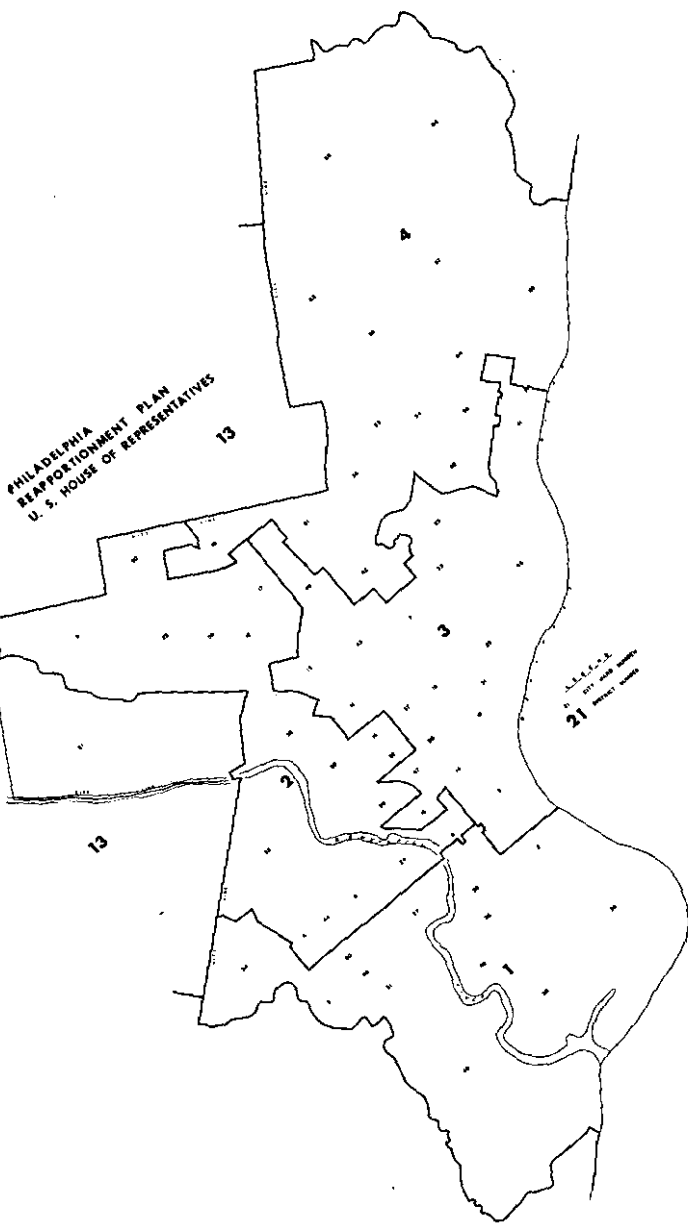
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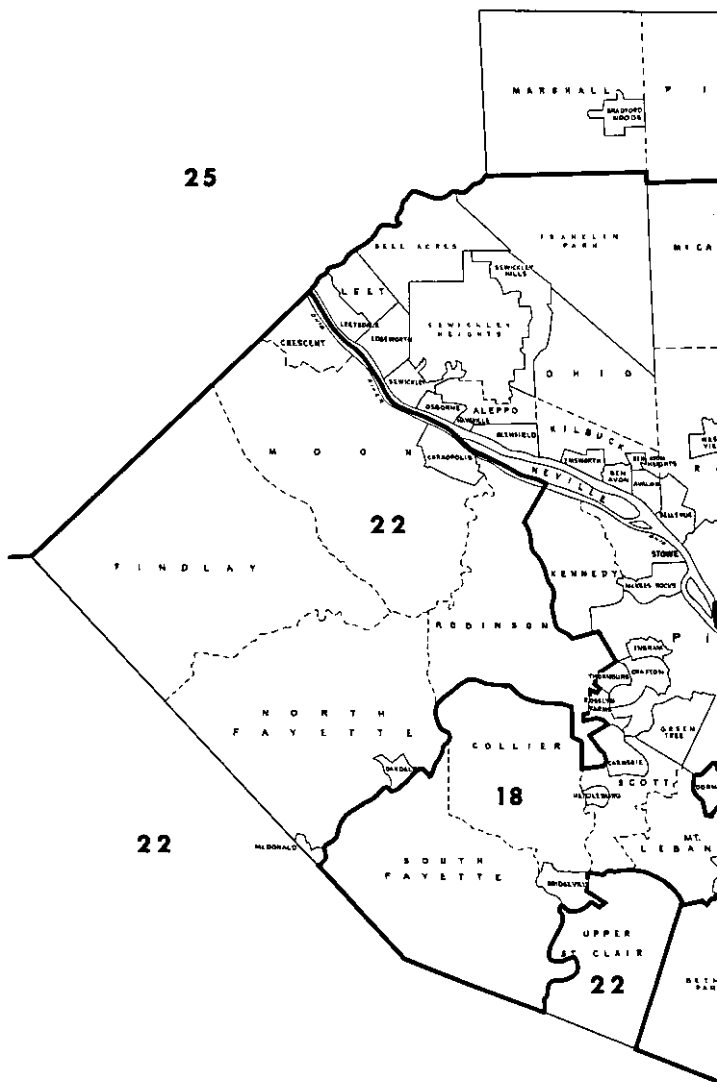
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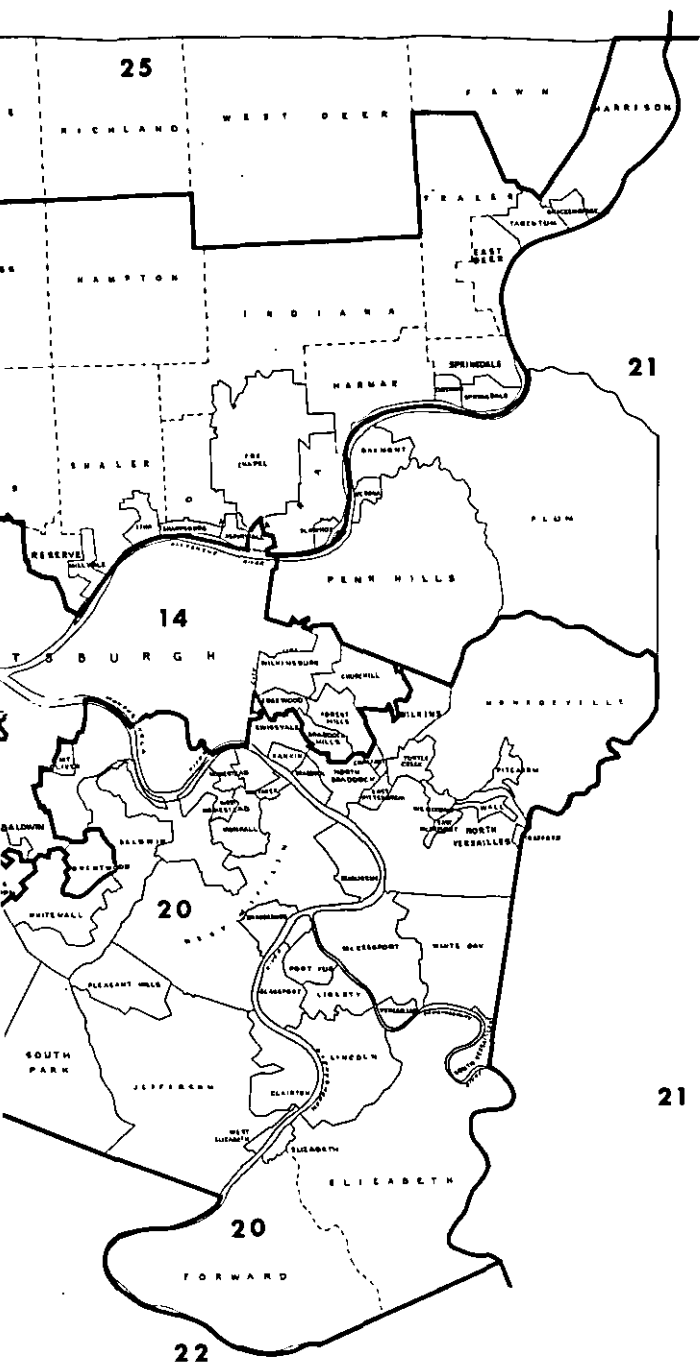
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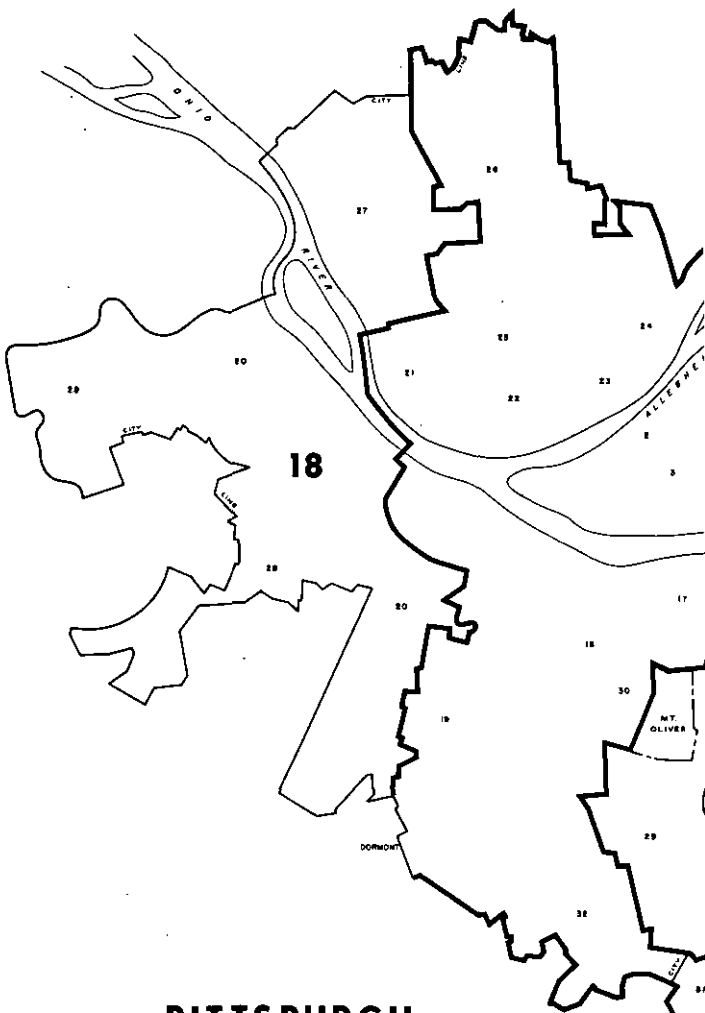


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PHILADELPHIA



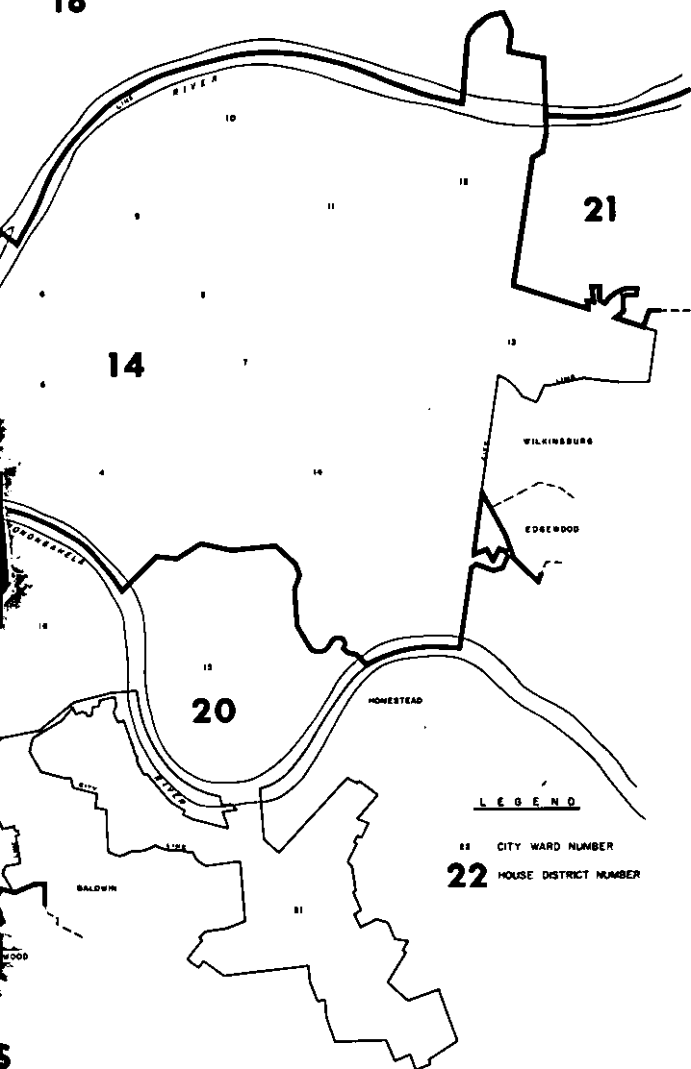
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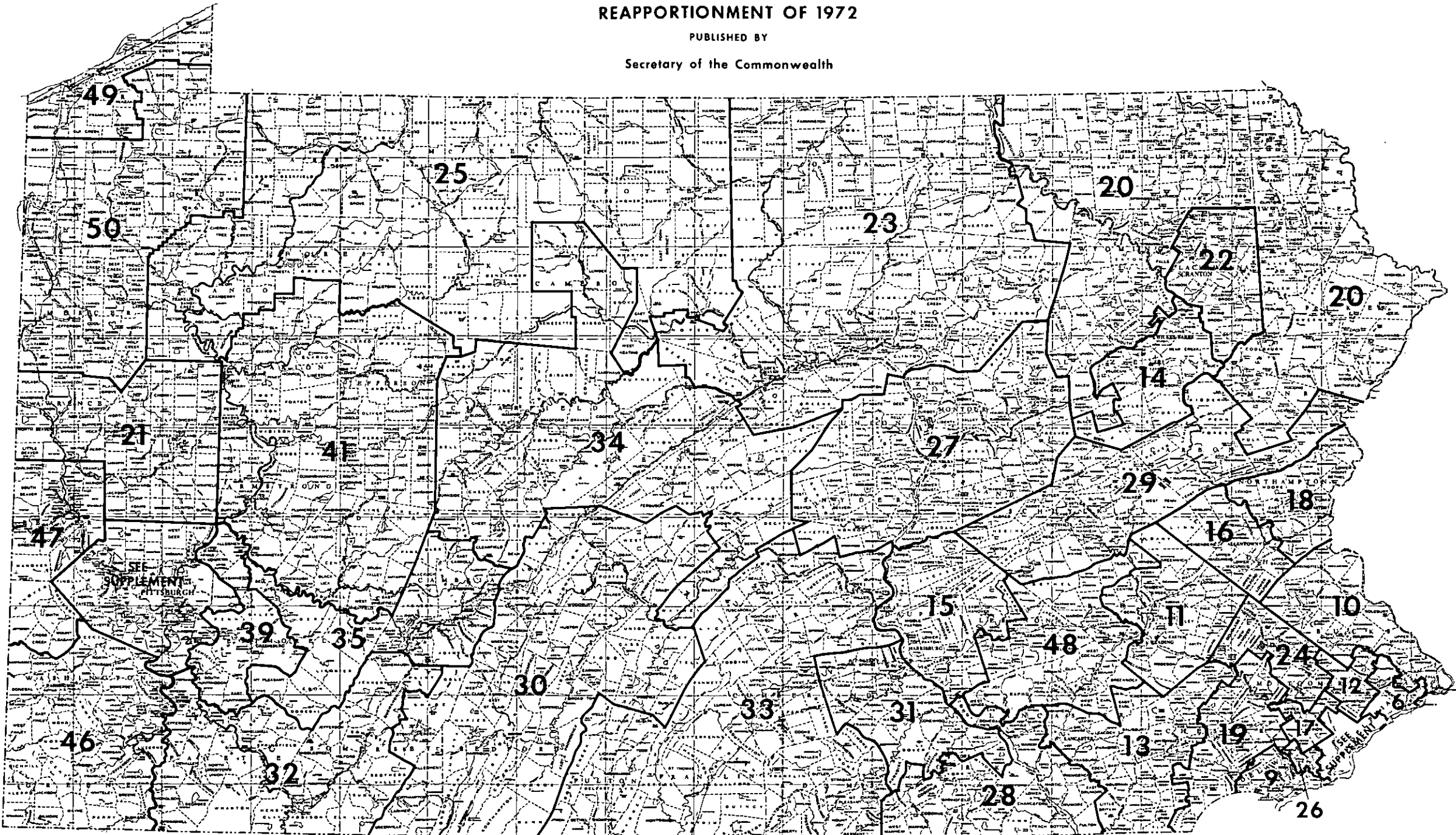
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PENNSYLVANIA SENATORIAL DISTRICTS
REAPPORTIONMENT OF 1972

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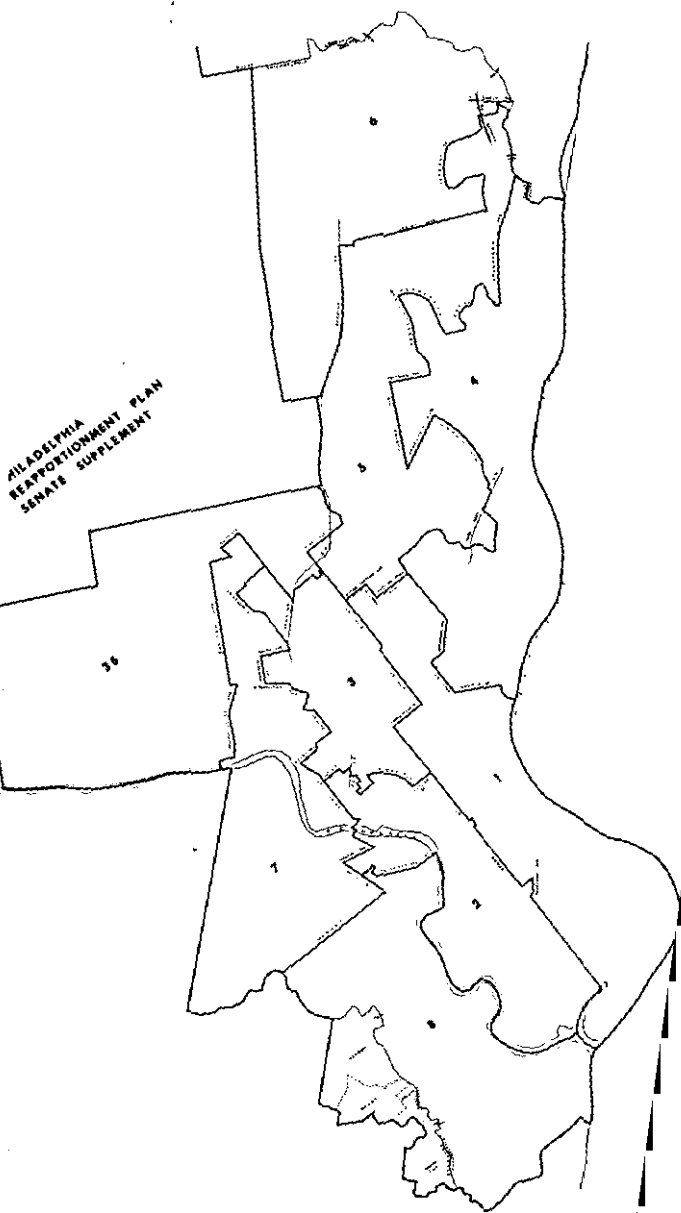
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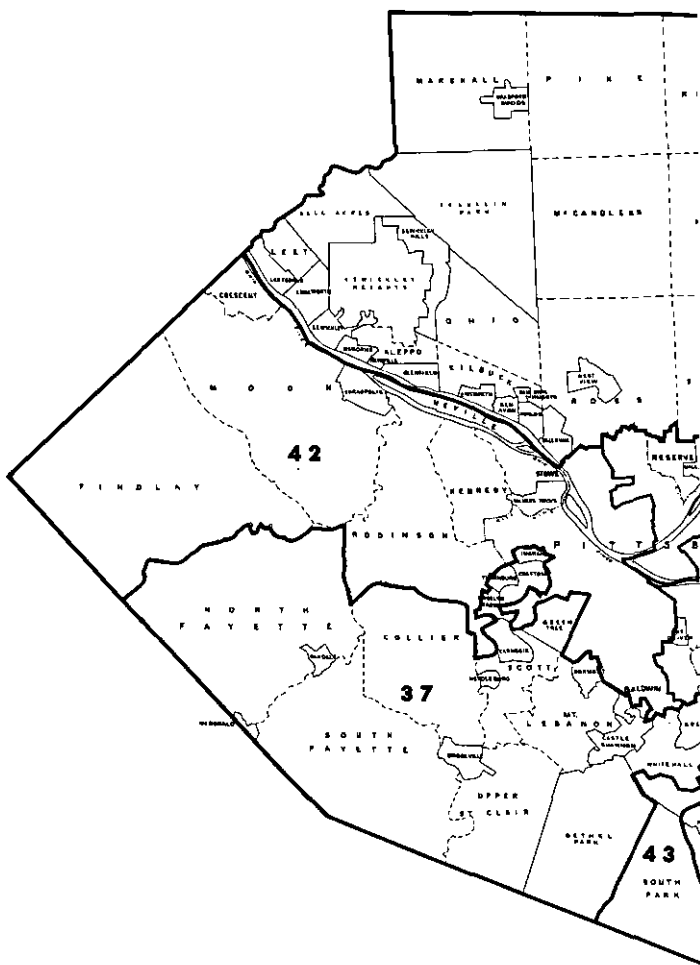


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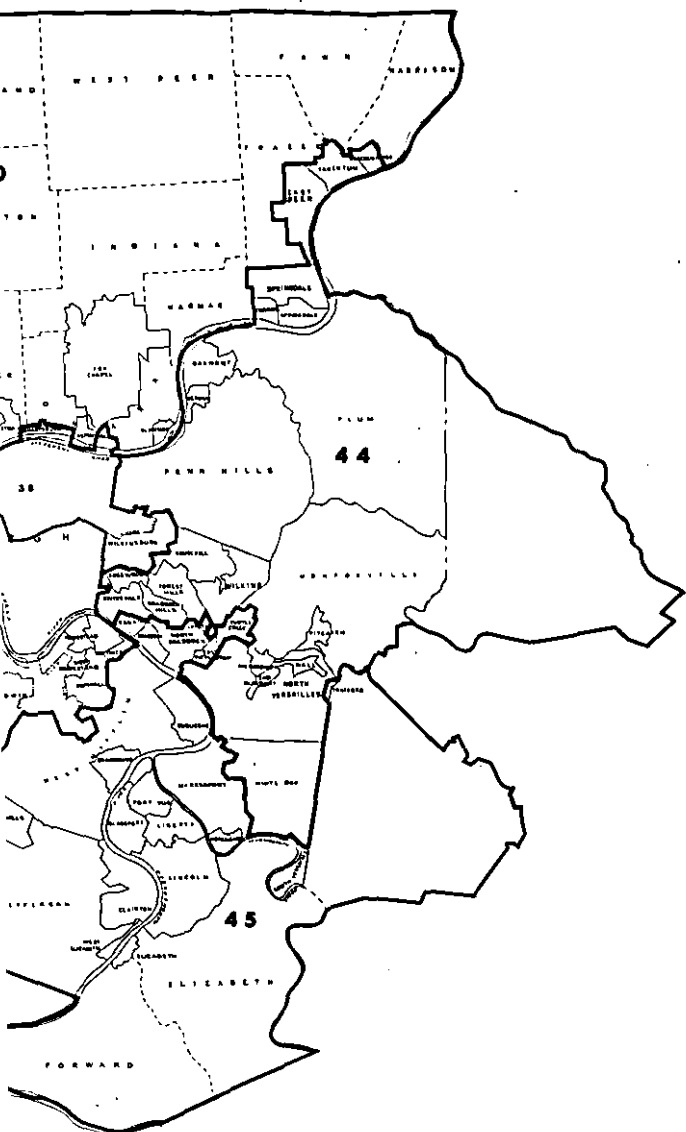
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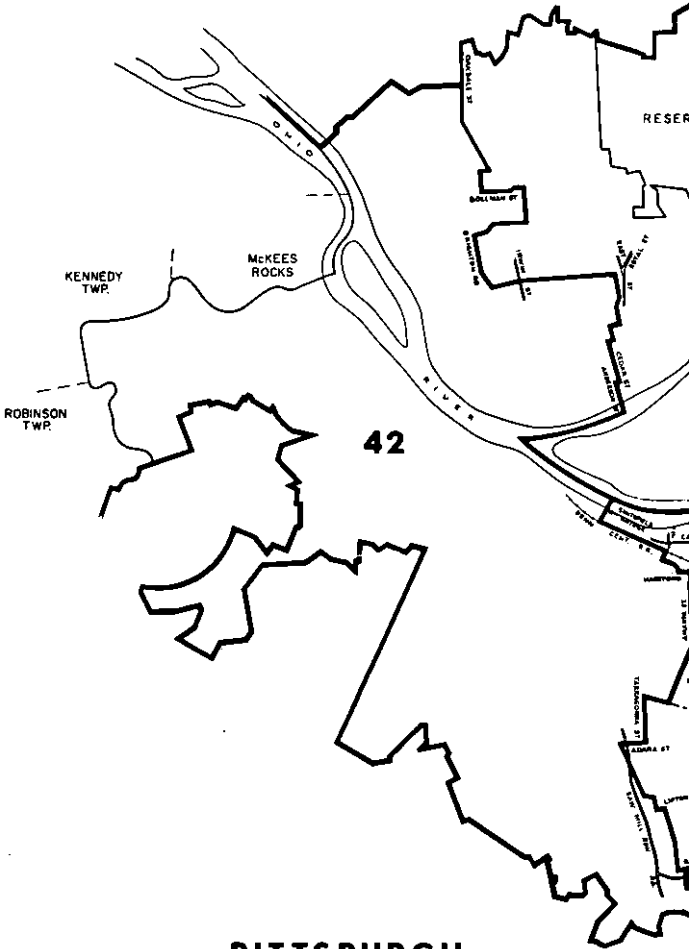
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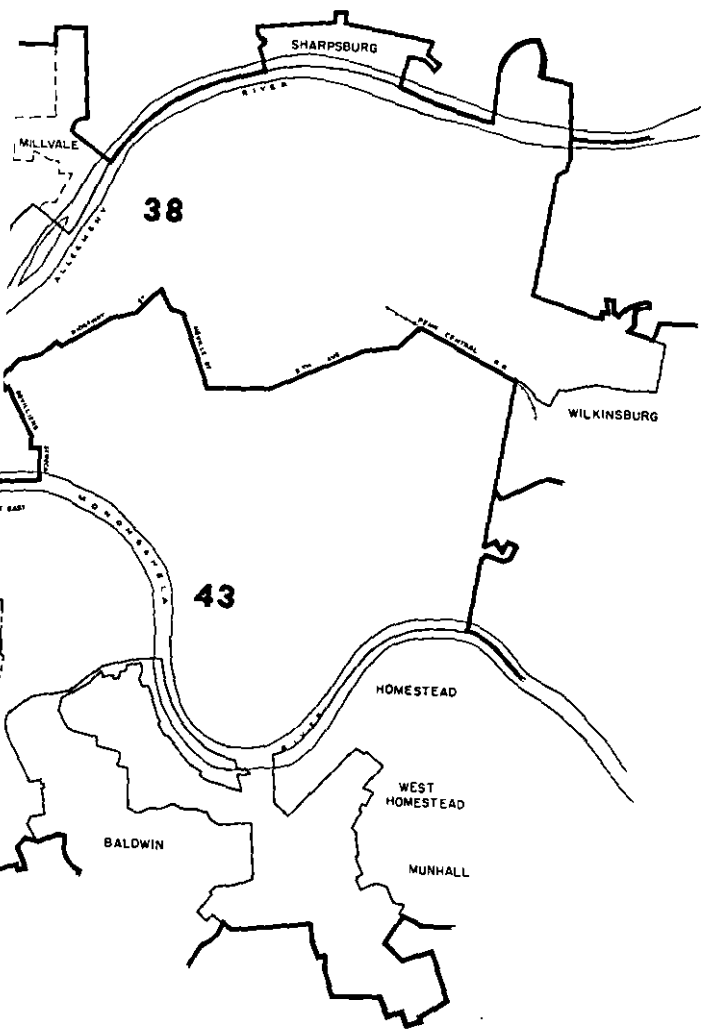


**ALLEGHENY COUNTY
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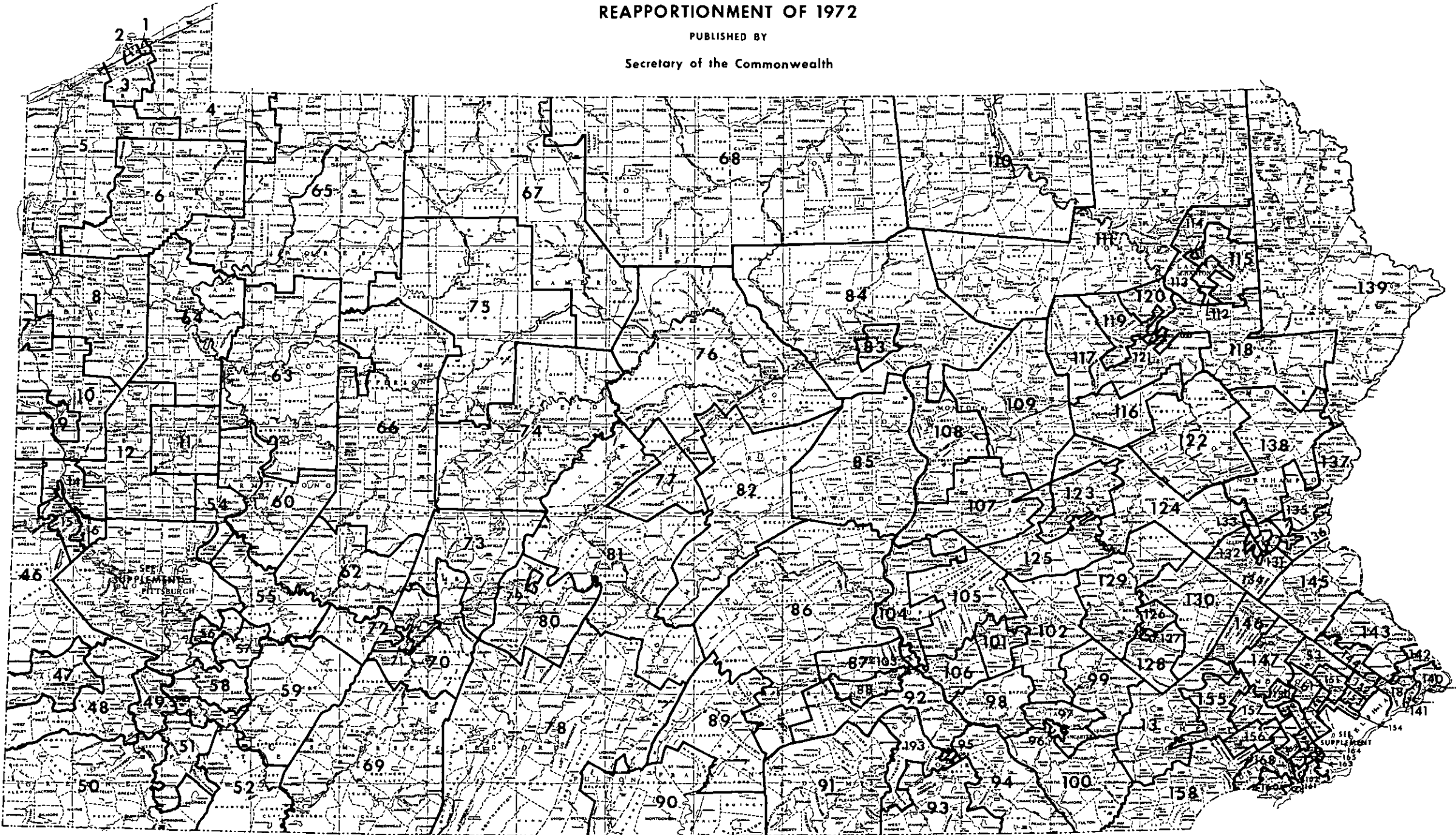


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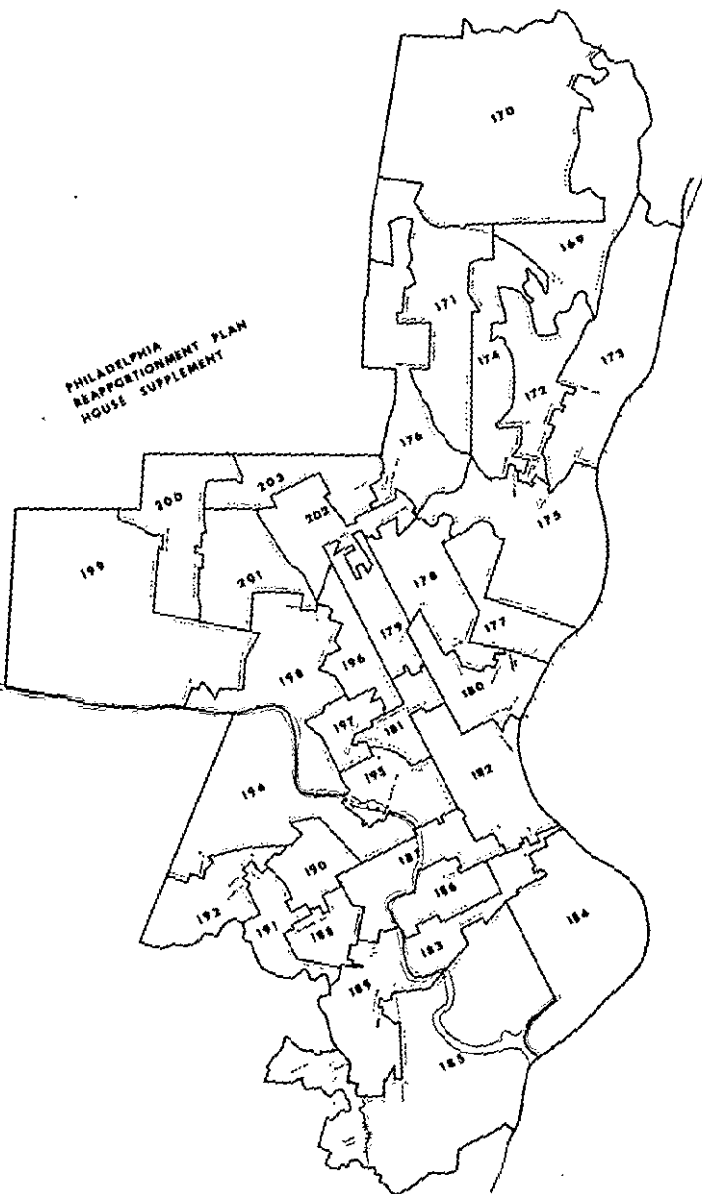
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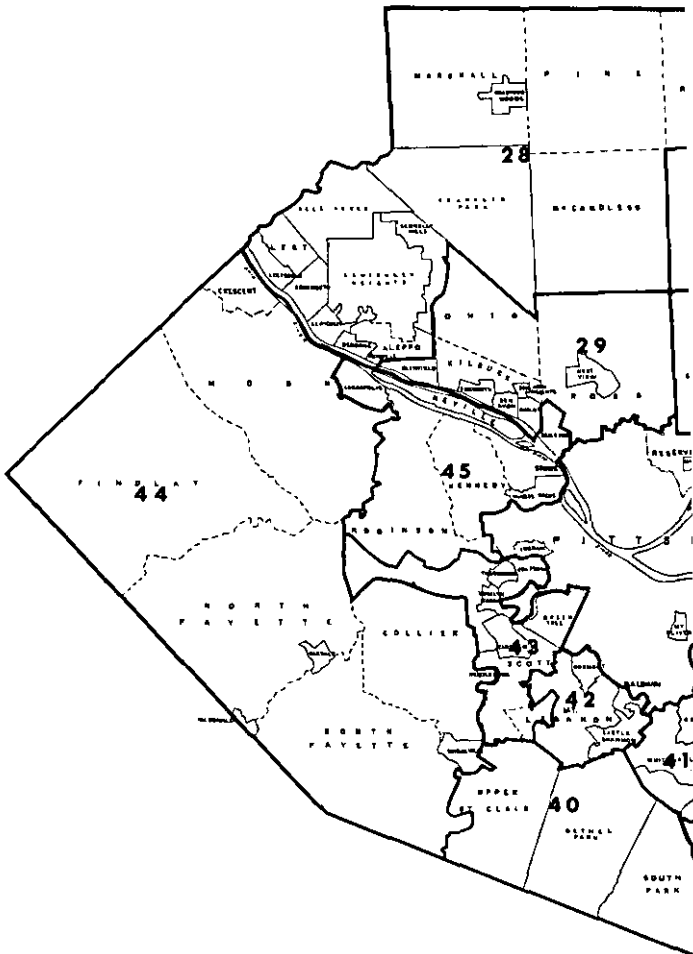
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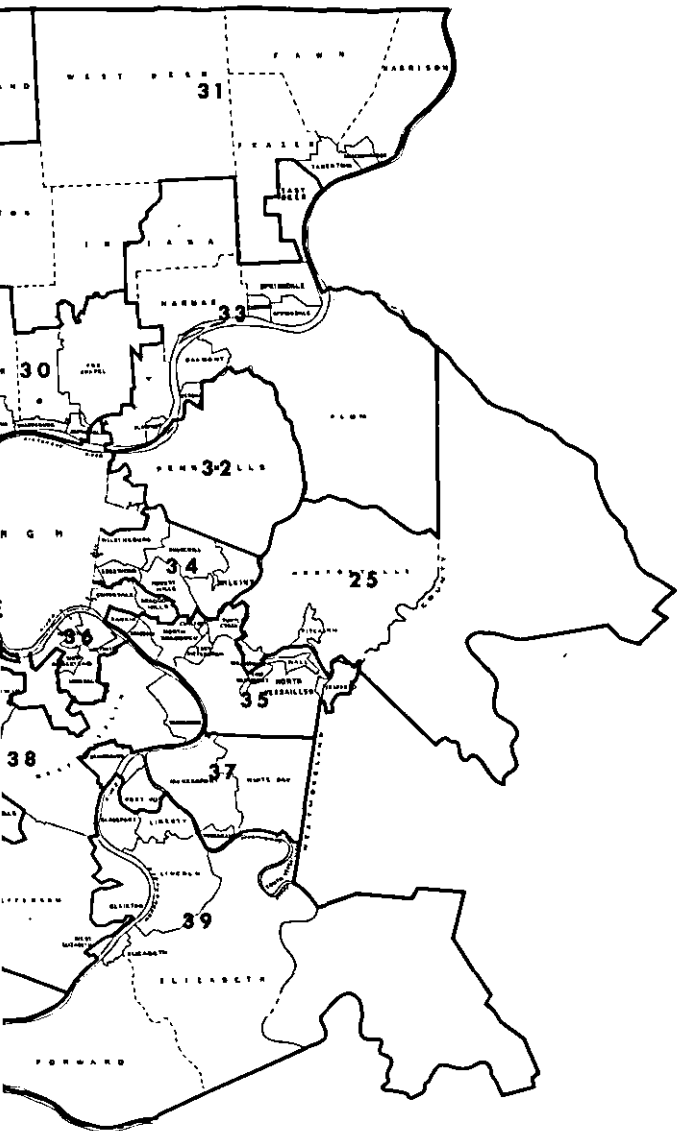
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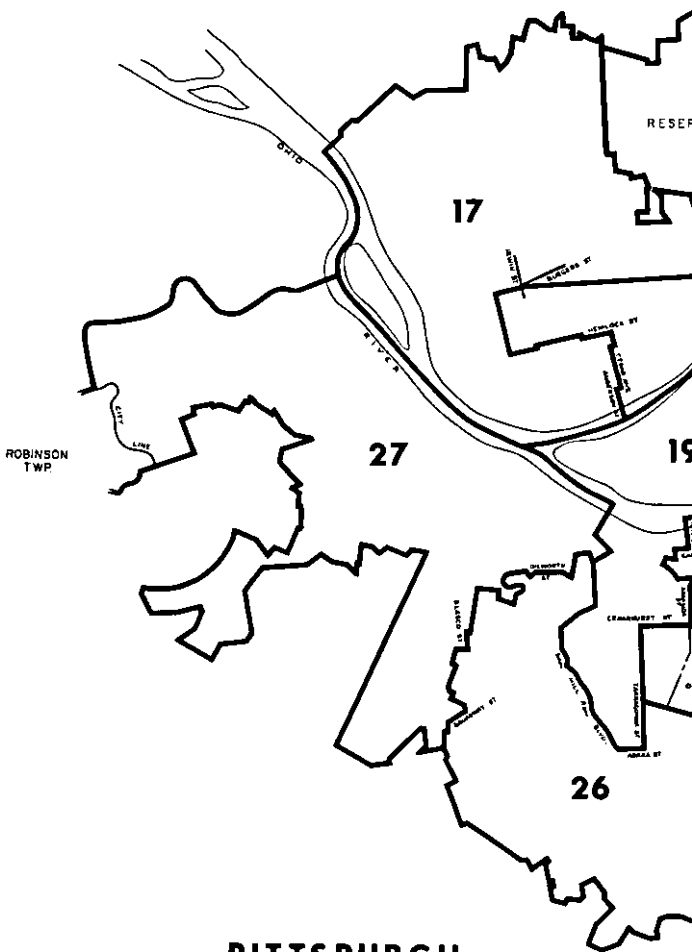
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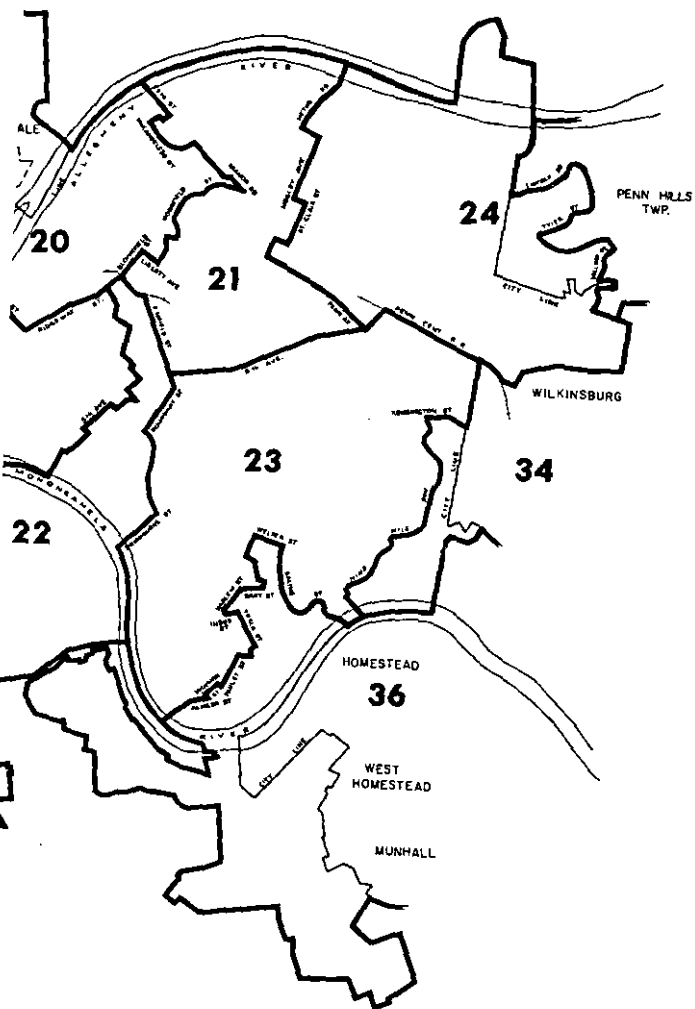


**ALLEGHENY COUNTY
REAPPORTIONMENT PLAN
HOUSE SUPPLEMENT**





**PITTSBURGH
REAPPORTIONMENT PLAN
HOUSE SUPPLEMENT**



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