

**Court of Appeals  
State of New York**

VITO FOSSELLA, NICHOLAS A. LANGWORTHY, JOSEPH  
BORRELLI, NICOLE MALLIOTAKIS, ANDREW LANZA,  
MICHAEL REILLY, MICHAEL TANNOUSIS, INNA VERNIKOV,  
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HOLDEN, GERARD KASSAR, VERALIA MALLIOTAKIS,  
MICHAEL PETROV, WAFIK HABIB, PHILLIP YAN HING WONG,  
NEW YORK REPUBLICAN STATE COMMITTEE, and  
REPUBLICAN NATIONAL COMMITTEE,

**Docket No.:**  
**2022-05794**

*Plaintiffs-Respondents,*

- v. -

ERIC ADAMS, in his official capacity as Mayor of New York City,  
BOARD OF ELECTIONS IN THE CITY OF NEW YORK, and  
CITY COUNCIL OF THE CITY OF NEW YORK,

*Defendants-Appellants,*

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**BRIEF OF *AMICUS CURIAE* COMMON CAUSE NEW YORK**

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MELISSA JOHN, ANGEL SALAZAR, MUHAMMAD  
SHAHIDULLAH, and JAN EZRA UNDAG,

*Defendants-Intervenors-Appellants.*

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## INTEREST OF *AMICUS CURIAE*

*Amicus curiae* is the New York chapter of Common Cause (“Common Cause New York”). Common Cause is a non-partisan, nonprofit organization, with more than 1 million members nationwide, dedicated to upholding the core values of American democracy. Common Cause works to create open, honest, and accountable government that serves the public interest; to promote equal rights, opportunity, and representation for all; and to empower all people to make their voices heard in the political process. To that end, Common Cause has chapters in at least 30 states, including New York, that work on state and local issues in furtherance of the national organization’s mission.

Common Cause New York is one of Common Cause’s most active state chapters, with over 50,000 members in New York State. Common Cause New York strives to mobilize support for, and action on, election administration reform, campaign finance reform, and strengthening and enforcing ethics laws important to maintain the public’s faith in democracy. Since 2017, Common Cause New York has made advocacy and support for Ranked Choice Voting (“RCV”) in New York City one of its top priorities. Common Cause New York believes that Ranked Choice Voting promotes a fairer and more representative democracy, because it requires politicians to engage with all of their constituents, not just their base of supporters; it puts more power in the hands of voters by giving them more say in the

outcome of elections; and it requires a candidate to build majority support to win an election.

Since 2017, Common Cause New York has devoted substantial time and effort to support Ranked Choice Voting before the New York City Charter Revision Commission, in the City-wide referendum that adopted Ranked Choice Voting in City elections, and in the post-referendum implementation of RCV. Common Cause New York devoted a substantial amount of its employees' time to RCV over the past three years and has spent hundreds of thousands of dollars to support RCV's adoption and implementation in New York City. It has provided numerous voter education sessions and educational presentations, and paid for them to be translated into multiple languages. Common Cause New York has also intervened in litigation to support Ranked Choice Voting where its validity has been challenged. *See Adams v. City of New York*, No. 160662/2020, 2021 WL 274716, at \*1-19 (Sup. Ct. N.Y. Cnty. Jan. 27, 2021) (granting Common Cause New York's motion to intervene).

### **PRELIMINARY STATEMENT**

Common Cause New York takes no position on the principal issue presented by this appeal, whether New York City's adoption of an ordinance permitting non-citizen residents to vote in municipal elections is consistent with the New York State Constitution. Common Cause New York also takes no position on the question of whether Local Law 11 should have been submitted to New York City voters to

consider in a referendum, in accordance with Section 23 of the Municipal Home Rule Law. Common Cause New York also takes no position on whether Plaintiffs-Respondents properly preserved their appeal as to the Second Department’s ruling on the New York State Election Law.

Common Cause New York respectfully submits this brief solely to address Plaintiffs-Respondents argument that as an alternate ground for affirmance this Court should hold that the Municipal Voting Law violates New York State Election Law. As the Second Department explained, the clear language of Election Law Section 1-102 explicitly states that the Election Law can be overridden by “any other law.” There is no ambiguity in the phrase “any other law” and the Second Department correctly declined to read a limiting term – state – into the phrase.

Plaintiffs-Respondents position is inconsistent with more than a century of precedent from this Court and lower courts, which have long established the fundamental principle that local communities have the power to decide how their own local officials are elected, and have made clear that the Election Law was never intended to stand in their way. Plaintiffs-Respondents position has no basis in the statute’s language, which clearly allows the Election Law to be overridden by “any other law” and contains no language that would limit the scope of this provision.

Plaintiffs-Respondents position could call into question the validity of numerous other local innovations in how elections should be run, including New

York City’s long-established system of public financing of election campaigns and the validity of the City’s use of Ranked Choice Voting, which the voters of New York City adopted overwhelmingly by referendum in 2019. There is not the slightest reason to believe that the Election Law intended to preclude such local innovations.

For all these reasons, as explained more fully below, Plaintiffs-Respondents interpretation should not be adopted.

## ARGUMENT

### I. THE ELECTION LAW IS DESIGNED TO BE SUPERSEDED BY OTHER LOCAL LAWS.

#### A. The Unambiguous Language of Section 1-102 Makes Clear That Local Governments Can Enact Laws That Supersede the Election Law.

New York Election Law Section 1-102 governs the applicability of the Election Law. *See* Election Law § 1-102 (entitled “Applicability of Chapter”).

Section 1-102 provides:

Where a specific provision of law exists in any other law which is inconsistent with the provisions of this chapter, such provision shall apply unless a provision of this chapter specifies that such provision of this chapter shall apply notwithstanding any other provision of law.

Section 1-102 is thus unambiguous in its declaration that when a provision of “any other law” conflicts with the Election Law, the “other law” prevails, absent statutory language specifying otherwise in another provision of the Election Law.

*Id.* “[A]ny other law” plainly includes local law. There is nothing in the statute that

would limit the applicability of this provision to other provisions of state law, as the Plaintiffs-Respondents argue. There is no modifying phrase or limitation of any kind in Section 1-102, although the State Legislature undoubtedly knew how to include one if it had wished to. If the Legislature had wished to limit the application of Section 1-102 solely to state law, this could have been achieved with the simple addition of a single word – “state” – to Section 1-102’s text. It did not, and, as the Second Department held, this Court should decline to conjure such a limitation out of thin air.

Supporting the view that Section 1-102 should be interpreted to mean what it says, it is important to note that, throughout the Election Law, the Legislature made clear when certain designated sections *cannot* be superseded by other laws. There are at least eighteen instances in the Election Law where the Legislature used the language of Section 1-102 to make clear that the particular provision does apply in the face of other conflicting laws. *See* Election Law §§ 4-104 (3), (3-a), (3-b); 5-202 (6); 5-900 (5); 6-158 (10); 6-204 (2); 7-203 (2); 7-209; 8-106 (1), (2), (3); 14-120 (3)(a); and 15-108 (3)(b); and former §§ 2-122-a (13), (14); 2-122-b (3)(b); and 14-207 (8).

Even more pointedly, Section 4-104(3) specifically states that it applies “[n]otwithstanding the provisions of any general, special or local law.” Election Law § 4-104 (3). This provision completely undermines Plaintiffs-Respondents

reasoning: The Legislature plainly regarded Section 1-102 as being applicable to local laws, since otherwise the inclusion of a reference to local law in the “notwithstanding” clause of Section 4-104(3) would have been entirely unnecessary. There would have been no reason to specify that, in this instance, local law does not supersede the Election Law if local law could never supersede the Election Law in the first place.

Nor do any of Plaintiffs-Respondents cases involving the phrase “any other law” operate to conjure a limitation on New York Election Law that does not exist in the text. In *Gauci v. Gauci*, 471 S.W.3d 899 (Tex. Ct. App. 2015), an out-of-state decision by an intermediate appellate court applying a different state’s law, appellee took the phrase “*notwithstanding* any other law” (emphasis added) to mean that all other procedural requirements were subjugated to the provisions of the statute, thereby “excus[ing] her from the ordinary procedural requirements” in violation of due process. *Id.* at 902 (citations omitted). In *Gauci*, the overly broad interpretation of “[n]otwithstanding any other law” overrode important service of process and due process rights. That arrangement is flipped with regard to Section 1-102. Rather than overriding other laws, Section 1-102 explains that Election Law is designed to be overridden when it conflicts with local government innovation.

Likewise, in *Bank of America, N.A. v. Kessler*, 39 N.Y.3d 317 (2023), the Court adopted a narrower view of “any other mailing or notice” only because a broad

reading would have sat in tension with other language, that the mailing “shall include” certain information. *Id.* at 325 (citation omitted). In this particular case, a harmonious reading of the statute as a whole cabined the meaning of “any other mailing or notice” to “other kinds of notices.” *Id.* No such tension exists in Section 1-102.

And in *Makhani v. Kiesel*, 211 A.D.3d 132 (1st Dep’t 2022), the First Department interpreted “any other department, authority, division or agency of the state,” narrowly based on the principle of *eiusdem generis*, where a general word that follows specific words in a statute is cabined by the types of categories specifically identified. *Id.* at 141 (citation omitted). That principle simply does not apply here, where “other” is not confined by any enumerated list in Section 1-102.

Instead, the Court should apply the phrase “any other law” as it is written. *See e.g., Kimmel v. State of N.Y.*, 29 N.Y.3d 386, 393 (2017) (explaining that “the word ‘any’ means ‘all’ or ‘every’ and imports no limitation” and holding that “any civil action” means exactly what it says); *People v. First Meridian Planning Corp.*, 86 N.Y.2d 608, 619 (1995) (holding that the phrase “other securities” was not limited to only the types of documents identified elsewhere in the statute).

Section 1-102’s plain text makes clear that, unless expressly prohibited, local laws can supersede Election Law. And that understanding is supported by the both the legislative history and the caselaw.

**B. The New York Courts Have Long Established the Fundamental Principle That Local Governments Have the Freedom to Run Their Own Elections.**

This interpretation of Section 1-102 is completely consistent with the fundamental principles established by New York caselaw. For more than a century, New York courts have made clear that local governments have the flexibility to structure and run their own elections, even if they adopt procedures that would otherwise be inconsistent with state law. Time after time, when presented with a challenge to local government innovation, this Court has rejected those challenges and reaffirmed the fundamental principle that local governments have the freedom to control their own elections.

For example, in 1902, this Court addressed a challenge to a village statute that “define[d] the qualifications of electors who should be authorized to vote at the various municipal elections of the defendant for the election of its public officers.” *Spitzer v. Vill. of Fulton*, 172 N.Y. 285, 288 (1902). This Court took the opportunity to clarify that Article II of the New York Constitution did not bar local governments from enfranchising their residents to vote in municipal elections, explaining that “that article was not intended to define the qualifications of voters upon questions relating to the financial interests or private affairs of the various cities or incorporated villages of the state.” *Id.* at 289. This remains the law today.

Similarly, in 1927, this Court affirmed the ability of the city of Rochester to change its system of government from being run by a mayor and city officers, to being run by a city council and city manager. *Bareham v. Rochester*, 246 N.Y. 140, 144 (1927). This Court recognized that through this shift, the city was “radically changing the form of its government.” *Id.* at 143. Nevertheless, the *Bareham* Court held that the New York Constitution posed no barrier to Rochester’s ability to adopt laws restructuring its form of local government. *Id.* at 145. This Court reviewed the Election Law as it stood at the time, and concluded that it permitted such local innovations. Section 130 of the then-current Election Law – one of the precursors to Election Law § 1-102 in effect today – stated that “this article shall not repeal nor affect the provisions of a statute, general or local, prescribing a particular method of making nominations of candidates for certain school or city offices.” *Id.* at 148 (quoting Election Law former § 130). In light of this provision, the Court held that the Election Law permitted this deviation from the procedures for the nomination of candidates otherwise specified by the Election Law. Indeed, the Court explained that a “municipality is empowered to modify an election law in so far as that law affects the property, government or affairs of the municipality, *i.e.*, in so far as it affects the election of the local officers.” *Id.* at 149.

And in 1937, this Court again upheld local authority against a challenge to municipal experimentation. In *Johnson v. City of New York*, 274 N.Y. 411 (1937),

where the Court affirmed the constitutionality of New York City's implementation of a system of proportional voting, the Court reiterated that "[i]f the people of the City of New York want to try the system, make the experiment, and have voted to do so, we as a court should be very slow in determining that the act is unconstitutional, until we can put our finger upon the very provisions of the Constitution which prohibit it." *Id.* at 430.

In 1963, this Court once again reaffirmed the power of local governments to experiment with their voting structures. The Court upheld New York City's system of limited voting, where each voter was limited to voting for one candidate, despite there being two open positions, when electing councilmen to represent their borough on the City Council. *See Blaikie v. Power*, 13 N.Y.2d 134, 144 (1963) ("New York's latest experiment in limited voting, approved by its inhabitants, is one which the Constitution permits it to make.").

And in 1978, this Court again affirmed the ability of local governments to run their own elections, upholding local laws governing how a non-charter county may fill county office vacancies. In *Resnick v. County of Ulster*, 44 N.Y.2d 279 (1978), the Court thoroughly examined the ability of local governments to run their own elections. As the Court explained, "[t]he home rule article and statutes receive their inspiration from the deeply felt belief that local problems should, so long as they do not impinge on affairs of the people of the State as a whole, be solved locally." *Id.*

at 288. The Court noted that, historically, “municipalities were accorded great autonomy in experimenting with the manner in which their local officers, including legislative officers, were to be chosen.” *Id.* at 286. With that historical background in mind, the Court went on to uphold the local law against challenges that it violated state statutes and the state constitution. *Id.* at 283.

The ability of local governments to experiment with how they run their municipal elections has thus been a bedrock principle of New York caselaw for over a century. And it is only with this foundation in mind that Election Law Section 1-102 can be properly interpreted.

**C. The Legislative History of Section 1-102 Clearly Demonstrates That “Any Other Law” Was Intended to Include Local and Municipal Laws.**

The legislative history of Section 1-102 overwhelmingly supports the interpretation that its “any other law” provision was intended to refer broadly to local and municipal laws as well as state laws. Indeed, it is more accurate to say that this reference to “any other law” was *especially* intended to include local and municipal laws, even more so than inconsistent state laws. If necessary, the Legislature could easily fix any inconsistency between two state laws; it was local laws that especially needed the protection of Section 1-102, to prevent them from being inadvertently invalidated.

Moreover, as detailed above, the Legislature was acting against the background of more than a hundred years of precedent that firmly established the principle that local governments should be able to run their own local elections free from state interference. There is nothing in the legislative history that suggests that the Legislature had any intent to depart from that fundamental and long-established principle, and every reason to believe that the Legislature’s “any other law” language was intended to permit local governments the freedom to vary from state election practices.

1. The 1976 Codification of Section 1-102 was Intended to Be a Consolidation of Preexisting Statutes That Permitted Local Laws to Supersede Them.

Nothing in the legislative history of the Election Law indicates that the reference to “any other law” in Section 1-102 was intended to refer only to state laws. To the contrary, Section 1-102 was adopted in 1976 as part of a larger simplification and consolidation of the state’s election laws. Section 1-102 was thus intended to represent the consolidation of laws already in effect, which explicitly permitted local laws to supersede the Election Law.

The Legislature enacted Section 1-102 on May 17, 1976 via two separate bills – Chapter 233 and Chapter 234 – which were adopted by the Legislature on the same

day, and later signed into law by the Governor on the same day, June 1, 1976.<sup>1</sup> It was part of a large-scale recodification of New York’s Election Law, which aimed to consolidate and streamline pre-existing election laws. Chapter 233 was the principal statute that recodified the election laws, and Chapter 234 made some minor corrections to Chapter 233.<sup>2</sup> As the Supreme Court below noted, this recodification “eliminate[d] obsolete sections and duplication; reorganize[d] the law in logical, clear order; and [was] written in language more easily understood . . . . It [was] truly a recodification, not making substantial or highly controversial changes to the law.” Decision & Order on Motions #004, 005, 006, dated June 27, 2022, NYSCEF No. 174 at 10 (hereinafter “Supreme Court Decision & Order”).<sup>3</sup> During the Assembly debate concerning Chapter 233, Assemblyman Melvin H. Miller, speaking on behalf

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<sup>1</sup> Election Law § 1-102, as amended by L. 1976, c. 233; Election Law § 1-102, as amended by L. 1976, c. 234.

<sup>2</sup> See Memorandum in Support, New York Legislative Services, Governor’s Bill Jacket, L. 1976, c. 234. A copy of the Governor’s Bill Jacket regarding Chapter 234 is attached hereto as Exhibit 1.

<sup>3</sup> Citing Exhibit 1, Letter in Support from the League of Women Voters, May 20, 1976; see also State Assembly Memorandum in Support, New York Legislative Services, Governor’s Bill Jacket, L. 1976, c. 233 (“This recodification represents a simplification and clarification of present law.”); 1976 Annual Report, Assembly Committee on Election Law, at 2, New York Legislative Services, Governor’s Bill Jacket, L. 1976, c. 233 (“By consolidating redundant provisions, eliminating those provisions which are obsolete or inconsistent and modifying certain other provisions to conform with recent court decisions, we have made the election law considerably more comprehensible.”). A copy of the Governor’s Bill Jacket with respect to Chapter 233 is attached hereto as Exhibit 2.

of the Joint Legislative Committee that prepared this revision, stated that it simply “tried to make the Election Law reflect what the law is today.”<sup>4</sup>

Thus, Section 1-102 was intended to be a codification of the earlier election law provisions from which it derived. And Section 1-102 was derived from three earlier provisions of the Election Law – the Election Law of 1949, c. 100 §§ 130, 190, 265, 351; the Election Law of 1922, c. 588 §§ 130, 190, 267; and the Election Law of 1909, c. 22 § 415<sup>5</sup> – all of which explicitly provided that their provisions could be superseded by other laws, including local laws. For example, Section 130 of both the Election Law of 1949 and the Election Law of 1922 provided that local laws affecting the nomination of candidates for school and city offices could supersede the Election Law: “[T]his article shall not repeal nor affect the provisions of a statute, *general or local*, prescribing a particular method of making nominations of candidates for certain school or city offices.” Election Law of 1949, § 130, added by L. 1949, c. 100; Election Law of 1922, § 130, added by L. 1922, c. 588 (emphasis added) (copies of these former Election Law provisions are included in Exhibit 3, attached).

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<sup>4</sup> Assembly Debate Transcript at 3418. A copy of excerpts from the Assembly debate is attached hereto as Exhibit 4.

<sup>5</sup> See Historical and Statutory Notes, McKinney’s Cons. Laws of N.Y., Book 17, Election Law § 1-102 at 138 (2022 ed.). Copies of these former statutes are included in the Bill Jacket Supplement attached hereto as Exhibit 3.

Similarly, Section 190 of both the Election Law of 1949 and the Election Law of 1922 provided that “this article applies to . . . any election at which official ballots are used *if other provision for the conduct thereof is not made*” (emphasis added).<sup>6</sup> Neither version of Section 190 limited the application of the phrase, “if other provision for the conduct thereof is not made,” only to state laws.

Indeed, *none* of the provisions from which Section 1-102 was derived stated that *only* conflicting state laws could supersede the Election Law. In light of the limited purpose of the 1976 statutes, to effect a recodification with “minimum substantive changes,”<sup>7</sup> there is no reason to believe that Section 1-102 would implicitly and without any explanation adopt a new “state law only” limitation.

2. The Legislature’s Amendment of Section 1-102 to Include a Reference to “Any Other Law” Instead of the State’s “Education Law” Was Simply a Same-Day Correction of a Plain Error.

In contending that Section 1-102’s reference to “any other law” should be limited to state laws, the Supreme Court and Plaintiffs-Respondents placed great significance on the fact that the Legislature altered the text of Section 1-102 from “[w]here a specific provision of law exists in the *education law*,” as enacted in Chapter 233 (emphasis added), to “[w]here a specific provision of law exists in *any*

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<sup>6</sup> Election Law of 1949, § 190, added by L. 1949, c. 100 (reproduced in Exhibit 3); Election Law of 1922, § 190, added by L. 1922, c. 588 (reproduced in Exhibit 3).

<sup>7</sup> State Board of Elections Memorandum, dated May 27, 1976 (copy included in Governor’s Bill Jacket re Chapter 233 (attached as Exhibit 2)).

*other law*” (emphasis added), as corrected by Chapter 234 the same day. Supreme Court Decision & Order, at 10; Brief of Plaintiffs-Respondents, filed September 26, 2024, at 40–43. The Supreme Court held that the original reference to the “education law” indicated that “any other law” should similarly refer only to state laws, like the Education Law. It is important to note that there is no support for the Supreme Court’s conclusion – there is no reason to arbitrarily find that “any other law” refers only to other state laws, when there is nothing in the statutory language that provides it should be so limited.

More fundamentally, however, the conclusion drawn by the Supreme Court was rooted in a basic misunderstanding of the legislative record. The Supreme Court correctly understood that “the recodification of the Election Law in 1976 was not intended to make substantive changes to the law as it was previously written.” Supreme Court Decision & Order, at 10. The Court’s fundamental error, however, was its misunderstanding of the starting point from which the revisions enacted by the Legislature should be measured. The Supreme Court was acting under the misunderstanding that “[i]n 1976, prior to the recodification of the Election Law,” Section 1-102 included a reference to the “education law.” Supreme Court Decision & Order, at 10. That is simply not true. *There was never a day when Section 1-102 included a reference to the education law.* Contrary to the Supreme Court’s reasoning, the reference to “education law” in the bill passed as Chapter 233 was not

a longstanding aspect of the Election Law provisions from which Section 1-102 derived – as discussed above, the true predecessors of Section 1-102 all included a reference to other laws generally, and included local laws.

Rather, the reference to the “education law” appeared for the first time in the version of Section 1-102 enacted by Chapter 233 on May 17, 1976.<sup>8</sup> But on that *same day*, the Legislature simultaneously adopted various minor corrections to the Election Law by enacting Chapter 234. And in Chapter 234, the Legislature took out the reference to the “education law” found in Chapter 233 and replaced it with “any other law.”<sup>9</sup> As the Supreme Court noted, Chapter 234 was intended to “amend the newly enacted revised election law . . . to correct defects in the new law.” Supreme Court Decision & Order, at 10 (quoting the report of the Association of the Bar of the City of New York on Chapter 234).<sup>10</sup> And one of those “defects” corrected by Chapter 234 was the stray reference to the “education law” that had mistakenly crept into Chapter 233. Both bills were then signed into law by Governor Hugh Carey on the same day, June 1, 1976.

In this light, it is the final version enacted as Chapter 234 which reflects the intent of the Legislature to simply codify longstanding provisions of the Election Law, not the version enacted as Chapter 233. It is entirely unclear how the reference

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<sup>8</sup> Election Law § 1-102, as amended by L. 1976, c. 233 (reproduced in Ex. 3).

<sup>9</sup> Election Law § 1-102, as amended by L. 1976, c. 234.

<sup>10</sup> *See also* Exhibit 1, Letter from the New York City Bar Association, dated May 27.

to the Education Law crept into the recodification bill, but it is readily apparent that that language was an error that crept into one version of the bill and had to be immediately corrected the same day. It was the corrected language in Chapter 234, referring to “any other law”, that more accurately reflected what the Legislature always intended. If the Legislature had, in fact, originally intended that only the state Education Law could supersede Section 1-102, it would have been a significant policy change for the Legislature to subsequently determine that *all* state law could supersede Section 1-102. Yet there is no discussion in the legislative history of this change. Moreover, the Legislature’s “Memorandum in Support” of Chapter 234 stated that all of the bill’s substantive “changes from existing law” were “detailed” in the Memorandum, yet that Memorandum conspicuously does not contain any reference to the changed language in Section 1-102.<sup>11</sup> As the New York City Bar Association explained, Chapter 234 was merely “intended to correct defects” and “errors” in the Chapter 233 bill.<sup>12</sup> In this light, it is readily apparent that the original reference in the first bill to the education law simply reflected an error that the Legislature quickly corrected.

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<sup>11</sup> A copy of the Memorandum in Support is included in the Governor’s Bill Jacket for Chapter 234 (Exhibit 1).

<sup>12</sup> Exhibit 1, Letter from the New York City Bar Association, dated May 27, 1976.

3. Subsequent Amendments to Section 1-102 Provide Further Support for the Interpretation That “Any Other Law” Applies Equally to Local Laws.

Finally, the amendments to Section 1-102 *since* 1976 provide further support for the view that “any other law” is intended to refer to local laws as well as state laws. In 1978, the Legislature revised Section 1-102 to address a number of local election matters. This amendment provided that the Election Law was applicable to all elections “nominating or electing an individual to any federal, state, county, city, town or village office . . . or deciding any ballot question submitted to the voters of any county, city, town or village at the time of a general election.”<sup>13</sup> The 1978 amendment thus related primarily to the conduct of local elections. Nevertheless, the amendment left intact the final sentence of Section 1-102, including the provision that the Election Law will defer to “any other law.” If the Legislature did not intend “any other law” to include local elections, it surely would have revised the last sentence of Section 1-102 to make clear that local governments could not supersede the new provisions of the Election Law. Yet the Legislature made no such change in Section 1-102.

Similarly, in 1991, the Legislature amended Section 1-102 to expand application of the Election Law to include ballot questions submitted to “the voters

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<sup>13</sup> Election Law § 1-102, as amended by L. 1978, c. 374.

of any county or city.”<sup>14</sup> The statute previously had applied only to ballot questions “submitted to all the voters of the state.”<sup>15</sup> Once again, although the 1991 amendment focused exclusively on local elections, the Legislature did not alter the last sentence allowing the Election Law to be superseded by “any other law.” This demonstrates the Legislature’s clear intent that “any other law,” like the rest of Section 1-102, referred to matters both state and local.

**D. The Majority of New York Courts That Have Examined Section 1-102 Have Found That It Can Be Superseded by Other Local Laws.**

For almost forty years, every other court which has dealt with the issue, including the Second Department below, has found that local governments have the ability to supersede the Election Law when it conflicts with the way they have chosen to run their own local elections. Apart from the decision of the Supreme Court in this case and the solitary decision of a different trial court it relied upon—a case Plaintiffs-Respondents no longer cite despite having relied on it below—New York courts have been unanimous in their understanding that Election Law Section 1-102 means what it says: that it can be superseded by other laws, including local laws.

The Second Department held that the phrase “any other law” is not limited to any other *state* law. Instead, Section 1-102 means what it says: “Where a specific

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<sup>14</sup> Election Law § 1-102, as amended by L. 1991, c. 727.

<sup>15</sup> *Id.*

provision of law exists in *any other law* which is inconsistent with the provisions of this chapter, such provision *shall apply* unless a provision of this chapter specifies that such provision of this chapter shall apply notwithstanding any other provision of law.” Election Law § 1-102 (emphasis added). “Had the legislature intended to reference any other *state* law, ‘it easily could have so stated’ by including the term ‘state.’” *Fossella v. Adams*, 225 A.D.3d 98, 122 (2d Dep’t 2024) (quoting *Kuzmich v. 50 Murray St. Acquisition LLC*, 34 N.Y.3d 84, 93 (2019)). Because Section 1-102 does not limit “any other law” to only state laws, the Second Department declined to read in such a limitation. *Id.* This comports with the weight of authority in the state.

For example, in *N.Y.P.I.R.G. – Citizen’s Alliance v. City of Buffalo*, 130 Misc. 2d 448 (Sup. Ct. Erie Cnty. 1985), the plaintiffs challenged the Buffalo Common Council’s decision to reject plaintiff’s petition concerning a stadium referendum for failure to satisfy the petition requirements set forth in the Buffalo City Charter. Plaintiffs argued that the Council’s reliance on the provisions of the City Charter was invalid because it conflicted with provisions of the State Election Law, but the court rejected that contention. As the court explained, the alleged conflict with the Election Law provided no basis for rejecting the City’s actions pursuant to the City Charter, because “Election Law § 1-102 render[s] itself inapplicable when

inconsistent with any other law unless so specified to apply *notwithstanding* any other provisions of the law.” *Id.* at 449.

Similarly, in *City of New York v. New York City Board of Elections*, No. 41450/91, 1991 WL 12018167 (Sup. Ct. N.Y. Cnty. Apr. 3, 1991), the Supreme Court in New York County held expressly that local laws could supersede provisions of the Election Law pursuant to Section 1-102. *City of New York* involved an alleged conflict between the New York City Charter and the Election Law with respect to the regulation of party nominations for special elections. In holding that any alleged conflict was irrelevant because Election Law Section 1-102 permitted inconsistent local laws, the court specifically rejected the City’s argument that the “City Charter § is not a ‘law’ within the contemplation of Election Law § 1-102 because it is not a state statute.” *Id.* at \*2. The court explained that Section 1-102 reflected the “policy of legislative deference” to local governments regarding how they run local elections that the Court of Appeals adopted in *Bareham*, 246 N.Y. 140. *Id.* And the court rejected the City’s attempt to make arguments from the Election Law’s legislative history, holding that Section 1-102 was plain and unambiguous, and that there was no need to resort to legislative history. *Id.*

The Supreme Court’s decision in *City of New York* was explicitly affirmed by the First Department “for the reasons stated” by the Supreme Court. *City of New*

*York v. N.Y. City Board of Elections*, No. 43026, 1991 N.Y. App. Div. LEXIS 18134 (1st Dep’t April 5, 1991).<sup>16</sup>

And in *McDonald v. New York City Campaign Finance Board*, 40 Misc. 3d 826 (Sup. Ct. N.Y. Cnty. 2013), *aff’d*, 117 A.D.3d 540 (1st Dep’t 2014), the Supreme Court in New York County upheld the validity of New York City’s limitations on campaign contributions, rejecting the plaintiff’s claim that the limits were inconsistent with the Election Law and therefore invalid. While the Supreme Court ultimately held that there was no conflict with the Election Law and therefore no need to decide the applicability of Section 1-102, 40 Misc. 3d at 850, the court nevertheless opined that “if it were necessary for its decision to interpret the impact of Election Law §1-102, it would find that Election Law § 1-102 means what it says it means, and must be accorded its plain meaning.” *Id.* at 850. The court further

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<sup>16</sup> The federal district court in *Castine v. Zurlo*, 938 F. Supp. 2d 302 (N.D.N.Y. 2013), likewise held that Election Law Section 1-102 permitted local laws to supersede provisions of the Election Law. *Castine* involved a conflict between the Election Law and a local Clinton County law governing the Plaintiff’s eligibility to sit as an Election Commissioner. The federal district court held that Section 1-102 deferred to local law, and that the local law was therefore valid and enforceable against her. The Court rejected the Plaintiff’s argument that Section 1-102’s reference to ‘any other law’ applied only to state laws, holding that Section 1-102 was clear and unambiguous on its face. *Id.* at 313. The Court also noted an opinion of the New York Attorney General which had opined that a village charter provision controlled over a conflicting provision of the Election Law pursuant to Section 1-102, as further precedent for its ruling that the statute was not limited to other state laws. The district court’s decision was later vacated by the Second Circuit for other reasons, *Castine v. Zurlo*, 756 F.3d 171 (2d Cir. 2014), with the Second Circuit suggesting that the district court, as a matter of discretion, might consider declining to exercise supplemental jurisdiction over this state law issue, *id.* at 178, and that is what the district court ultimately did, Decision & Order, *Castine v. Zurlo*, No. 8:10-CV-00879 (N.D.N.Y. Aug. 8, 2014), ECF No. 62, at 2.

explained that Section 1-102 “essentially holds that where an inconsistent provision of law exists in any other law, that provision of law will apply unless the applicable provision of the Election Law has specific preemption language.” *Id.* at 850-51.

Plaintiffs-Respondents do not discuss, or even acknowledge, any of the extensive case law inconsistent with their position.

### CONCLUSION

For the foregoing reasons, this Court should affirm the Second Department’s holding that the phrase “any other law” within Section 1-102 of the Election Law includes laws enacted by local governments.

Dated: November 14, 2024

Respectfully Submitted,



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*Attorneys for Amicus Curiae  
Common Cause New York*

## **PRINTING SPECIFICATION STATEMENT**

This brief was prepared on a computer, using Times New Roman 14 pt. font for the body (double-spaced) and Times New Roman 12 pt. font for the footnotes (single-spaced). According to Microsoft Word, the portions of the brief that must be included in a word count contain 5,949 words.

# **EXHIBIT 1**



# **GOVERNOR'S BILL JACKET**

51

## **1976**

# **CHAPTER 234**

### **26 PAGES**

**NYLS Note: NYLS added the last 13 pages, including Assembly debate.  
There was no Senate debate.**

## **ELECTION LAW**

### **Technical Corrections**

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We accept the following:



CHAPTER 234

10625-A

Cal. No. 508

# IN ASSEMBLY

March 2, 1976

Introduced by Messrs. M. H. MILLER, HENDERSON—read once and referred to the Committee on Election Law—reported from said committee with amendments, ordered reprinted as amended and placed on the order of second reading

## AN ACT

to amend the election law generally and repealing certain provisions thereof, the public officers law and the county law relating to elections

Notes

Compared by     

Approved

APPROVED  
JUN 1 1976

1976

ASSEMBLY

The Assembly bill  
by Mr. M.H. MILLER Calendar No. 764  
Entitled: "

Assembly No. 10625-A  
Sen. Rept. No. \_\_\_\_\_

10625-A

AN ACT

to amend the election law generally and repealing certain provisions thereof,  
the public officers law and the county law relating to elections

" was read the third time

The President put the question whether the Senate would agree to the final passage of said bill, the same having been printed and upon the desks of the members in its final form at least three calendar legislative days, and it was decided in the affirmative, a majority of all the Senators elected voting in favor thereof and three-fifths being present, as follows:

AYE	Dist.		NAY	AYE	Dist.		NAY
	47	Mr. Anderson			29	Mr. Leichter	
	49	Mr. Auer			8	Mr. Levy	
	45	Mr. Barclay			22	Mr. Lewis	EXCUSED
	18	Mr. Bartosiewicz			50	Mr. Lombardi	
	23	Mr. Beatty	EXCUSED		24	Mr. Marchi	
	25	Ms. Bellamy			5	Mr. Marino	
	33	Mr. Bernstein			48	Mr. Mason	
	19	Mr. Bloom			28	Mr. McCall	
	12	Mr. Bronston			59	Mr. McFarland	EXCUSED
	9	Ms. Burstein					
	7	Mr. Caemmerer	EXCUSED		42	Mr. Nolan	
	34	Mr. Calandra			27	Mr. Ohrenstein	
	21	Mr. Conklin					
	46	Mr. Donovan			11	Mr. Padavan	
	6	Mr. Dunne			60	Mr. Paterson	
	54	Mr. Eckert			53	Mr. Perry	
	35	Mr. Flynn			36	Mr. Pisani	
	32	Mr. Galiber			57	Mr. Present	
	30	Mr. Garcia			39	Mr. Rolison	
	14	Mr. Gazzara			31	Mr. Ruiz	
	1	Mr. Giuffreda					
	13	Mr. Gold			40	Mr. Schermerhorn	
	26	Mr. Goodman			2	Mr. Smith, B. C.	EXCUSED
	37	Mr. Gordon			51	Mr. Smith, W. T.	
	56	Mr. Griffin			43	Mr. Stafford	
	20	Mr. Halperin			55	Mr. Tauriello	
	41	Mr. Hudson			3	Mr. Trunzo	
	44	Mr. Isabella			58	Mr. Volker	
	4	Mr. Johnson			52	Mr. Warder	
	15	Mr. Knorr			38	Mrs. Winikow	

16 PASSED

AYES 53  
NAYS 0

¶ Ordered, that the Secretary return said bill to the Assembly with a message that the Senate has

M. IT. MILLER  
A 10625-A

4/1 1976

No. 3-149 — (Vacancy in Dist. 36)

(Republicans in Italics)

Those Who Voted  
In the Affirmative

Those Who Voted  
In the Negative

Those Who Voted  
In the Affirmative

Those Who Voted  
In the Negative

Those Who Voted  
In the Affirmative

Those Who Voted  
In the Negative

Mr. Abramson  
Miss Amatucci  
~~Mr. Barbano~~  
*Mr. Betros*  
Mr. Bianchi  
Mr. Blumenthal  
Mr. Brewer  
Mr. Brown  
*Mr. Burns*  
*Mr. Burrows*  
*Mr. Calogero*  
*Mr. Caputo*  
Mr. Cincotta  
*Mr. Cochrane*  
Mrs. Connelly  
Mr. Connor  
*Mr. Cook (C.D.)*  
*Mr. Cook (D.W.)*  
Mr. Cooperman  
Mr. Culhane  
~~Mr. Daly~~  
*Mr. D'Amato*  
*Mr. D'Andrea*  
Mr. Dearie  
*Mr. DelliBovi*  
Mr. Del Toro  
Mr. DeSalvio  
*Mr. DiCarlo*  
~~Mr. DiFazio~~  
Mrs. Diggs  
*Mr. Dokuchitz*  
*Mr. Duryea*  
*Mr. Dwyer*  
*Mr. Emery*  
*Mr. Esposito*  
Mr. Eve  
Mr. Farrell  
Mr. Ferris  
*Mr. Field*  
Mr. Fink  
*Mr. Flack*  
*Mr. Flanagan*  
Mr. Fortune  
Mr. Fremming  
Mr. Frey  
Miss Gadson  
*Mrs. Goodhue*  
~~Mr. Gori~~  
Mr. Gottfried

Mr. Graber  
Mr. Grannis  
Mr. Greco  
Mr. Griffin  
Mr. Griffith  
*Miss Gunning*  
Mr. Haley  
*Mr. Hanna*  
Mr. Harenberg  
*Mr. Harris*  
*Mr. Hawley*  
*Mr. Healey*  
Mr. Hecht  
*Mr. Henderson*  
*Mr. Herbst*  
Mr. Hevesi  
Mr. Hinchey  
~~Mr. Hochberg~~  
~~Mr. Hochberg~~  
Mr. Hoyt  
*Mr. Hurley*  
Mr. Izard  
*Mr. Jonas*  
*Mr. Kelleher*  
Mr. Kidder  
Mr. Koppell  
Mr. Kremer  
Mr. Landes  
*Mr. Lane*  
Mr. Lasher  
*Mr. Lee*  
Mr. Lehner  
~~Mr. Lewis~~  
*Mr. Levy*  
Mr. Lewis  
Mr. Lill  
Mrs. Lipschutz  
Mr. Lisa  
*Mr. Lopresto*  
*Mr. Mannix*  
Mr. Marchiselli  
*Mr. Margiotta*  
*Mr. Marshall*  
Mr. McCabe  
*Mr. Mega*  
Mr. Miller (G.W.)  
Mr. Miller (H.J.)  
~~Mr. Miller (M.H.)~~  
Mr. Miller (M.H.)  
~~Mr. Miller~~

*Mr. Molinari*  
~~Mr. Montano~~  
*Mr. Murphy (G.A.)*  
Mr. Murphy (M.J.)  
*Mr. Murphy (T.J.)*  
Mr. Nicolosi  
Mr. Nine  
*Mr. O'Neil*  
Mr. Orazio  
Mr. Passannante  
Mr. Pesce  
Mr. Posner  
*Mr. Rappleyea*  
*Mr. Relly*  
*Mr. Riford*  
Mr. Robach  
*Mr. Roosa*  
~~Mr. Ryan~~  
Mrs. Runyon  
*Mr. Ryan*  
Mr. Schmidt  
Mr. Schumer  
*Mr. Sears*  
Mr. Serrano  
~~Mr. Sharoff~~  
Mr. Siegel  
Mr. Silverman  
~~Mr. Sweeney~~  
~~Mr. Sweeney~~  
~~Mr. Sweeney~~  
*Mr. Stephens*  
Mr. Stott  
Mr. Strelzin  
*Mr. Suchin*  
*Mr. Sullivan*  
Mr. Tallon  
~~Mr. Taylor~~  
Mr. Thorp  
*Mr. Tills*  
Mr. Vann  
~~Mr. Vann~~  
Mr. Virgilio  
Mr. Walsh  
*Mr. Wemple*  
Mr. Weprin  
*Mr. Wertz*  
Mr. Yevoli  
*Mr. Zagame*  
Mr. Zimmer  
~~Mr. Zimmer~~

AYES ..... 131 .....

NOES ..... 0 .....

C-234 Passed 5/17

La 5/12

H-16625 ELECTION LAW.

A 10625 1064

CAL 764

MEMORANDUM IN SUPPORT

MAY 19 1976

RE: AN ACT

to amend the election law generally and repealing certain provisions thereof, the public officers law and the county law relating to elections

SUMMARY OF PROVISIONS AND JUSTIFICATION:

The bill makes many technical and typographical corrections in the recodification. It also eliminates a few of the substantive changes in existing law which are made by the recodification by returning to existing law. The bill also makes several additional changes from existing law. Attached is a detailed summary of these changes. The summary also includes some changes from existing law which were made by the recodification, but inadvertently omitted from the memo on that bill.

FISCAL IMPLICATIONS:

None

EFFECTIVE DATE:

December 1, 1977

Attach.

A-10625  
30F4

9-200

Clarifies that if all of a congressional district is in the jurisdiction of one board of elections, such board must certify to the state board of elections, the names and addresses of national convention delegates elected in such districts. (Old §270)

9-208

Changes deadline for completing official recanvass of voting machines from twenty-five to fifteen days after election. Made necessary by another change permitting voting machines to be unlocked fifteen, rather than thirty, days after elections if such machines are needed for another election. Fifteen days is adequate time to complete official recanvass. (Old §274)

11-102  
to

Changes in sections dealing with special presidential voters to reflect fact that residence requirement for voting for all offices is now only thirty days. Therefore, there is no need for special presidential ballots for those who move more than thirty days before election. (Old §341-343)

11-106

Public  
Off. Law §31

Adds provisions that any officer of the state who receives the resignation of an elected official must notify the state board of elections of the fact and effective date of such resignation.

ADDITIONAL SECTIONS OMITTED

§107 Form of paper ballots for presidential electors -  
Obsolete

§300 &  
§340 Statements of legislative intent. -- Should not have  
been codified.

REVERSIONS TO EXISTING LAW EFFECTED BY  
CHAPTER AMENDMENT TO RECODIFICATION

A-10625  
40F4

3-204(6)

Removes new language which provided that if a party defaulted on making either an original or substitute nomination for election commissioner, then a commissioner could be appointed by a vote of those members of the legislative body who are members of the party in default. (Old §30)

4-108

Restores language which requires Attorney General to advise in preparation of abstract of amendments.

5-104(3)

Restores language which says determination of eligibility to vote by board of elections is presumptive evidence in court actions. (Old §151(c))

502-2

Returns date for last day for local registration to fourth Saturday before general election. (Old §354)

6-132 and  
6-140

Eliminates new language which would have required that members of committees on vacancies on designating and nominating petitions give consent to serve.

CHANGE CONTAINED IN RECODIFICATION BUT  
INADVERTENTLY OMITTED FROM THE MEMO ON THAT BILL

3-222

Present law provides that voting machines must be kept locked for 30 days after use. New language would permit them to be unlocked after 15 days if they are needed for use in another election. That time limit is still after the deadline for beginning court proceedings. (Old §263)

ADDITIONAL CHANGES IN EXISTING LAW MADE BY  
CHAPTER AMENDMENT TO RECODIFICATION OF ELECTION LAW

A-10625  
20F4

3-408

Recodification makes statewide the provision of law permitting appointment of extra clerks to count absentee ballots in election districts with more than 25 absentee ballots. This provision is now applicable only to Nassau and Suffolk. However, recodification raised threshold figure from 25 to 40 absentee ballots. Chapter amendment returns figure to 25. (Old §51 and §52)

4-110

Recodification sets deadline for state board of elections to notify other boards of elections of names of candidates to be placed on ballot at primary election at 21 days before election. Existing permanent law sets deadline at 19 days. The 1974 political calendar set deadline at 28 days. The chapter amendment changes deadline to 25 days because the state board of elections says it can meet such a deadline. (Old §69)

5-208

Clarifies that voters are eligible for transfer of enrollment to vote in a primary only if they have moved in the period between the last day of local registration for the previous general election and thirty days before the primary in which they wish to vote. (Old §386)

5-228

Present law requires inspectors at each day of local registration to prepare a certificate listing names of all persons they register who were previously registered together with the address of such previous registration. Language changed to require such certificate to contain names and addresses all persons registered together with such other information as the board of elections may require. A list of just those persons previously registered serves no purpose but a certificate of all those registered would be valuable in case registration poll records are lost. (Old §370)

6-146 &  
6-150

Clarifies that state board of elections immediately notifies local boards of declinations or new nominations if it has already certified candidates for the ballot. (Old §139 and §141)

pt

B-203 (6/68)

TEN-DAY BILL  
BUDGET REPORT ON BILLS

H 10625 H  
Session Year 1976

SENATE

NO RECOMMENDATION

ASSEMBLY

No.

No. 10625-A

Law: Various

Title: An Act to amend the election law generally and repealing certain provisions thereof, the public officers law and the county law relating to elections.

The above bill has been referred to the Division of the Budget for comment. After careful review, we find that (a) the bill does not affect State finances in any way, (b) the bill has no appreciable effect on State programs or administration, and (c) this office does not have the technical responsibility to make a recommendation on the bill.

We therefore make no recommendation.

SR:jh  
5/20/76



Paul J. Elston, Deputy Director



ARTHUR H. SCHWARTZ  
Chairman  
REMO J. ACITO  
Vice Chairman  
DONALD RETTALIATA  
Commissioner  
WILLIAM H. McKEON  
Commissioner



STATE OF NEW YORK  
STATE BOARD OF ELECTIONS  
194 WASHINGTON AVENUE  
ALBANY, NEW YORK 12225

C-237 of  
1976  
THOMAS W. WALLACE  
Executive Director  
GEORGE V. PALMER  
Asst. Executive Director  
DONALD J. McCARTHY  
Counsel - Enforcement  
DAVID E. BLAFY  
Special Counsel

M E M O R A N D U M

TO: HON. JUDAH GRIBETZ  
Counsel to the Governor  
DATE: May 27, 1976

FROM: State Board of Elections

SUBJECT: Assembly Bill 8539 (COMMITTEE ON RULES)  
Assembly Bill 10625-A (Mr. M. H. MILLER)

Purpose: To recodify the Election Law to remove obsolete provisions, to clarify remaining provisions and to rearrange and renumber the content in a more orderly and meaningful manner.

Comment: The Election Law has been amended piecemeal over the past several years and it has now reached a point where there are many conflicting, vague and obsolete provisions. The bill accomplishes the purpose for which it is intended by restructuring and consolidating the law so that statutory provisions covering the same subject matter are grouped together with obsolete provisions deleted.

The bill contains a minimum of substantive changes, none of which are of major significance, but makes numerous technical and procedural amendments. We find no problem with such changes and agree with the sponsors that substantive amendments, while needed, will be best left to separate legislation so as not to impede passage and approval of the recodification. We also note that the bill does not take effect until December 1, 1977, which will enable possible deficiencies to be corrected during the 1977 legislative session.

The provision in the recodification for assimilation of 1976 and 1977 amendments to the Election Law will

Assembly Bill 8539  
Assembly Bill 10625-A

May 27, 1976

likely necessitate additional housekeeping legislation. If a section of existing law is amended, and the section has been rewritten in the recodification bill or its provisions have been distributed to two or more new sections, it may be difficult to integrate the amendments.

Recommendation:

Approval.

NEW YORK STATE BOARD OF ELECTIONS

By: 

\_\_\_\_\_  
David E. Blabey  
Special Counsel

DEB:TWW:rve

THE ASSOCIATION OF THE BAR  
OF THE CITY OF NEW YORK  
42 WEST 44TH STREET  
NEW YORK 10036

COMMITTEE ON STATE LEGISLATION

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CHAIRMAN  
445 PARK AVENUE  
NEW YORK 10022  
212 980-3200

ELLEN R. NADLER  
SECRETARY  
919 THIRD AVENUE  
NEW YORK 10022  
212 688-1100

May 27, 1976

Re: A.10625-A - Approved

Dear Mr. Gribetz:

In reply to your inquiry, we approve the referenced bill.

The bill, to take effect December 1, 1977, would amend the newly enacted revised election law. The amendments are minor in nature and for the most part intended to correct defects in the new law.

On May 20, 1976, the Senate passed and sent to the Governor a bill repealing the election law and enacting a new election law. This bill contains numerous amendments to the new law correcting errors and making small changes. It achieves its purpose of eliminating defects previously overlooked.

For the reasons stated, the bill is approved.

Sincerely,

*John L. Amabile*  
bcc

John L. Amabile

Hon. Judah Gribetz  
Executive Chamber  
State Capitol  
Albany, New York 12224

# League of Women Voters

817 BROADWAY, NEW YORK, N.Y. 10003



*of 10625*  
of New York State

(212) 677-5050

Natacha P. Dykman, President

May 20, 1976

Hon. Judah Gribetz  
Executive Chamber  
State Capitol  
Albany, New York 12224

*Mr.:*  
In support of: A.8539 Rules  
A.10625-A M. Miller, Henderson

Dear Mr. Gribetz:

The League of Women Voters of New York State urges Governor Carey to sign A. 8539 Rules and A. 10625-A Miller, which embody a recodification of the State Election Law.

This recodification eliminates obsolete sections and duplication; reorganizes the law in logical, clear order; and has been written in language more easily understood by the many elections officials and laypersons, including political aspirants and party workers, who must use it. It is truly a recodification, not making substantial or highly controversial changes in the law. In many respects it is an improvement over previous recodification proposals, clearly responding to criticisms which had been voiced at public hearings.

Recodification of the Election Law is most important for the proper administration of the one law in the State which touches the life of each voter. It is a long-held major goal of the League of Women Voters.

Sincerely,

*Natacha P. Dykman*

Natacha P. Dykman  
President

nd/esw

# **EXHIBIT 2**



# **GOVERNOR'S BILL JACKET**

51

## **1976**

# **CHAPTER 233**

### **45 PAGES**

**NYLS Note: NYLS added the last 24 pages, including Assembly debate.  
There was no Senate debate.**

## **ELECTION LAW**

### **Recodification**

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We accept the following:



CHAPTER 233

1975-1976 Regular Sessions

SENATE—ASSEMBLY

May 29, 1975

IN SENATE—Introduced by Sens. AUER, CALANDRA, SANTUCCI, BELLAMY, BEATTY, BERNSTEIN, BLOOM, CONKLIN, DONOVAN, DUNNE, ECKERT, FLYNN, GALIBER, GOLD, HUDSON, LEWIS, McCALL, MEYERSON, MOORE, NOLAN, OWENS, ROLISON, WINIKOW—read twice and ordered printed, and when printed to be committed to the Committee on Elections

Notes— IN ASSEMBLY—Introduced by COMMITTEE ON RULES—(at request of Messrs. M. H. Miller, Henderson, G. W. Miller, Miss Amatucci, Bianchi, Brown, Burns, Burrows, Cincotta, Cochrane, Culhane, Daly, D'Amato, DiFalco, Dwyer, Emery, Flanagan, Fortune, Gorski, Graber, Griffith, Hanna, Hawley, Hoyt, Izard, Lane, Lee, Lill, Lisa, Lopresto, Mannix, Marshall, Mega, H. J. Miller, H. M. Miller, Nicolosi, Nine, Passanante, H. A. Posner, Ross, Schumier, Sears, Siegel, Silverman, Solomon, Stavisky, Suchin, Sullivan, Taylor, Tills, Velella, Walsh, Yeyoli, Zagame, Zimmer)—read once and referred to the Committee on Election Law

AN ACT

in relation to the election law, recodifying the provisions by repealing chapter seventeen of the consolidated reenacting a new chapter seventeen thereof subdivision six of section forty-two of the public amending such law in relation to filling

Compared

APPROVED

Approved

1976

ASSEMBLY

The Assembly bill  
by Mr. RULES  
Entitled: "

Calendar No. 445

Assembly No. 8539  
Sen. Rept. No. \_\_\_\_\_

An act in relation to the election law, recodifying the provisions thereof, by repealing chapter seventeen of the consolidated laws and reenacting a new chapter seventeen thereof and repealing subdivision six of section forty-two of the public officers law and amending such law in relation to filling vacancies

" was read the third time

The President put the question whether the Senate would agree to the final passage of said bill, the same having been printed and upon the desks of the members in its final form at least three calendar legislative days, and it was decided in the affirmative, a majority of all the Senators elected voting in favor thereof and three-fifths being present, as follows:

AYE	Dist.		NAY	AYE	Dist.		NAY
	47	Mr. Anderson			29	Mr. Leichter	
	49	Mr. Auer			8	Mr. Levy	
	45	Mr. Barclay			22	Mr. Lewis	EXCUSED
	18	Mr. Bartosiewicz			50	Mr. Lombardi	
	23	Mr. Beatty	EXCUSED		24	Mr. Marchi	
	25	Ms. Bellamy			5	Mr. Marino	
	33	Mr. Bernstein			48	Mr. Mason	
	19	Mr. Bloom			28	Mr. McCall	
	12	Mr. Bronston			59	Mr. McFarland	EXCUSED
	9	Ms. Burstein					
	7	Mr. Caemmerer	EXCUSED		42	Mr. Nolan	
	34	Mr. Calandra			27	Mr. Ohrenstein	
	21	Mr. Conklin					
	46	Mr. Donovan			11	Mr. Padavan	
	6	Mr. Dunne			60	Mr. Paterson	
	54	Mr. Eckert			53	Mr. Perry	
	35	Mr. Flynn			36	Mr. Pisani	
	32	Mr. Galiber			57	Mr. Present	
	30	Mr. Garcia			39	Mr. Rolison	
	14	Mr. Gazzara			31	Mr. Ruiz	
	1	Mr. Giuffreda					
	13	Mr. Gold			40	Mr. Schermerhorn	
	26	Mr. Goodman			2	Mr. Smith, B. C.	
	37	Mr. Gordon			51	Mr. Smith, W. T.	
	56	Mr. Griffin			43	Mr. Stafford	
	20	Mr. Halperin			55	Mr. Tauriello	
	41	Mr. Hudson			3	Mr. Trunzo	
	44	Mr. Isabella			58	Mr. Volker	
	4	Mr. Johnson			52	Mr. Warder	
	15	Mr. Knorr			38	Mrs. Winikow	

16 EXCUSED

AYES 53  
NAYS 0

¶ Ordered, that the Secretary return said bill to the Assembly with a message that the Senate has concurred in the passage of the same.

Rules (M.H. Miller)  
A 8539

4/1 1976

No. 3-149 - (Vacancy in Dist. 36)

(Republicans in Italic)

Those Who Voted  
In the Affirmative

Those Who Voted  
In the Negative

Those Who Voted  
In the Affirmative

Those Who Voted  
In the Negative

Those Who Voted  
In the Affirmative

Those Who Voted  
In the Negative

Mr. Abramson  
Miss Amatucci  
~~Mr. Amato~~  
*Mr. Betros*  
Mr. Bianchi  
Mr. Blumenthal  
Mr. Brewer  
Mr. Brown  
*Mr. Burns*  
*Mr. Burrows*  
*Mr. Calogero*  
*Mr. Caputo*  
Mr. Cincotta  
*Mr. Cochrane*  
Mrs. Connelly  
Mr. Connor  
*Mr. Cook (C.D.)*  
*Mr. Cook (D.W.)*  
Mr. Cooperman  
Mr. Culhane  
~~Mr. D'Amato~~  
*Mr. D'Amato*  
*Mr. D'Andrea*  
Mr. Dearie  
*Mr. DelliBovi*  
Mr. Del Toro  
Mr. DeSalvio  
*Mr. DiCarlo*  
~~Mr. DiCarlo~~  
Mrs. Diggs  
*Mr. Dokuchitz*  
*Mr. Duryea*  
*Mr. Dwyer*  
*Mr. Emery*  
*Mr. Esposito*  
Mr. Eve  
Mr. Farrell  
Mr. Ferris  
*Mr. Field*  
Mr. Fink  
*Mr. Flack*  
*Mr. Flanagan*  
Mr. Fortune  
Mr. Fremming  
Mr. Frey  
Miss Gadson  
*Mrs. Goodhue*  
~~Mr. Goodhue~~  
Mr. Gottfried

Mr. Graber  
Mr. Grannis  
Mr. Greco  
Mr. Griffin  
Mr. Griffith  
*Miss Gunning*  
Mr. Haley  
*Mr. Hanna*  
Mr. Harenberg  
*Mr. Harris*  
*Mr. Hawley*  
*Mr. Healey*  
Mr. Hecht  
*Mr. Henderson*  
*Mr. Herbst*  
Mr. Hevesi  
Mr. Hinchey  
~~Mr. Hookberg~~  
~~Mr. Hookberg~~  
Mr. Hoyt  
*Mr. Hurley*  
Mr. Iazard  
*Mr. Jonas*  
*Mr. Kelleher*  
Mr. Kidder  
Mr. Koppell  
Mr. Kremer  
Mr. Landes  
*Mr. Lane*  
Mr. Lasher  
*Mr. Lee*  
Mr. Lehner  
~~Mr. Lentol~~  
*Mr. Levy*  
Mr. Lewis  
Mr. Lill  
Mrs. Lipschutz  
Mr. Lisa  
*Mr. Lopresto*  
*Mr. Mannix*  
Mr. Marchiselli  
*Mr. Margiotta*  
*Mr. Marshall*  
Mr. McCabe  
*Mr. Mega*  
Mr. Miller (G.W.)  
Mr. Miller (H.J.)  
~~Mr. Miller (M.H.)~~  
Mr. Miller (M.H.)  
~~Mr. Miller~~

*Mr. Molinari*  
~~Mr. Molinari~~  
*Mr. Murphy (G.A.)*  
Mr. Murphy (M.J.)  
*Mr. Murphy (T.J.)*  
Mr. Nicolosi  
Mr. Nine  
*Mr. O'Neil*  
Mr. Orazio  
Mr. Passannante  
Mr. Pesce  
Mr. Posner  
*Mr. Rappleyea*  
*Mr. Reilly*  
*Mr. Riford*  
Mr. Robach  
*Mr. Roosa*  
~~Mr. Roosa~~  
Mrs. Runyon  
*Mr. Ryan*  
Mr. Schmidt  
Mr. Schumer  
*Mr. Sears*  
Mr. Serrano  
~~Mr. Serrano~~  
Mr. Siegel  
Mr. Silverman  
~~Mr. Silverman~~  
~~Mr. Sloski~~  
~~Mr. Sloski~~  
*Mr. Stephens*  
Mr. Stott  
Mr. Strelzin  
*Mr. Suchin*  
*Mr. Sullivan*  
Mr. Tallon  
~~Mr. Thorp~~  
Mr. Thorp  
Mr. Tills  
Mr. Vann  
~~Mr. Vann~~  
Mr. Virgilio  
Mr. Walsh  
*Mr. Wemple*  
Mr. Weprin  
*Mr. Wertz*  
Mr. Yevoli  
*Mr. Zagane*  
Mr. Zimmer  
~~Mr. Zimmer~~

AYES ..... 130 .....

NOES ..... 1 .....



MELVIN MILLER  
 ASSEMBLYMAN 44<sup>th</sup> DISTRICT  
 KINGS COUNTY  
 1701 CHURCH AVENUE  
 BROOKLYN, NEW YORK 11230  
 (212) 287-0742

THE ASSEMBLY  
 STATE OF NEW YORK  
 ALBANY

*[Handwritten signature]*  
 S-6558  
 C-2 3.7 76  
 CHAIRMAN  
 ELECTION LAW

ELECTION LAW

8539

MEMORANDUM IN SUPPORT

- I. INTRODUCER'S NAME: Assemblyman Melvin H. Miller
- II. TITLE OF BILL : AN ACT in relation to the election law, recodifying the provisions thereof by repealing chapter seventeen of the consolidated laws and reenacting a new chapter seventeen thereof and repealing subdivision six of section forty-two of the public officers law and amending such law in relation to filling vacancies
- III. SUMMARY : There are hundreds, if not thousands, of technical changes in this bill. Existing sections of law are combined, divided and placed in more logical sequence. Many obsolete provisions are deleted. A list of the substantive changes is attached. The derivation table at the end of the bill makes it possible to locate a provision of existing law in the new law or determine where in existing law a provision of new law originates.
- IV. PURPOSE : This recodification represents a simplification and clarification of present law. It also eliminates obsolete and conflicting provisions therein. Substantive changes in the recodification relate primarily to administrative procedures in the electoral process, which should not generate controversy among the members of the legislature.
- V. JUSTIFICATION : The election law, as a historical development, had paper ballots as the primary manner of voting and voting machines as the secondary condition. The recodification is structured with voting machines as the primary and required method of voting and paper ballots as the secondary and back-up system.

As with voting machines, the recodification treats the system of permanent personal registration as the primary system and non-personal registration, used only by villages, as the secondary one.

By virtue of consolidation of redundant provisions, removal of obsolete ones and language changes, the recodification has reduced the size of the present voluminous and often confused election law by about one half. The consolidation of three separate and scattered articles on registration procedures into a single article has helped create a more easily readable and understandable law. Similar changes have been made, wherever possible, in other parts of the existing law.

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Many of the forms set forth in existing law are cumbersome, confusing, unnecessary and in some cases obsolete. Authority is given to the State Board of Elections to review, standardize and simplify all forms to be uniformly used statewide.

Finally, the delayed effective date of this bill gives the legislature ample opportunity during the 1976 session to make additional changes it deems necessary before the recodification becomes law.

Various transitional clauses are included which provide that any changes enacted in the 1975 and 1976 legislative sessions shall be made a part of the recodification. Thus, legislation such as mail registration and campaign financing changes will become an integral part of recodification.

#### VI. FISCAL IMPLICATIONS :

There are very few changes which have any fiscal implications and they are minimal.

§3-300: Creates a new position of voting machine technician in the board of elections, but appointments to such position are limited to amounts appropriated. There is no minimum.

§3-400: Board of Elections gets discretion to require appointment of additional poll clerks beyond those mandated by law if it feels they are necessary. Total cost cannot be determined, but minimal.

§3-406: Makes statewide rather than just for New York City provision permitting board of elections to appoint additional inspectors who are available to replace absent inspectors. There is additional cost only if the number of additional inspectors appointed exceeds the number of absentee. Additional cost, minimal.

§5-210(3): Requires that absentee registration applications sent outside continental United States are to be sent airmail. Small additional cost for postage

§5-712: Omits requirement that mail check be sent first class. Estimated saving \$250,000 to \$300,000 per annum statewide.

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§8-400(2): Requires that absentee ballot applications sent outside continental United States are to be sent airmail. Small additional cost for postage.

VII. EFFECTIVE DATE

: This bill provides for an effective date of December 1, 1976. The date of December 1st is selected because it is within the 30-day period following a general election and the start of the electoral process for the following year's general election.

SUMMARY OF CHANGES

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30 of 15  
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- ction 2-110(3) In a reapportionment year, allows anyone, not just incumbents to run for district leader without living in district. That is currently provision with respect to state committee. Present provision for district leaders is unconstitutional. Old §15(4)
- 2-114 Changes from three to ten days deadlines deadline for filing rules of state or county committee. Old §15(2)
- 2-114 Deletes provision permitting party committees to charge elected members dues and remove those who fail to pay. Old §15(2)
- 2-118 Permits party rules to provide that county committee vacancies can be filled by town, city or divisional committees rather than just whole county committee. Old §17
- 2-118 Deletes requirement that new ED which a member of county committee is designated to represent after change in ED lines must include at least part of ED from which he was elected. Old §17
- 2-120(2) Provides for party call by state chairman for party positions which include part of two or more counties. Fills a gap in present law. (New)
- 2-128 Eliminates provision barring party official taking fifth amendment from holding public office since provision is unconstitutional. (Old §22)
- 3-108 Adds provision that determination of disaster for additional day for voting is made by state board of elections rather than county board with respect to offices elected from more than one county. Determinations by county boards with respect to local office is subject to review by state board. Old §227
- 3-110(1) Fee charged manufacturer for examination of new type of voting machine raised from \$450 to \$1,500.
- One of the examiners of voting machines must be an election law expert instead of a patent law expert.
- Fee paid each of the three examiners raised from \$150 to \$250 (old \$240).
- 3-200(4) (Old §30(2)) Alderman of city of less than fifty thousand and town officer other than supervisor or town clerk are removed from the list of public offices which commissioners of elections are permitted to hold.
- 3-200(5) Deadline for commissioners of election to resign if they are candidates for an office which commissioners cannot hold is changed from 50 days before election to day of nomination or designation. Old §32
- 3-200 Requires party recommendation for election commissioner to be made at least 30 days before beginning of term rather than present 5 days. (Old §31)
- 3-200 Adds provision that if a party defaults on making either an original nomination or a substitution for a disapproved nomination within time required, then a commissioner is appointed by a vote of those members of the legislative body who are members of the party in default. (Old §30)

- Section 3-212 Omits requirement that each board of elections adopt official seal. (Old §34)
- 3-212(2) Makes explicit provision that all actions of board of elections be by majority vote. (New)
- 3-214(2) Give board of elections power to set up branch offices without needing approval of local legislative body, subject to budgetary limits. (New)
- 3-224 Old law permitted towns and cities to rent voting machines to villages and fire districts. New provision permits boards of election and town and cities to rent voting machines to other special districts, other towns and to private organizations. Old §246
- 3-226 New provision permits county legislative bodies to shift control of voting machines and publication of certain notices from cities and towns to the board of election, in order to provide a uniform countywide system.
- 3-300 Creates position of voting machine technician under authority of board of elections to provide assistance to local towns and cities in repair and dressing of machine. (New)
- 3-400 Changes residency requirements for inspectors from city or town to county outside of N.Y.C. and from county to city in NYC. (Old §39)
- 3-400 Board of elections gets discretion to appoint additional poll clerks beyond those mandated by law if it feels they are necessary. (New)
- 3-404 Omits provision for appointment of inspectors of elections in towns by town boards. Provides for appointment by board of elections. System of recommendation by party chairman retained. Only actual act and procedure of appointment changes. (Old §43)
- 3-404 Term of inspector of election begins July 15 instead of Sept. 1. (old §39)
- 3-404 Makes statewide, instead of just for New York City, provision that inspectors be appointed by commissioner of their own party. (Old §42)
- 3-404(6) Allows a transfer of inspectors to new election districts when one is created. Fills gap in existing law.
- 3-406 Makes statewide, instead of just for New York City, provision for additional inspectors of election. (Old §42-b)
- 3-408 Makes statewide the provision permitting appointment of extra clerks to count absentee ballots in election districts with more than 40 absentee ballots cast. Presently only for Nassau County (old §51)
- 3-416 (Old §48) Omits monetary penalties for inspectors who default on their duties.
- 3-418 Deletes provision that first ten voters on line may appoint inspectors if no inspector appears within one hour of scheduled opening of polls. Section 3-406 provides for boards of elections to appoint and train a pool of substitute inspectors and to dispatch them to Election Districts in which inspectors are missing. Old §46(4)

## Section 3-418

- Inspectors appointed to fill vacancies on election day at polling place need only be voters of city or town, not ED. (Old §46)
- 4-100(2) Permits town and cities to ask board of elections to draw election districts and designate polling places rather than doing it themselves. (New)
- 4-100(3) Present law requires two machines if election district has more than 800 voters in City of New York and 650 elsewhere. Distinction is probably unconstitutional. Changed to 800 statewide. (Old §64)
- 4-102 Eliminates requirement that maps to be posted at various locations in wards or assembly district during registration. Requirement is generally not followed. (Old §65(6))
- 4-104 Omits prohibition on more than one election district in a room or more than two election districts in a building other than a public building. Rule generally not followed in the past. (Old §66(6))
- 4-104 Omit requirement that justification must be made by body choosing polling places if public building in an ED is not used as polling place for that ED. (Old §66(3))
- 4-106 See chart of date changes.
- 4-108 Omits requirement that Attorney General advise in preparation of abstract of amendments. State board of election to prepare such abstract. (old §68)
- 4-108 &  
4-114 Adds requirement for certification by town clerk to board of elections 28 days before election of local questions on ballot. Conforms to Town Law which only requires 30 day prior notice of question to town clerk. Fills gap in existing law. (New)
- 4-110 See chart of date changes.
- 4-112 See chart of date changes.
- 4-120 Changes requirement of publication of date of general and special elections, etc., from once in each of four weeks to once in each of two weeks before election. Mail check now includes notice of general election. Existing provision is basically ineffective. (Old §77)
- 4-124 Changes obsolete provisions for publication of notices in the city of New York. Old language (old §72, 77, 78) required publication in eight or ten newspapers "Published in the county of New York". There are no longer that many papers of general circulation. Conformed to viable language in old §73 which is same as provision for the rest of the state.
- 4-128 Deletes language requiring town clerk to provide ballots for town questions as inconsistent with present law and practice. All questions appear on voting machine. There are no longer separate ballots for local questions. Old §84
- 4-128 Omits specification of content of instruction cards to be posted at polling places. State board of elections is given power to prescribe form. (Old §84)

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- Section 4-130 Eliminates requirement that poll ledgers be sealed with strap because they are now required to be locked in cases. (old §363)
- 4-132 (Old §85) Responsibility for supplying equipment to polling places is shifted from "common council or town board" to "town or city clerk" who almost always does it now.
- 4-136 Omits provision that towns, cities and villages shall be charged by the board of elections for part of costs for preparing ballots, tally sheets, etc. for town, city or village elections held at the time of the general election in the proportion that the number of town, city or village candidates on the ballot at such election bear to the total number of candidates on the ballot. There are no more separate town or city elections and village elections are never conducted by the board of elections. Old §93(3)
- 5-104(3) (Old §151(c)) Omits sentence which says determination of eligibility to vote by board of elections is presumptive evidence in court actions. The language is unconstitutional.
- 5-202 (Old §354) Last permissible day for local registration changed from fourth to third Saturday before general election. Made necessary by requirement of federal law.
- 5-202 (Old §354) Deadline for boards of election to certify days for local registration changed from August 1st to July 10th.
- 5-208 Omits provision that transfer of enrollment can be made only once a year. (Old §187(11))
- 5-210 (Old §153(11)) Deadline for receipt of completed enrollment blanks from persons registered absentee changed from Monday before general election to Tuesday after such election. Former deadline has no significance.
- 5-210(5) Eliminates restriction on first date for filing applications for absentee registration. (old §153)
- 5-212 Changes system of veterans absentee registration to regular absentee registration. Retains requirement that Board of Elections send registrars to each hospital. Because of the liberalization of absentee registration over the years the veteran's system is now more restrictive. (old §155)
- 5-216 Eliminates mandatory requirement that board of elections issue voter identification cards in city of New York. (old §167)
- 5-216 (Old §366(3)) Omits requirement that check card be executed if voter is unable to sign his name because of disability. It is unnecessary.
- 5-224 Adds requirement that Board of Elections, if it finds voter was improperly denied right to register, take action to register him without voter having to take initiative. (New)

- Section 5-226 Present law requires that the parties be notified immediately each time a voter registered in the wrong election district is put in correct election district. New law requires that a list of such corrections be given to each party seven days before each election. With PPR, such corrections are made throughout the year. Present provision is unnecessarily burdensome and is not observed. (Old §176)
- 5-228 (Old §370(4)) Omits requirement that total of voters registered at local registration be sent to state board of elections. State board may require such information by regulation if it feels it necessary.
- 5-230 Adds permission to store registration poll ledgers in polling places which are public buildings, during days of local registration, at discretion of board, rather than deliver them to police station, etc., each night.
- 5-230 (Old §371) Omits requirement that first unused set of poll cards be voided at end of each day of local registration.
- 5-230 (Old §371(3)) Provision for method of processing executed voter check cards omitted.
- 5-300(5) Authorizes board of elections to adopt alternate procedures for handling marked enrollment blanks at local registration provided secrecy is maintained and subject to approval of State Board of Elections.
- 5-300(6) Adds language giving description of ballot box to be used for enrollment blanks.
- 5-302(5) New provision requires board to maintain list of all transfers and corrections of enrollment and special enrollments as a public record in its office and distribute copies to all parties fifteen days before primary day.
- 5-306 Requires that application to correct error in enrollment must be made within one year of alleged error. Presently there is no time limit. Change made necessary because of PPR(Old §187 & 387).
- 5-402(2) Adds requirement that a voter must be notified before cancellation of registration. Permits voters to respond by mail and give reasons why they should not be cancelled. (Old §406)
- 5-500 (Old §360) Omits requirement that registration poll records used for central registration have a "C" as part of serial number.
- 5-500 (Old §360) Omits requirement that buff card have space  
To make check mark indicate that list of currently registered voters and list of cancellations were checked and that applicant's name does not appear thereon.
2. Date and place of birth or naturalization and employers name and address required of all voters not just new voters.
  3. Eliminates permission to say "over 21" as answer to age and length of residence.
  4. Omits requirement for space to indicate if check card was executed.
  5. Omits requirement for space on back of card making note of any election at which voter was challenged or assisted.

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- On 5-502 (Old §362) Omits mandatory requirement that registration cards at local registration be bound in ledger.
- 5-600 Omits detailed requirements for keeping inventory records on used and blank registration cards as unnecessary. (old §375)
- 5-600 Discrepancies in inventory of poll ledger cards at local registration are reported to District Attorney and state board of election only upon request of a commissioner instead of at all times. Old §375(4)
- 5-602 & 5-604 (Old §376 and §377) Omit requirement that serial number be published in registration and enrollment lists.
- 5-602 & 5-604 Makes optional rather than mandatory, requirement that published registration and enrollment lists in cities be bound by ward or assembly district rather than just ED. Old §376 and §377
- Omits requirement that lists of registered voters be posted at each polling place/6<sup>for 30e</sup> days before the general election. Polling places are usually not available for this and nobody would ever look at the lists if they were posted, which they are not. (Old §376, 377)
- 5-606 Requires copy of published enrollment lists be sent every year to State Board of Elections. Old §377
- 5-702 Requires voter check cards to be delivered to police only if a member of the board of elections requests, rather than the present requirement that all such cards be sent. (Old §391)
- 5-708 Omits requirement that private business organizations, such as utilities, notify board of election of changes in address of individuals they service. (old §397)
- 5-710 (Old §392(1)) Omits requirement that employee doing personal check of voters pass the examination required of inspectors.
- 5-710 (Old §392(3)) Omits requirement that such employees be residents of county.
- 5-712 Omits requirement that mail check be sent first class. This would save money. Old §394
- 6-108(1) Requires that if town committee is changing to or from primary as method of party nomination in town in counties of less than 750,000 people rule change must be filed at least four months before primary. Present deadline of two months permits changes after beginning of petition period. (old §131(5))
- 6-108(2) New provision permits town caucus in counties where nominations may be made either by caucus or primary to nominate by caucus in situation where no candidate qualifies in primary. Would avoid having no one nominated due to confusion or error.

## Section 6-110 and

- 6-118 Omits requirement that designating petitions in NYC be printed on same color paper as ballots for that party (Old §134)
- 6-132 &  
6-140 Requires members of committee on vacancies on designating and nominating petitions give written consent to serve. (New)
- 6-132 &  
6-140 Eliminates requirement that witness statement on designating and nominating petitions state address of previous registration. (old §135 & 138)
- 6-144 Existing law has petitions for any city or town office filed at other than general election filed with city or town clerk. Recodification provides they be filed with board of elections. Conforms to provisions on who conducts elections. (old §144)
- 6-146(4) See chart of date changes.
- 6-150 &  
6-152 (Old §141, §142) (Clarifies existing provision that there is no substitution for candidate who dies after noon on Tuesday before election day.
- 6-158 See chart of date changes.
- 7-104 &  
7-106 Candidates may specify the way their name is printed on ballot and machine if their full name is too long to fit ballot frame. (new)
- 7-114(1e) See chart of date changes.
- 7-120(3) New requirement that emergency paper ballots must be used if machine is not fixed within one hour of breakdown.
- 7-122 (Old §120) New language requires space on absentee ballot envelope for inspectors to initial that they have checked the eligibility of the voter.
- 7-202 (Old §246(2)) Power to purchase extra voting machines for use by board of elections shifted from county legislative body to county boards of elections, within budgetary limits.
- 8-300 Old §201 Number of voters permitted within guard rail at any time at election, with voting machines, is increased from one to two per machine.
- 8-300 Old § 193(1) Omits requirement that the inspector delivering paper ballots to voters and the inspector receiving them back be of opposite political parties.
- 8-312 Old §202(2) Omits requirement that inspector receiving paper ballots from voters after they leave booth announce voters name and ballot number.
- 8-490 Omits requirement that board of inspectors fill out information on application for absentee ballot before delivering same to voter. Procedure doesn't fit structure of present law.  
Old §117

6558  
110 PFF  
15

- Section 8-400(2) Absentee ballot applications mailed by a board of elections are to be sent air mail outside of continental United States. (new)
- 8-412 &  
10-114 Changes deadline for receipt of absentee and military ballots in presidential years from noon on day before election to close of polls on election day. Conforms to Federal mandate (old §121(4)) and §308).
- 8-500 Old §223 Only one candidate rather than two required to appoint watcher at primary.
- 8-122 Deletes obsolete requirement that district partially in New York City be entirely canvassed by board of elections outside city. (old §218)
- 10-108 Changes deadline for mailing military ballots by board of elections from 32 days to 25 days before election (old §306).
- 10-108 New provision requiring that military ballots for special elections be mailed at least 12 days before such election. Present law says "as expeditiously as possible". (old §313)
- 16-104 Old §330(2) Deadline for order at special terms on actions involving names of candidates on ballots at other than primary elections changed from 7 days before town or village elections and 12 days before other elections to 21 days before all elections.
- 17-114 Omits language in present law which makes it a misdemeanor for any person, resident in a building, to refuse to answer questions of any other person about who lives in the building. (old §427)
- 17-136 Eliminates prohibition against inspector signing statement of canvass at any time other than immediately after completion of canvass. (old §438)

## OLD LAW SECTIONS OMITTED

- Section 393 Required reports from hotels and apartment house landlords about who was resident. Has not been followed or enforced.
- 170 Required production of Naturalization papers - Now prohibited by Federal Law.
- 112-116 Full text of forms of ballot returns omitted. State Board of Elections authorized to prescribe such forms.
- 91 Deals with distribution of ballot and supplies for elections. Same subject matter is covered by §411.
- 158 Deals with registration for special elections. Central registration provisions of PPR make it unnecessary.

R1.

Chap 23310 - Day Bill

A-8531

B-203 (12/75)

BUDGET REPORT ON BILLS

Session Year 1976

SENATE

NO RECOMMENDATION

ASSEMBLY

No. ~~203~~

MAY 27 1976

No. 8539

Law: Election Law and Public Officers Law

Title: An act in relation to the Election law, recodifying the provisions thereof, by repealing chapter seventeen of the consolidated laws and re-enacting a new chapter seventeen thereof and repealing subdivision six of section forty-two of the Public Officers Law and amending such law in relation to filling vacancies.

The above bill has been referred to the Division of the Budget for comment. After careful review, we find that the bill has no appreciable effect on State finances or programs, and this office does not have the technical responsibility to make a recommendation on the bill.

We therefore make no recommendation.

OK U

*John W. Van Laak*  
John W. Van Laak

SR

Chief Budget Examiner

Prop. 233



STATE OF NEW YORK  
DEPARTMENT OF STATE  
ALBANY, N.Y. 12231

MARIO M. CUOMO  
SECRETARY OF STATE

JUN 2 1976

June 1, 1976

Honorable Judah Gribetz  
Counsel to the Governor  
State Capitol  
Albany, New York 12224

Re: Assembly #8539

Dear Judah:

This bill revises and recodifies the Election Law effective December 1, 1977. Insofar as the Secretary of State's functions are concerned it transfers to the State Board of Elections those previously retained with respect to publishing concurrent resolutions, preparing maps of congressional, senatorial, assembly and election districts, convening the State Board of Canvassers, maintaining a record of elected county officers, as well as those functions incidental to action by the Electoral College.

The bill also amends the Public Officers Law to provide for the filing of appointments to fill vacancies of United States Senators and Congressmen and of resignations of Senators and Congressmen, with the Board of Elections rather than with the Secretary of State.

The overall purpose of this voluminous bill pertains to election matters which fall outside of my functions and responsibilities. It takes effect December 1, 1977. Any recommendations I may have with respect to the changes that effect my functions can be made in the future in ample time to submit same for action at the next legislative session.

Sincerely,

Secretary of State

mnc:cd

85-27



# Liberal Party

OF NEW YORK STATE

May 11, 1976

*State Chairman*

DONALD S. HARRINGTON

*First Vice-Chairman*

DAVID DUPINSKY

*Vice-Chairmen*

ALEX ROSE

TIMOTHY W. COSTELLO

EDWARD A. MORRISON

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FILENO DE NOVELLIS

EUGENE P. KLUMPP

LAWRENCE S. WRIGHT

WILLIAM W. COWAN

VICTOR A. LORD

SYLVIA BLOOM

JACOB LOFT

ALLEN KIFER

Hon. Judah Gribetz  
Executive Chamber  
State Capitol  
Albany, New York 12224

MAY 13 1976

Re: S. 6558 A. 8539

AN ACT in relation to the election law, recodifying the provisions thereof, by repealing chapter seventeen of the consolidated laws and reenacting a new chapter seventeen thereof and repealing subdivision six of section forty-two of the public officers law and amending such law in relation to filling vacancies

Dear Mr. Gribetz:

As Chairman of the New York State Liberal Party Law Committee, I am writing to you with respect to the above Bill which is pending before the Governor for his signature.

Unfortunately, we are not in a position to express an opinion regarding the Bill, since we have not had an opportunity to examine the many changes which appear in the comprehensive recodification of the statute. We note that the Bill provides that it will not take effect until 1977, so that an opportunity is available for the Legislature to provide for additional changes in the next session of the Legislature prior to the effective date of the Bill.

We question the validity of such procedure. We believe that it is preferable to provide full opportunity for full examination and review prior to enactment, rather than to rely on subsequent examination and subsequent amendment. We are aware of no emergency which re-

*Treasurer*

BERNICE BENEDICK

*Secretary*

BEN DAVIDSON

*Assistant Secretary*

MILDRED E. PORTNOY

Hon. Judah Gribetz

-2-

May 11, 1976

quires immediate enactment of the recodification and therefore do not recommend that the Bill at this time be approved. Instead, we will attempt to study the Bill and supply our opinion regarding its various provisions as soon as it is convenient.

Sincerely,



Herbert Rubin

HB:jk

CC: Mr. Ben Davidson  
New York State Liberal Party

86558

# Legislative Action

## THE LEAGUE OF WOMEN VOTERS OF NEW YORK STATE

817 BROADWAY, NEW YORK, N.Y., 10003 - (212) 677-3000  
113 STATE STREET, ALBANY, N.Y., 12207 - (518) 405-6162

January 1976

### MEMORANDUM OF SUPPORT

S.6556, Auer et al

A.6556, Files

Subject: Recodification of the Election Law

The League of Women Voters of New York State has supported recodification of the Election Law since the early sixties when it became apparent that only a massive job of reorganization and simplification would cure the ills of an election law that has "just grown." Such reorganization is most important for the proper administration of the one law of the State that touches the life of each voter. It is the source book for thousands of lay people. At least 50,000 lay election workers are expected to be familiar with the Election Law and to be practitioners of it. Untold thousands more, including political activists and party workers, need to consult the Election Law and should be able to do so without having to hire a lawyer to interpret it for them.

The bill now before the Legislature comes to terms with many of the difficulties League members across the State have found with the present law. It eliminates provisions which were contradictory which had been made obsolete by enactment of superceding laws. It consolidates and reorganizes the law into logical order, eliminating most duplication. It is written in language more readily understood by the average person, with unnecessary "legalese" eliminated.

In several aspects, the bill is an improvement over previous recodification legislation which has been before both houses. Clearly the drafters responded to some of the criticisms that had been voiced at public hearings.

The bill incorporates changes in the Election Law enacted in both the 1974 and 1975 legislative sessions, including registration by mail. It contains many other changes, most of them of a purely technical or administrative nature. Most importantly, the bill by and large does not go beyond the scope of the meaning of "recodification". In other words, it does not make changes that warrant separate legislative consideration.

Of course, no piece of legislation is perfect. This one is not. There remains in the recodification, for instance, some unnecessary detail, such as specifying every question to be asked on almost every form. Other agencies function adequately by setting up departmental regulations and procedures, and we feel that election administration could also be carried out by the State Election Commission this way, with added administrative flexibility and less legal rigidity. However, technical adjustments in the recodification bill could be made up to the time the bill takes effect on December 1, 1977. This year is the time for passage of the basic bill.

S-1985-10

# Election Commissioners' Association of the State of New York

Office of the President  
County Office Building  
421 Montgomery Street  
Syracuse, N.Y. 13202  
315-425-3312

May 21, 1976

Officers  
1975-1976  
RICHARD A. ROMEO  
President  
JEANE WILSON  
First Vice-President  
MARY LOU CURLEY  
Second Vice-President  
EDWIN CALLAHAN  
Third Vice-President  
MARGARET L. PANDICK  
Secretary-Treasurer  
ROBERT W. NORTHROP  
Chairman-Executive Committee  
ARTHUR ACKERSON  
Chairman-Legislative Committee

MAY 24 1976

The Honorable Judah Gribetz  
Executive Chamber  
State Capitol  
Albany, N.Y. 12224

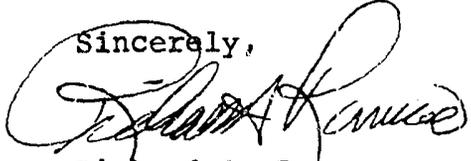
RE: Assembly Bill 8539  
Recodification of Election Law  
Senate Bill 7985-B

Dear Sir:

Please be advised that the Election Commissioners' Association of the State of New York recommend that the Governor sign both of the above captioned Bills.

Our Association has worked for many years on the recodification of the Election Law, and support its passage.

The Senate Bill dealing with enrollment of voters who register prior to sixty days before a Primary Election should also be signed by the Governor. We hope that this will encourage more voters of this state to participate in Primary Elections.

Sincerely,  
  
Richard A. Romeo  
President

RAR:rm



Assembly Bill 8539  
Assembly Bill 10625-A

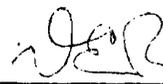
May 27, 1976

likely necessitate additional housekeeping legislation. If a section of existing law is amended, and the section has been rewritten in the recodification bill or its provisions have been distributed to two or more new sections, it may be difficult to integrate the amendments.

Recommendation:

Approval.

NEW YORK STATE BOARD OF ELECTIONS

By: 

\_\_\_\_\_  
David E. Blabey  
Special Counsel

DEB:TWW:rve



THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

1976

ANNUAL REPORT

ASSEMBLY COMMITTEE ON ELECTION LAW

Melvin H. Miller, Chairman

George A. Cincotta  
Francis J. Griffin  
Raymond J. Lill  
Thomas R. Fortune  
Joseph F. Lisa  
Louis Nine  
Thomas J. Culhane  
Dennis T. Gorski  
Charles E. Schumer

John G. Lopresto, Ranking  
Minority Member  
Charles D. Henderson  
John J. Flanagan  
Armand P. D'Amato  
Richard C. Ross  
Christopher J. Mega

### III. 1976 LEGISLATIVE SESSION

This session the Committee reviewed numerous proposed changes in the election law. Many of our reforms met with success in 1976 and the Committee is proud of the progress it has made.

#### Election Law Recodification

As the result of much work over the past several years, enactment of the Recodification represents a simplification, a clarification and a modernization of present New York State Election Law. The Recodification includes hundreds of technical and numerous substantive changes in the law which relate primarily to administrative procedures. By consolidating redundant provisions, eliminating those provisions which are obsolete or inconsistent and modifying certain other provisions to conform with recent court decisions, we have made the election law considerably more comprehensible.

#### Campaign Financing

Pursuant to the U.S. Supreme Court's rejection of many of the Federal campaign financing laws, the Committee was faced with another revision of New York's campaign financing regulations. The Supreme Court rendered unconstitutional many restrictions on spending for public or party office. The major task of the Committee, therefore, has been to revise the laws in such a way as to conform with the Supreme Court ruling; however, high priority was given to the maintenance of a balance between freedom of expression and equality of influence, which prevents the "monied elite" from dominating the political forum.

#### Party Enrollment

Two important bills liberalizing party enrollment requirements were enacted in 1976 and are almost certain to result in increased voter participation in primary elections. The first bill substantially liberalizes the law with regard to who may vote in a primary election. The new law will allow newly registered voters who enroll

→ Election Law Recodification

Recodification of the entire election law, which met with the approval of the full legislature and was signed by the Governor during the 1976 session, does not become effective until December 1, 1977; the Select Committee, therefore, has been proposing legislation which will incorporate recent legislative chapter amendments into one uniform volume.

Future Legislative Revision

Finally, the Select Committee is also reviewing all Election Law bills which were introduced in the 1975-76 session, to determine which have sufficient merit to warrant reintroduction during the prefiling period in November and December.

V. OUTLOOK FOR 1977

The Committee's first priority for 1977 will be to introduce and support the passage of long overdue primary election reform legislation; specifically, legislation mandating a single spring primary and making permanent changes in the selection method of national convention delegates.

The Committee will also actively advocate passage of a state produced ballot pamphlet. The current ballot pamphlet bill provides for state preparation and distribution of an informational leaflet, for the purpose of educating the electorate about the issues and candidates on the ballot prior to each primary and general election. The pamphlet would contain an introductory statement giving general information on voter qualifications, registration and absentee voting, the text of all constitutional amendments or propositions on an up-coming ballot, with an explanation of the issues and a summary of the major arguments for and against its passage. It would also contain a description of the background of each candidate for national, statewide and state legislative office and be supplemented by a brief statement on the issues

<u>BILL</u>	<u>PURPOSE</u>	<u>DATE SIGNED INTO LAW</u>	<u>CHAPTER</u>
A-5755-C	This bill extends transfer of enrollment privileges to voters who moved between counties of the state, between 30 days before the previous election and 30 days before the current years primary, and provides for the procedures which the county boards are to follow.	June 14, 1976	347
A-8539	This bill revises and recodifies the election law, generally updating and clarifying much of the language. Obsolete sections of the law are deleted and new provisions added where needed.	June 1, 1976	233 ←
A-9446-A	This bill allows a blind person to select any person he/she so desires to assist him/her in the voting booth.	June 24, 1976	660
A-9548-B	This bill allows voting machines used in village elections and the spring primary in 1976 to be unlocked 11 days after the election.	March 23, 1976	74
A-9551	This bill fixes at 5000 the maximum number of signatures required upon an independent nominating petition for Supreme Court Justice in the judicial districts of the City of New York which include 2 counties.	March 23, 1976	75
A-9552	This bill changes election law language with regard to the hours that local registration polls must be open on Saturdays.	June 15, 1976	353

<u>BILL</u>	<u>PURPOSE</u>	<u>DATE SIGNED INTO LAW</u>	<u>CHAPTER</u>
A-10625	This bill is a chapter amendment to the recodification of the election law, which corrects technical and typographical errors.	June 1, 1976	234
A-10714	This bill revises the election law to limit eligibility for special presidential ballots to conform with new voter registration provisions.	May 4, 1976	143
A-10762	This bill provides for the notification to the Board of Elections, by school boards, of the scheduling of school district meetings and elections.	June 15, 1976	363
A-11270	This bill extends the deadline for receipt of military and absentee ballots for the April 6, 1976 primary, from noon on the day before the election to the close of the polls on election day.	April 6, 1976	104
A-11681	This bill provides that when the last day for filing a paper pursuant to the election law occurs on a Saturday or Sunday, such deadline is postponed to the next business day.	June 1, 1976	236
A-11747	This bill fixes a political calendar for 1976 and for any special election in 1976 and 1977.	May 18, 1976	174

ANNUAL REPORT

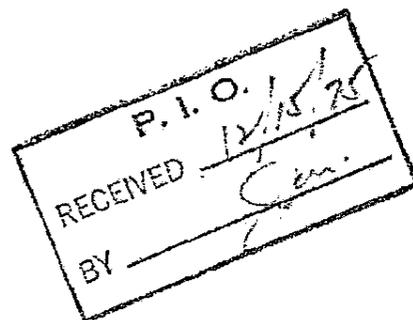
Membership

Melvin H. Miller,  
Chairman  
George A. Cincotta  
Thomas J. Culhane  
Thomas R. Fortune  
Dennis T. Gorski  
Francis J. Griffin  
Raymond J. Lill  
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Louis Nine  
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John G. Lopresto,  
Ranking Minority Member  
Armand P. D'Amato  
John J. Flanagan  
Charles D. Henderson  
Christopher J. Mega  
Richard C. Ross

COMMITTEE JURISDICTION

Election law had previously been one of the many topics under the jurisdiction and consideration of the Judiciary Committee. This year, however, Rule IV, Section I of the Rules of the Assembly mandated the creation of a separate committee, empowered to receive and review bills amending, repealing, or affecting sections of the election law.



## INTRODUCTION

The Election Law Committee completed its first year of operation with an impressive record of achievement in the major areas of election reform.

At the beginning of the 1975 legislative session, the State had in force an election law that was confusing, internally inconsistent, and, in some cases, obsolete. To meet the manifold problems contained within the election law, the committee advanced a comprehensive package of bills designed to implement its program with regard to election reform. Among the major program areas to which the committee addressed itself were:

Both the committee and the Assembly approved favorably a bill repealing the dual primary system and setting a single annual June primary for all party positions and public offices (A 1619-A). This bill would do away with the needlessly duplicative and financially costly system of an April primary for most party positions including national campaign delegates, and a second primary in September for nominations for the November elections.

The committee reported favorably and the Assembly later approved a detailed political calendar for 1975 (A 1619-A). The bill also modified provisions of the permanent law and clarified the confusion arising from dates specified by the permanent law.

The Assembly approved a bill which was signed into law, providing for the continuation of the Division of Servicemen's Voting and simplified absentee ballot procedure for servicemen. Chapter 317 fulfilled a recommendation of the Select Committee on Election Law in extending the Division of Servicemen's Voting for servicemen unable to vote locally.

The committee reported favorably and the Assembly later approved two bills providing for voter registration by mail, one of which was signed into law. Chapter 166, of the Laws of 1975, allows for permanent voter registration to be taken through the mail at times otherwise proscribed by law. It was the committee's intention that this expansion would be very effective in encouraging enfranchisement of many otherwise qualified citizens.

The Assembly also acted in the area of campaign financing reform by approving A 7864-A. This bill both clarifies and improves Article 16-A of the election law which deals with campaign expenditures. The bill reduces the amounts that may be contributed or expended for certain elections; for example, the amount to be expended in a gubernatorial campaign is reduced from \$4.3 million to \$3 million. The bill also eliminates some unnecessary reports and requirements and makes some administrative improvements.

The Assembly approved a bill providing for the preparation and distribution of a ballot pamphlet (A 7770). The ballot

pamphlet will help educate the electorate about the issues and candidates on the ballot as well as provide related voting information.

The committee reported favorably and the Assembly later approved a bill providing that candidates for delegate or alternate to a national party convention would run in the primary either as supporting a specific presidential candidate or as uncommitted (A 7837-A). This bill would require that the identification of the presidential candidates whom national convention delegate candidates were supporting would appear on designating petitions and on the ballot itself.

→ The committee has introduced a bill to repeal, recodify and re-enact the election law (A 8539). This bill is being printed, and favorable action by the committee, the Assembly, and the Senate is anticipated once the bill is available.

Aside from the major program areas just outlined, the committee also acted on many bills in the related areas of Registration and Enrollment, Village Election Law, Absentee Voting, and Voting and Related Procedures.

A measure, Chapter 402 would require that a mail check under optional permanent registration must include information pertaining to a change in location of polling places.

A bill (A 2005, S 963) which would have removed the prohibition against police officers joining or becoming members of any political club, association, society, or

# **EXHIBIT 3**



# ***BILL JACKET SUPPLEMENT***

## **1976 CHAPTER 233**

**41 PAGES**

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### **Election Law §1-102**

#### **Applicability of Chapter**

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We accept the following:



McKINNEY'S  
CONSOLIDATED LAWS  
OF  
NEW YORK  
ANNOTATED

Book 16B

Elder Law

Book 17

Election Law

§§ 1-100 to 5-199



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## Art. 1

struction should be avoided if it would lead to injustice in the electoral process or the public perception of it. *Dalton v. Wayne County Bd. of Elections* (4 Dept. 2009) 65 A.D.3d 817, 883 N.Y.S.2d 841. Election Law ⇨ 53(2)

The former Election Law of 1949 was subject to liberal interpretation. In re *Barber* (3 Dept. 1965) 24 A.D.2d 43, 263 N.Y.S.2d 599, affirmed 16 N.Y.2d 963, 265 N.Y.S.2d 282, 212 N.E.2d 769. Election Law ⇨ 53(2)

The former Election Law of 1949 was to be liberally construed, but such liberalization was not to reach the point of emasculation. Application of *Burns*, 1951, 199 Misc. 1005, 106 N.Y.S.2d 993, affirmed 278 A.D. 1023, 106 N.Y.S.2d 1005, affirmed 303 N.Y. 601, 100 N.E.2d 885. Election Law ⇨ 53(2)

In construing the former Election Law, its history has considerable force. In re *Knollin*, 1908, 59 Misc. 373, 112 N.Y.S. 332, affirmed 59 Misc. 373, 112 N.Y.S. 1134, affirmed 196 N.Y. 526, 89 N.E. 1105.

## 2. Construction with other laws

Absent an express statement in Election Law stating Election Law governs a particular situation, Public Officers Law applies as well. *Broome County v. Conte*, 1983, 120 Misc.2d 1050, 466 N.Y.S.2d 1003, affirmed 101 A.D.2d 905, 476 N.Y.S.2d 261. Election Law ⇨ 21; Public Employment ⇨ 69

## 3. Purpose

Implementation of principle that the people must have the right freely and fairly to choose those who will govern them is prime purpose contemplated by former Election Law of 1949 as well as by system of political parties. *Yevoli v. Cristenfeld* (2 Dept. 1971), 37 A.D.2d 153, 322 N.Y.S.2d 750, reversed on other

grounds 29 N.Y.2d 591, 324 N.Y.S.2d 317, 272 N.E.2d 898. Elections ⇨ 10

The object of the election laws is to secure the rights of duly qualified voters, and not to defeat them. In re *Incorporation of Village of Purchase*, 1967, 54 Misc.2d 1049, 283 N.Y.S.2d 911. Election Law ⇨ 53(1)

The former Election Law of 1949 was enacted to guarantee right to vote and prevent fraud, not to make it unreasonably technical and difficult to vote. *Haley v. Niagara County Bd. of Elections*, 1961, 31 Misc.2d 650, 221 N.Y.S.2d 596. Election Law ⇨ 364

Dominant idea pervading the former Election Law of 1949 was the absolute assurance to citizen that his wish as to conduct of affairs of his party might be expressed through his ballot, and thus given effect, whether it be in accord with wishes of leaders of his party or not. *Kooperstein v. Power*, 1956, 153 N.Y.S.2d 908, affirmed 1 A.D.2d 603, 151 N.Y.S.2d 942, affirmed 1 N.Y.2d 868, 154 N.Y.S.2d 633, 136 N.E.2d 708, appeal granted 1 N.Y.2d 917, 154 N.Y.S.2d 972, 136 N.E.2d 914, affirmed 2 A.D.2d 655, 153 N.Y.S.2d 541. Election Law ⇨ 232(3)

## 4. Legislative powers

States have broad authority, absent valid congressional legislation, to establish rules regulating the manner of conducting both primary and final elections. *New York State Democratic Party by Burns v. Lomenzo*, C.A.2 (N.Y.)1972, 460 F.2d 250. Election Law ⇨ 232(2); Election Law ⇨ 363(1)

Origin of this chapter is founded on power of legislature to provide system for regulation of party's machinery. *Davis v. Sullivan County Democratic Committee* (3 Dept. 1977) 58 A.D.2d 169, 397 N.Y.S.2d 163, affirmed 43 N.Y.2d 964, 404 N.Y.S.2d 549, 375 N.E.2d 730. Election Law ⇨ 161

## § 1-102. Applicability of chapter

This chapter shall govern the conduct of all elections at which voters of the state of New York may cast a ballot for the purpose of electing an individual to any party position or nominating or electing an individual to any federal, state, county, city, town or village office, or deciding any ballot question submitted to all the voters of the state

or the voters of any county or city, or deciding any ballot question submitted to the voters of any town or village at the time of a general election. Where a specific provision of law exists in any other law which is inconsistent with the provisions of this chapter, such provision shall apply unless a provision of this chapter specifies that such provision of this chapter shall apply notwithstanding any other provision of law.

(L.1976, c. 233, § 1. Amended L.1976, c. 234, § 1; L.1978, c. 374, § 1; L.1991, c. 727, § 2, eff. Oct. 18, 1991.)

**Historical and Statutory Notes**

**L.1991, c. 727 legislation**

L.1991, c. 727, § 2, extended applicability of chapter in county and city ballot referenda to all elections.

L.1954, c. 531, § 2; amended L.1962, c. 293, § 2; L.1974, c. 409, § 1.

Election Law of 1922, c. 538, [§§ 130, 190, 267].

**Derivation**

Election Law of 1949, c. 100, [§§ 130, 190, 265, 351]. Said § 351 was added

Election Law of 1909, c. 22, [§ 415].

**Cross References**

Determination of election disputes arising under Education Law, see Education Law § 2037.

New York City community school district, composition of community boards, see Education Law § 2590-c.

School elections in city school districts of cities with less than one hundred twenty-five thousand inhabitants, see Education Law § 2601 et seq.

**Law Review and Journal Commentaries**

Reclaiming electoral home rule: Instant-runoff voting, New York City's primary elections, and the constitutionality of Election Law. Sacha D. Urbach, 46 Fordham Urb. L.J. 1295 (October 2019).

**Research References**

**Encyclopedias**

49 N.Y. Jur. 2d Elections § 1, Scope and Construction of New York Election Law.

49 N.Y. Jur. 2d Elections § 2, Application of Election Law to Local Elections.

62 N.Y. Jur. 2d Gambling § 64, Requirement of Voter Approval of Local Law Authorizing Games of Chance in Special Election.

**Forms**

24A Carmody-Wait 2d New York Practice with Forms § 145:551, Limitations Period.

25B West's McKinney's Forms Selected Consolidated Laws Election Law § 2-118 Form 3, Petition in Article 78 Proceeding by Member of County Political Committee Elected in Primary Election Challenging Executive Committee's Filling of Vacancies on Committee Prior to Organizational Meeting of Duly Elected Committee.

Elections—In General

CHAPTER 233

An Act in relation to the election law, recodifying the provisions thereof, by repealing chapter seventeen of the consolidated laws and reenacting a new chapter seventeen thereof and repealing subdivision six of section forty-two of the public officers law and amending such law in relation to filling vacancies.

Approved June 1, 1976, effective Dec. 1, 1977.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Chapter seventeen of the consolidated laws of the state of New York is hereby repealed, and a new chapter seventeen is hereby enacted to read as follows:

CHAPTER SEVENTEEN OF THE CONSOLIDATED LAWS  
ELECTION LAW

INDEX

Article

1. General Provisions
2. Party Organization
3. Election Officials
4. Proceedings Preliminary to Registration and Enrollment
5. Registration and Enrollment
6. Designation and Nomination of Candidates
7. Election Ballot
8. Conduct of Elections
9. Closing the Polls
10. Voting by Members of the Armed Forces
11. Special Presidential Voters
12. Presidential Electors and Federal Elected Officers
13. Annual Political Calendar
14. Campaign Receipts and Expenditures
15. Village Elections
16. Judicial Proceedings
17. Violation of the Election Franchise

ARTICLE 1—GENERAL PROVISIONS

Sec.

- 1-100. Short title.
- 1-102. Applicability of chapter.
- 1-104. Definitions.
- 1-106. Filing of papers; when received.

ARTICLE 17—VIOLATIONS OF THE ELECTIVE  
FRANCHISE—Continued

Sec.

- 17-143. Bribery or intimidation of elector in military service of the United States.  
17-150. Duress and intimidation of voters.  
17-152. Conspiracy to promote or prevent election.  
17-154. Pernicious political activity.  
17-156. Political assessments.  
17-158. Corrupt use of position or authority.  
17-160. Procuring fraudulent certificates in order to vote.  
17-162. Judicial candidates not to contribute.  
17-164. Political contributions by owners of polling place prohibited.  
17-166. Penalty.  
17-168. Crimes against the elective franchise not otherwise provided for.  
17-170. Destroying or delaying election returns.

ARTICLE 1—GENERAL PROVISIONS

Sec.

- 1-100. Short title.  
1-102. Applicability of chapter.  
1-104. Definitions.  
1-106. Filing of papers; when received.

Section 1-100. Short title

This chapter shall be known as the "Election Law".

§ 1-102. Applicability of chapter

This chapter shall govern the conduct of all elections at which voters of the state of New York may cast a ballot for the purpose of electing an individual to any office or deciding any matter whereon a vote of its citizens is required or permitted. Where a specific provision of law exists in the education law which is inconsistent with the provisions of this chapter, such provision shall apply.

§ 1-104. Definitions

The terms used in this chapter shall have the significance herein defined unless another meaning is clearly apparent in language or context.

1. The term "political unit" means the state or any political subdivision thereof or therein.
2. The term "unit of representation" means any political unit from which members of any committee or delegates to a party convention shall be elected as provided in this chapter.
3. The term "party" means any political organization which at the last preceding election for governor polled at least fifty thousand votes for its candidate for governor.

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LAWS  
OF THE  
ONE HUNDRED AND SEVENTY-SECOND  
SESSION  
1949

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## CHAPTER 100

AN ACT in relation to the elections, constituting chapter seventeen of the consolidated laws

Became a law March 9, 1949, with the approval of the Governor. Passed, three-fifths being present

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

### CHAPTER 17 OF THE CONSOLIDATED LAWS

#### ELECTION LAW

- Article
1. Short title; definitions (§§ 1, 2).
  2. Party organization (§§ 10-21).
  3. Election officials (§§ 30-52).
  4. Proceedings preliminary to registration, enrollment and elections (§§ 60-95).
  5. Forms of ballots and returns; absentee voting; preservation of books and papers (§§ 100-125).
  6. Designation and nomination of candidates (§§ 130-147).
  7. Registration and enrollment of voters (§§ 150-188).
  8. Conduct of elections (§§ 190-226).
  9. Special provisions relating to voting machines (§§ 240-267).
  10. Canvass of results (§§ 270-280).
  11. Presidential electors; United States senators; representatives in congress (§§ 290-297).
  12. Voting by members of armed forces during time of war (§§ 300-319).
  13. Campaign receipts, expenditures and contributions (§§ 320-328).
  14. Judicial proceedings (§§ 330-336).
  15. Laws repealed; saving clause and miscellaneous provisions; when to take effect (§§ 340-342).

#### ARTICLE 1

##### SHORT TITLE; DEFINITIONS

- Section 1. Short title.  
2. Definitions.

Section 1. **Short title.** This chapter shall be known as the New Election Law, enact. "Election Law."

§ 2. **Definitions.** The terms used in this chapter shall have the signification herein defined unless other meaning is clearly apparent in language or context:

1. The term "political unit" means the state or any political subdivision thereof or therein.

142. Vacancies caused by death and unfilled at time of primary election.
143. Times for filing petitions and certificates and for holding conventions.
144. Places for filing petitions and certificates; record; notices to candidates.
145. Objections to petitions or certificates of designation or nomination; notice of determination.
146. Special provisions affecting unofficial primaries in cities, and town and village caucuses.
147. Certain persons not eligible for nomination.

→ § 130. **Application of article.** Nominations of candidates for election to public office, to be voted for by official ballot, are governed by this article, but this article shall not repeal nor affect the provisions of a statute, general or local, prescribing a particular method of making nominations of candidates for certain school or city offices.

§ 131. **Party nominations.** 1. Party nominations of candidates for the office of elector of president and vice-president of the United States, one for each congressional district and two at large, shall be made by the state committee.

2. Party nominations of candidates for any other office to be filled by the voters of the entire state shall be made by state convention, except that at a state convention at which a candidate for governor is nominated, the convention may, by rule or resolution, provide that in the intervening years between gubernatorial elections, party nominations of candidates for any such office may be made by its state committee.

3. Party nominations of candidates for the office of justice of the supreme court shall be made by judicial district convention.

4. Party nominations of candidates for city offices to be filled at a regular city election held at a time other than that of a general election shall be made directly by enrolled party voters at unofficial primaries.

5. Party nominations of candidates for town and village offices, in any county, shall be made in the manner prescribed by the rules of the county committee, heretofore or hereafter adopted, except that in any town in a county having a population of over six hundred fifty thousand inhabitants party nominations of candidates for town offices shall be made at the fall primary preceding the election, and except that in any other town, the members of the county committee of a political party elected to such county committee from such town may meet and adopt, by a two-thirds vote, a rule providing that its party candidates for town offices shall be nominated at the fall primary preceding the election and except that in any village of the first class, wherein personal registration is required in accordance with section fifty-one-a of the village law, the village board may, by resolution, subject to a permissive referendum as defined in the village law, provide that party nominations of candidates for elective village offices shall be made at the same

192. Opening the polls; preparations therefor.
193. General provisions as to conduct of elections.
194. Location of boxes and ballots; persons within the guard-rail.
195. Unofficial ballots; adhesive pasters.
196. Disposal of defective, mutilated or spoiled ballots.
197. Use of registers and poll-books.
198. Proof of identity of voters.
199. Assistance to illiterate or disabled voters.
200. Ascertaining party voters, if, by accident, enrollment not shown by register.
201. Delivery of ballot to voter.
202. Manner of voting.
203. Delivery of enrollment blank to voter at general election, if registration was not personal.
204. Casting of absentee voters' ballots; objections.
205. Preparation of ballot returns; sealing of unused, cancelled and spoiled ballots.
206. Proceedings of inspectors at close of polls.
207. General provisions as to canvass.
208. Verifying number of ballots.
209. Method of canvassing.
210. Method of tallying votes except for presidential electors.
211. Methods of tallying votes for presidential electors.
212. Rules for counting votes.
213. Objections to the counting.
214. Statement of canvass to be delivered to police in a city.
215. Returns of canvass.
216. Proclamation of result.
217. Certification of registers as to enrollments occurring at the general election.
218. Returns of canvass in city of New York for certain offices voted for within and without such city.
219. Sealing of ballots after canvass.
220. Disposal of ballot and enrollment boxes, unused ballots and certain other articles.
221. Filing of registers, returns and other papers except in the city of New York.
222. Filing of registers, returns and other papers in the city of New York.
223. Watchers and challengers.
224. Challenges at primary elections.
225. Challenges at elections other than a primary election.
226. Time allowed employees to vote.

→ § 190. Application of article. This article applies to a general election; a special election called by the governor; so far as practicable, any election at which official ballots are used if other provision for the conduct thereof is not made by law. Where a voting machine is used, only the provisions shall apply which

are consistent with the use of such a machine and the provisions of article nine. Subject to the special provisions and exceptions relating to primaries, a primary shall be deemed an election for the purposes of this article.

§ 191. Dates of primary elections and general elections; time of opening and closing polls. 1. A primary election, to be known as the fall primary, shall be held annually on the seventh Tuesday before the general election. In each year in which electors of president and vice-president of the United States are to be elected an additional primary election, to be known as the spring primary, shall be held on the first Tuesday in April. The general election shall be held annually on the Tuesday next succeeding the first Monday in November.

2. Elections shall be held open for voting thereat during the following hours: a primary election from twelve o'clock noon until nine o'clock in the evening, except in the city of New York and in such city from three o'clock, in the afternoon until ten o'clock in the evening; the general election from six o'clock in the morning until seven o'clock in the evening; a special election called by the governor pursuant to the public officers law, and, except as otherwise provided by law, every other election, from six o'clock in the morning until seven o'clock in the evening.

§ 192. Opening the polls; preparations therefor. The inspectors of election, and clerks, if any, shall meet at the polling place at least one-half hour before the time set for opening the polls of the election. The inspectors of election shall:

1. See that the American flag is displayed.
2. Cause the instruction cards, if any, to be posted conspicuously within the polling place.
3. Cause the sample ballots which are mounted on cards, if any, to be posted conspicuously in the polling place.
4. Cause the distance markers to be placed at a distance of one hundred feet from the polling place.
5. Arrange within the guard rail the ballot boxes and furniture for the conduct of the election.
6. Open the packages of ballots and sample ballots and place the registers, books, ballots and sample ballots, blanks, stationery and supplies so that they will be ready and convenient for use.
7. Before any ballots are cast, see that the voting booths are supplied with pencils having black lead only.
8. Before any ballots are cast, unlock the ballot boxes, see that they are empty, allow them to be examined by the watchers present, and lock them up again empty in such manner that the watchers and the persons just outside the guard rail may see that the boxes are empty when re-locked.
9. At the opening of the polls, cause to be made a proclamation thereof and of the time when the polls will close.

§ 193. General provisions as to conduct of elections. 1. The chairman of the board of inspectors theretofore appointed shall continue to act as such, and the inspectors shall act as a board, and a majority thereof shall decide questions. One inspector

of competent jurisdiction or may be opened by direction of a committee of the senate or assembly to investigate and report upon contested elections of members of the legislature voted for by the use of such machine and such data and such figures examined by such committee in the presence of the officer having the custody of such machine. Irregular ballots shall be preserved for six months after such election and the packages thereof may be opened and the contents examined only upon order of a court or judge of competent jurisdiction, or by direction of such committee of the senate and assembly if the ballots relate to the election under investigation by such committee, and at the expiration of such time, such ballots may be disposed of in the discretion of the officer or board having charge of them.

§ 264. **Custody of voting machines and keys.** The inspectors shall inclose the keys of the machine in an envelope, supplied with the keys, on which shall be written the number of the machine and the district and ward where it has been used, securely seal the envelope, indorse it and return it to the officer from whom the keys were received. The number on the seal and the number registered on the protective counter, if so provided, shall be written on the envelope containing the keys. The local authorities adopting the machines shall have the custody thereof when not in use at an election, and shall preserve and keep them in repair. All keys for voting machines shall be kept securely locked by the officials having them in charge. A public officer who, by any provision of law, is entitled to the custody of a machine for any period of time, shall be entitled to the keys therefor while such machine is in his charge. It shall be unlawful for any unauthorized person to have in his possession any key or keys of any voting machine; and all election officers, or persons entrusted with such keys for election purposes, or in the preparation of the machine therefor, shall not retain them longer than necessary to use them for such legal purpose. All machines shall be boxed and collected as soon after the close of the election as possible, and the machines, and the boxes for the machines, shall at all times be stored in a suitable place.

→ § 265. **Application of other articles and penal law.** The provisions of the other articles of this chapter apply as far as practicable to voting machines, except as herein provided. The provisions of law relating to misconduct at elections also shall apply to elections with voting machines.

§ 266. **Definitions.** 1. The list of candidates used or to be used on the front of the voting machine shall be deemed official ballots under this chapter for an election district in which a voting machine is used pursuant to law.

2. The word "ballot" as used in this article (except when reference is made to irregular ballots) means that portion of the cardboard or paper or other material within the ballot frame containing the name of the candidate and the emblem of the party organization by which he was nominated, or the form of submission of a proposed constitutional amendment, proposition or question as provided in section sixty-eight of this chapter, with the word "yes"

LAWS  
OF THE  
STATE OF NEW YORK

PASSED AT THE  
ONE HUNDRED AND SEVENTY-SEVENTH  
SESSION

OF THE  
LEGISLATURE

BEGUN JANUARY SIXTH AND ENDED MARCH  
TWENTIETH  
INCLUDING EXTRAORDINARY SESSION

1954

AT THE CITY OF ALBANY  
ALSO OTHER MATTERS REQUIRED BY LAW  
TO BE PUBLISHED WITH THE SESSION LAWS

Volume II



ALBANY

1954

3. If the precept is returnable on the day on which it is issued, the precept and petition must be served at least two hours before the hour at which it is returnable; in every other case, service of the precept and petition must be complete at least five days before the day on which it is returnable.

Effective  
Sept. 1,  
1954.

§ 2. This act shall take effect September first, nineteen hundred fifty-four.

## CHAPTER 530

AN ACT to amend the vehicle and traffic law, in relation to parking upon property owned by municipalities or other public agencies

Became a law April 7, 1954, with the approval of the Governor. Passed, by a majority vote, three-fifths being present

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Section eighty-six of the vehicle and traffic law is hereby amended by inserting therein a new subdivision, to be subdivision one-b, to read as follows:

Vehicle  
and  
Traffic  
Law,  
§ 86,  
new  
subd. 1-b,  
added.

1-b. In addition to any other power to limit or prohibit parking conferred by any other section of law, the legislative body of a city, village, or town of the first class or town of the second class having a population in excess of ten thousand is authorized to limit or prohibit parking upon property owned by such municipality except streets and highways. Such local authorities may adopt and provide for the enforcement of local laws, ordinances, rules and regulations to carry the provisions of this subdivision into effect.

§ 2. This act shall take effect immediately.

## CHAPTER 531

AN ACT to amend the election law to provide for the establishment of a system of permanent personal registration, and generally

Became a law April 7, 1954, with the approval of the Governor. Passed, by a majority vote, three-fifths being present

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Article fifteen of the election law is hereby renumbered article sixteen, and sections three hundred forty, three hundred forty-one, and three hundred forty-two of such law are hereby renumbered, respectively, sections four hundred twenty, four hundred twenty-one, and four hundred twenty-two.

Election  
Law  
Art. 15  
(§§ 340-  
342)  
renumbered  
Art. 16  
(§§ 420-  
422).

§ 2. Such law is hereby amended by adding thereto a new article, to be article fifteen, to read as follows:

## ARTICLE 15

## OPTIONAL PERMANENT PERSONAL REGISTRATION

New  
Art. 15  
(§§ 350  
415),  
added.

- Title I. General provisions (§§ 350-355).
- II. Registration records (§§ 360-363).
- III. Registration and enrollment (§§ 365-371).
- IV. Filing and custody of registration records (§§ 375-380).
- V. Change, transfer, correction of enrollment, and special enrollment (§§ 385-388).
- VI. Checks against fraudulent practices (§§ 390-399).
- VII. Cancellation of registrations; re-registration (§§ 405-408).
- VIII. Special provisions for elections (§§ 410-415).

## TITLE I

## GENERAL PROVISIONS

- Section 350. Adoption.
- 351. Application.
- 352. Qualification of voters.
- 353. Qualifications of inspectors of election and members of central registration board.
- 354. Meetings for local registration.
- 355. Central registration.

§ 350. **Adoption.** The city of New York or any county outside the city of New York may, by local law, elect to adopt, for the purpose of the registration of voters for elections within such city or county, the system of permanent personal registration set forth in this article. The first election to be held thereunder shall be the general election in the year following the year in which such local law is enacted, and registrations shall be taken preceding such election in the manner provided in this article. Thereafter, the permanent personal registration system herein prescribed may be discontinued by local law, which shall become effective with respect to the general election in the year following the year in which such local law is enacted, and registrations shall be taken preceding such election in the manner provided by the preceding articles of this chapter. Immediately upon the adoption of any such local law, a certified copy thereof shall be forwarded to and filed with the secretary of state by the city or county clerk.

→ § 351. **Application.** 1. Where permanent personal registration is in effect, all elections held pursuant to the provisions of this chapter shall be subject to the provisions of this article and to the applicable provisions of this chapter not inconsistent with the provisions of this article. Where permanent personal registration is not in effect, the provisions of this article, except those contained in subdivision two of section three hundred ninety-five hereof, shall not apply.

2. Except as otherwise expressly provided in this article, whenever the term "register" appears in any of the provisions of articles one to fourteen inclusive of this chapter, such term shall be deemed to include the permanent personal registration records provided in section three hundred sixty. Wherever such provisions require that

an entry be made in any column on such "register", such provision shall be deemed to require that an appropriate entry be made in the appropriate spaces on such permanent personal registration records.

3. Except as otherwise expressly provided in this article, where permanent personal registration is in effect the following sections and subdivisions of sections of this chapter shall not apply: sections sixty, sixty-one, sixty-two, sixty-three, seventy-nine, eighty, eighty-three, eighty-six, eighty-seven, eighty-eight, eighty-nine, ninety, ninety-one, ninety-two, one hundred twenty-two, one hundred fifty-three, one hundred fifty-four, one hundred fifty-six, one hundred fifty-seven, one hundred fifty-seven-a, one hundred fifty-eight, one hundred fifty-nine, one hundred sixty, one hundred sixty-two, one hundred sixty-three, one hundred sixty-five, one hundred sixty-six, one hundred sixty-six-a, one hundred sixty-seven, one hundred seventy-three, one hundred seventy-eight, one hundred seventy-nine, one hundred eighty, one hundred eighty-one, one hundred eighty-two, one hundred eighty-three, one hundred eighty-four, one hundred eighty-five, one hundred eighty-eight, one hundred ninety-seven, one hundred ninety-eight, subdivision one of section one hundred ninety-nine, section two hundred six, two hundred seventeen, and subdivision four of section three hundred thirty-one.

§ 352. **Qualification of voters.** Where permanent personal registration is in effect, no person shall be entitled to vote at any election held pursuant to this chapter unless he shall be registered under the provisions of this article, or unless he shall present a court order directing that he be permitted to vote at such election. A citizen who possesses the qualifications for voting set forth in sections one hundred fifty, one hundred fifty-one and one hundred fifty-two, shall be entitled to register under the provisions of this article. Thereafter he shall be entitled to vote at all elections held pursuant to the provisions of this chapter without further registration so long as he shall remain qualified to vote from the residence address from which he was registered and shall, in addition, vote at least once in each period of two successive calendar years.

§ 353. **Qualifications of inspectors of election and members of central registration board.** Before any person shall be appointed as an inspector of election or before a permanent employee of the board of elections shall be authorized to serve as a member of a central registration board, for the purpose of taking registrations pursuant to the provisions of this article, he shall possess the qualifications prescribed for inspectors of election pursuant to the provisions of section thirty-nine, and shall be instructed in his duties by the board of elections. A permanent employee of the board of elections must pass an examination on his duties before he shall be designated by the board to serve as a member of a central registration board, but need not pass additional examinations thereafter. An inspector of election must pass such an examination before appointment unless he has passed such an examination within a period of five years immediately preceding. The secretary of state shall supply each board of elections with instructional material to

LAWS  
OF THE  
STATE OF NEW YORK

PASSED AT THE  
ONE HUNDRED AND FORTY-FIFTH SESSION

OF THE  
LEGISLATURE

BEGUN JANUARY FOURTH, 1922, AND ENDED MARCH  
SEVENTEENTH, 1922

AT THE CITY OF ALBANY

AND ALSO OTHER MATTERS REQUIRED BY LAW TO  
BE PUBLISHED WITH THE SESSION LAWS

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VOL. II

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ALBANY  
J. B. LYON COMPANY, STATE PRINTERS  
1922

## CHAPTER 588

AN ACT in relation to the elections, constituting chapter seventeen of the consolidated laws.

Became a law April 12, 1922, with the approval of the Governor. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

### CHAPTER 17 OF THE CONSOLIDATED LAWS.

#### ELECTION LAW.

- Article
1. Short title; definitions (§§ 1, 2).
  2. Party organization (§§ 10-21).
  3. Election officials (§§ 30-51).
  4. Proceedings preliminary to registration, enrollment and elections (§§ 60-94).
  5. Forms of ballots and returns; absentee voting; preservation of books and papers (§§ 100-124).
  6. Designation and nomination of candidates (§§ 130-144).
  7. Registration and enrollment of voters (§§ 150-185).
  8. Conduct of elections (§§ 190-229).
  9. Special provisions relating to voting machines (§§ 240-269).
  10. Canvass of results (§§ 270-279).
  11. Presidential electors; United States senators; representatives in congress (§§ 290-298).
  12. Soldiers and sailors' elections (§§ 300-319).
  13. Campaign receipts, expenditures and contributions (§§ 320-327).
  14. Judicial proceedings (§§ 330-336).
  15. Laws repealed; saving clause and miscellaneous provisions; when to take effect (§§ 340-342).

#### ARTICLE 1.

##### SHORT TITLE; DEFINITIONS.

- Section 1. Short title.  
2. Definitions.

§ 1. **Short title.** This chapter shall be known as the "Election Law."

§ 2. **Definitions.** The terms used in this chapter shall have the signification herein defined unless other meaning is clearly apparent in language or context:

1. The term "political unit" means the state or any political subdivision thereof or therein.

Source.—  
Former  
election  
law, § 1.

Source.—  
Former  
election  
law, § 2.

shall be paid to its fiscal officer for its benefit. Proceeds of the sale of any such property in the office of the secretary of state shall be paid over as provided by law with respect to other state moneys in the hands of a state officer.

## ARTICLE 6.

### DESIGNATION AND NOMINATION OF CANDIDATES.

Section 130. Application of article.

131. Party nominations.

132. Conventions.

133. First nominations by a new party.

134. Designation by petition of candidates at primary election.

135. Form of designating petition.

136. Rules concerning designating petitions.

137. Independent nominations.

138. Declination of designation or nomination.

139. Filling vacancies in designations and nominations.

140. Times for filing petitions and certificates and for holding conventions.

141. Places for filing petitions and certificates; record; notices to candidates.

142. Objections to petitions or certificates of designation or nomination; notice of determination.

143. Special provisions affecting unofficial primaries in cities, and town and village caucuses.

144. Certain persons not eligible for nomination.

→ Source.—  
New.

§ 130. **Application of article.** Nominations of candidates for election to public office, to be voted for by official ballot, are governed by this article, but this article shall not repeal nor affect the provisions of a statute, general or local, prescribing a particular method of making nominations of candidates for certain school or city offices.

Source.—  
Former  
election  
law. §§ 45,  
54, 91.

§ 131. **Party nominations.** 1. Party nominations of candidates for the office of elector of president and vice-president of the United States, one for each congressional district and two at large, shall be made by the state committee.

2. Party nominations of candidates for any other office to be filled by the voters of the entire state shall be made by state convention, except that a party, by rule adopted at a state convention preceding a general election in an even numbered year, may provide that its nominations of candidates for any such office to be filled in an odd-numbered year may be made by its state committee.

3. Party nominations of candidates for the office of justice of the supreme court shall be made by judicial district convention.

4. Party nominations of candidates for city offices to be filled at a regular city election held at a time other than that of a general election shall be made directly by enrolled party voters at unofficial primaries.

- Section 206. Ascertaining party voters, if, by accident, enrollment not shown by register.
207. Delivery of ballot to voter.
208. Manner of voting.
209. Delivery of enrollment blank to voter at general election, if registration was not personal.
210. Casting of absentee voters' ballots; objections.
211. Preparation of ballot returns; sealing of unused, cancelled and spoiled ballots.
212. Proceedings of inspectors at close of polls.
213. General provisions as to canvass.
- \*
215. Verifying number of ballots.
216. Method of canvassing.
217. Method of tallying votes except for presidential electors.
218. Methods of tallying votes for presidential electors.
219. Rules for counting votes.
220. Objections to the counting.
221. Statement of canvass to be delivered to police in a city.
222. Return of canvass.†
223. Proclamation of result.
224. Certification of registers as to enrollment occurring at the general election.†
225. Returns of canvass in city of New York for certain offices voted for within and without such city.
226. Sealing of ballots after canvass.
227. Disposal of ballot and enrollment boxes, unused ballots and certain other articles.
228. Filing of registers, returns and other papers, except in the city of New York.
229. Filing of registers, returns and other papers in the city of New York.

→ Source.—  
New.

§ 190. **Application of article.** This article applies to a general election; a special election called by the governor; so far as practicable, any election at which official ballots are used if other provision for the conduct thereof is not made by law. Where a voting machine is used, only the provisions shall apply which are consistent with the use of such a machine and the provisions of the next article. Subject to the special provisions and exceptions relating to primaries, a primary shall be deemed an election for the purposes of this article.

Source.—  
§ 70,  
subd. 5,  
§ 270.

§ 191. **Dates of primary elections and general elections; time of opening and closing polls.** 1. A primary election, to be known as the fall primary, shall be held annually on the seventh Tuesday before the general election. In each year in which electors of president and vice-president of the United States are to be elected an additional primary election, to be known as the spring primary,

\* So in original. [No section 214.]

† So in original. [Does not conform to section heading.]

ment in writing, giving in detail the result thereof, and such statement shall be witnessed by the persons present and shall be filed with the secretary of the county board of canvassers. However, nothing contained in this section shall authorize any change in the returns filed by inspectors of election in any election district nor authorize any board of canvassers in anywise to consider or act upon any re-canvass of votes made pursuant thereto.

→ § 267. **Application of other articles and penal law.** The provisions of the other articles of this chapter apply as far as practicable to voting machines, except as herein provided. The provisions of law relating to misconduct at elections also shall apply to elections with voting machines.

Source.—  
Former  
election  
law, § 417,  
in part.

§ 268. **Definitions.** 1. The list of candidates used or to be used on the front of the voting machine shall be deemed official ballots under this chapter for an election district in which a voting machine is used pursuant to law.

Source.—  
Former  
election  
law, § 420.

2. The word "ballot" as used in this article, (except when reference is made to irregular ballots) means that portion of the cardboard or paper or other material within the ballot frames containing the name of the candidate and the emblem of the party organization by which he was nominated, or a statement of a proposed constitutional amendment, or other question or proposition with the word "Yes" for voting for any question or the word "No" for voting against any question.

3. The term "question" means any constitutional amendment, proposition, or other question submitted to the voters at any election.

4. The term "ballot label" means the printed strips of cardboard containing the names of the candidates nominated, and the questions submitted.

5. The term "irregular ballot" means a vote cast, by or on a special device, for a person whose name does not appear on the ballot labels.

6. The term "protective counter" means a separate counter built into the voting machine which cannot be reset, which records the total number of movements of the operating lever.

§ 269. **Saving clause.** Nothing herein shall be deemed to prohibit the adoption or use of any voting machine at any election within any town, city or village that has adopted the same prior to the tenth day of December, nineteen hundred and thirteen, if the mechanism is or may be made adjustable to conform to the grouping of candidates under the title of the office, but the method of conducting an election therewith shall be in the manner prescribed by this chapter.

Source.—  
Former  
election  
law, § 421.

## ARTICLE 10.

### CANVASS OF RESULTS.

Section 270. Canvass of primary returns by board of elections; notices to delegates; certificates.

271. Canvass of primary returns by secretary of state; convention rolls.

# THE CONSOLIDATED LAWS OF NEW YORK, ANNOTATED

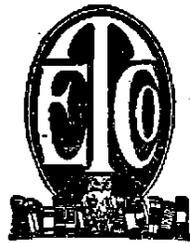
AS AMENDED TO THE CLOSE  
OF THE REGULAR SESSION OF  
THE LEGISLATURE OF 1922

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EDITED BY HAROLD N. ELDRIDGE  
ASSISTED BY NEWELL DUVALL AND MEMBERS OF THE EDITORIAL STAFF

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BOOK 17  
Election Law



EDWARD THOMSON COMPANY  
Northport, New York  
1922

notice in writing to the voting machine custodian and to the county chairman of each party or independent body which shall have nominated candidates for the election of the time and place where such re-canvass is to be made; and each of such parties or nominating bodies may send two representatives to be present at such re-canvass. If, upon such re-canvass, it shall be found that the original canvass of the returns has been correctly made from the machine, and that the discrepancy still remains unaccounted for, the county board of canvassers, or such committee thereof, with the assistance of the custodian of the machine, in the presence of the inspectors of election and the authorized representatives of the several parties or nominating bodies, shall unlock the voting and counting mechanism of the machine and shall proceed to thoroughly examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in the returns from such machine. Before testing the counters, they shall be reset at zero (000) after which each counter shall be operated at least one hundred times. After the completion of such examination and test, the custodian shall then and there prepare a statement in writing, giving in detail the result thereof, and such statement shall be witnessed by the persons present and shall be filed with the secretary of the county board of canvassers. However, nothing contained in this section shall authorize any change in the returns filed by inspectors of election in any election district nor authorize any board of canvassers in anywise to consider or act upon any re-canvass of votes made pursuant thereto.

Derived from § 416 of former Election Law (L. 1909, ch. 22).

Authority of canvassers to open voting machines to correct discrepancy.—“Discrepancy” is not used in this section in a narrow sense but in such a sense as to justify as much relief in cases of errors in voting machine districts as has been afforded in the past in districts where there has been voting by ballot. Accordingly, a county board of canvassers cannot be restrained by injunction from opening voting machines for the purpose of correcting a discrepancy and may even in a proper case unlock the voting and counting mechanism of the machine and test the same. *Smith v. Board of Canvassers*, (1915) 92 Misc. 607, 156 N. Y. S. 837.

Mandamus to compel correction of return.—Where inspectors have incorrectly read the result as shown by the machine, and this does not appear because of a failure to certify the total vote, mandamus will issue to compel a correction of the returns. *Smith v. Wenzel*, (1915) 216 N. Y. 421, 110 N. E. 768, affirming (1915) 171 App. Div. 123, 157 N. Y. S. 85.

→ § 267. Application of other articles and penal law. The provisions of the other articles of this chapter apply as far as practicable to voting machines, except as herein provided. The

provisions of law relating to misconduct at elections also shall apply to elections with voting machines.

Derived from § 417 of former Election Law (L. 1909, ch. 22).

**Ordering examination of machines.**—Section 417 of former Election Law was held not broad enough to warrant an order for an examination of voting machines, analogous to an order under section 374, supra. In re Thomas, (1915) 216 N. Y. 426, 110 N. E. 762.

§ 268. **Definitions.** 1. The list of candidates used or to be used on the front of the voting machine shall be deemed official ballots under this chapter for an election district in which a voting machine is used pursuant to law.

2. The word "ballot" as used in this article, (except when reference is made to irregular ballots) means that portion of the cardboard or paper or other material within the ballot frames containing the name of the candidate and the emblem of the party organization by which he was nominated, or a statement of a proposed constitutional amendment, or other question or proposition with the word "Yes" for voting for any question or the word "No" for voting against any question.

3. The term "question" means any constitutional amendment, proposition, or other question submitted to the voters at any election.

4. The term "ballot label" means the printed strips of cardboard containing the names of the candidates nominated, and the questions submitted.

5. The term "irregular ballot" means a vote cast, by or on a special device, for a person whose name does not appear on the ballot labels.

6. The term "protective counter" means a separate counter built into the voting machine which cannot be reset, which records the total number of movements of the operating lever.

Derived from § 420 of former Election Law (L. 1909, ch. 22).

**Abbreviating propositions.**—The definition here given of "ballot" shows that a proposition submitted may be abbreviated, and need not follow the language of the election notice. Op. Atty.-Gen. (1906) 633.

The use on a voting machine of the words "yes" and "no" instead of "for" and "against," as formerly required with reference to a question submitted, did not invalidate the votes cast. People v. Board of Canvassers, (1905) 105 App. Div. 197, 94 N. Y. S. 996, affirmed without opinion (1905) 183 N. Y. 538, 76 N. E. 1116.

§ 269. **Saving clause.** Nothing herein shall be deemed to prohibit the adoption or use of any voting machine at any election within any town, city or village that has adopted the same prior to the tenth day of December, nineteen hundred and thirteen,



216 N.Y. 426, 110 N.E. 762

In the Matter of the Application of  
JOHN G. THOMAS, Respondent, for  
an Examination of the Voting Machines  
and of the Votes Cast Thereon for the  
Office of Mayor of the City of Utica at the  
General Election Held November 2, 1915.

JAMES D. SMITH, Appellant.

Court of Appeals of New York.  
Argued December 15, 1915.

Decided December 17, 1915.

CITE TITLE AS: Matter of Thomas

#### \*426 Elections

#### **Voting machines -- Order for examination of voting machines cannot be made under section 374 of Election Law providing for examination of ballot boxes**

Section 374 of the Election Law (L. 1913, ch. 821), which provides that 'any candidate shall be entitled as of right to an examination in person or by authorized agents of any ballots upon which his \*427 name lawfully appeared as that of a candidate,' has no application to voting machines and is not made applicable by section 417 of the Election Law (Cons. Laws, ch. 17) which merely declares that other articles of the Election Law, not applicable to voting machines generally, shall apply to *voting* by such machines. This provision is not broad enough to warrant the granting of an order for the examination of voting machines analogous to an order for the examination of ballot boxes under section 374.

*Matter of Thomas*, 171 App. Div. \_\_\_\_, reversed.

APPEAL from an order of the Appellate Division of the Supreme Court in the fourth judicial department, entered December 11, 1915, which affirmed an order of Special Term denying a motion to vacate an *ex parte* order for the opening of certain voting machines in the city of Utica.

The facts, so far as material, are stated in the opinion.

*G. C. Morehouse, Warnick J. Kernan and Daniel E. Meegan* for appellant.

There is no analogy or similarity between section 374 of the Election Law and the provisions relating to voting machines. (*People v. Way*, 179 N. Y. 179; *Matter of Hearst v. Woelper*, 183 N. Y. 274; L. 1913, ch. 821; *Tallman v. S., etc., R. R. Co.*, 4 Abb. Ct. App. Dec. 351; *State Board v. Gasau*, 195 N. Y. 197; *Burke v. Bosso*, 180 N. Y. 341; *People v. Richards*, 108 N. Y. 137; *People v. N. Y. & M. B. Ry.*, 84 N. Y. 565; *Sims v. U. S. Trust Co.*, 103 N. Y. 472; *Matter of Hermance*, 71 N. Y. 471; *Matter of Hardin*, 97 App. Div. 493; 181 N. Y. 513; *Wormser v. Brown*, 149 N. Y. 163.)

*Richard R. Martin, L. N. Southworth, Seward A. Miller and A. G. Senior* for respondent.

The provisions of section 374 of the Election Law for the examination of ballots apply to voting machines. (*Drew v. Village of White Plains*, 157 App. Div. 394.) The facts shown in the papers on which the order of November twenty-sixth to open the machines was made fully warranted the making of that order; and the application to vacate it was properly \*428 denied. (*People v. McClellan*, 191 N. Y. 341; *Matter of Hayden*, 25 Misc. Rep. 129; *Matter of Van Cott*, 34 Misc. Rep. 411; *People ex rel. Brink v. Way*, 179 N. Y. 174; *Matter of Hearst v. Woelper*, 183 N. Y. 274; *People ex rel. Brown v. Freisch*, 215 N. Y. 356.)

WILLARD BARTLETT, Ch. J.

On the 26th day of November, 1915, at a Special Term held in Syracuse, Mr. Justice ROSS presiding, an order was made *ex parte*, at the instance of John G. Thomas, one of the candidates for the office of mayor at the last general election in the city of Utica, that the petitioner might examine every one of the thirty-nine voting machines used in the city of Utica at the said election, except the machine used in the second district of the second ward, and the record of the votes cast at such election as shown by the counters thereof. There were further provisions in the order regulating the conditions of such examination which are not material. Upon an order to show cause obtained by James D. Smith, a rival candidate for mayor, a motion was made to vacate this order. That motion was denied in an order to the effect that the *ex parte* order be carried out according to the terms and provisions thereof, the examination of voting machines to begin thereunder at the court house in the city of Utica on Tuesday, December 14th, 1915, at 10 A. M. That order has been affirmed by the Appellate Division. No opinion was written by the Appellate Division, but a careful opinion was written by Mr. Justice

ROSS at the Special Term upon the motion to vacate the original order. He based the making of that order primarily on section 374 of the Election Law (L. 1913, ch. 821), a portion of which provides as follows: ‘Any candidate shall be entitled as of right to an examination in person or by authorized agents of any ballots upon which his name lawfully appeared as that of a candidate; but the court shall prescribe such conditions as of notice to other candidates or otherwise as it shall deem necessary \*429 and proper.’ That section, however, has no application whatever to voting machines unless it is rendered applicable by section 417 of the Election Law, the first sentence of which reads as follows: ‘The provisions of the other articles of this chapter apply as far as practicable to voting by voting machines, except as herein provided.’

Section 417 is contained in the article of the Election Law relating to voting machines. It will be observed that it makes the provisions of the other articles of the statute applicable not to voting machines generally or in all respects, but merely declares that they shall apply to *voting* by such machines. We are of opinion that this provision is not broad enough to warrant the granting of an order for the examination of voting machines analogous to an order for the examination of ballot boxes under section 374 of the Election Law. It seems to us that it would amount to judicial legislation thus

to extend the meaning of the language used. There is a provision in section 416 for the recanvass of the vote shown by the counter compartment of a voting machine whenever it shall appear that there is a discrepancy in the returns of any election district; and it is to be assumed that the legislature deemed this provision sufficient to preserve the rights of candidates and insure a true record of the will of the voters as expressed at the polls. If it had deemed any other method of procedure necessary in respect to voting machines it would have manifested its purpose by clear language the meaning of which could not be mistaken, rather than by such a provision as we find in section 417.

No warrant for the Special Term order under review can be found in any other provisions of the Election Law. We think there was no authority to make it and for this reason the order appealed from must be reversed and the order of the Special Term vacated, without costs.

CHASE, COLLIN, CUDDEBACK, HOGAN, CARDOZO  
and POUND, JJ., concur.

Order reversed, etc.

Copr. (C) 2022, Secretary of State, State of New York

ANNOTATED  
CONSOLIDATED LAWS

OF THE

STATE OF NEW YORK

AS AMENDED TO JANUARY 1, 1910

CONTAINING ALSO

THE FEDERAL AND STATE CONSTITUTIONS

WITH

NOTES OF BOARD OF STATUTORY CONSOLIDATION,  
TABLES OF LAWS AND INDEX

EDITED BY

CLARENCE F. BIRDSEYE, ROBERT C. CUMMING  
AND FRANK B. GILBERT

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VOL. II

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NEW YORK

# ANNOTATED CONSOLIDATED LAWS

OF THE

## STATE OF NEW YORK.

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### ELECTION LAW.

L. 1909, ch. 22.—An act in relation to the elections, constituting chapter seventeen of the consolidated laws.

[In effect February 17, 1909.]

### CHAPTER XVII OF THE CONSOLIDATED LAWS.

#### ELECTION LAW.

- Article 1. Short title (§ 1).
2. Primaries; general provisions (§§ 2-7).
  3. Enrollments and primaries in cities and in villages having five thousand inhabitants or more (§§ 20-74).
  4. Enrollments and primaries in towns (§§ 90-104).
  5. Nominations (§§ 120-137).
  6. Registration of voters (§§ 150-184).
  7. Boards of elections in cities of the first class containing one or more counties (§§ 190-201).
  8. Commissioner of elections in the county of Erie (§§ 210-221).
  9. Commissioner of elections in the county of Monroe (§§ 230-242).
  10. Commissioner of elections in the county of Onondaga (§§ 250-260).
  11. Commissioner of elections in the county of Westchester (§§ 270-281).
  12. Times, places, notices, officers and expenses of elections (§§ 290-320).
  13. Ballots and stationery (§§ 330-345).
  14. Conduct of elections and canvass of votes (§§ 350-381).
  15. Voting machines (§§ 390-421).
  16. Boards of canvassers (§§ 430-444).

§ 1.	Short title.	L. 1909, ch. 22.
Article 17.	Representatives in congress and presidential electors (§§ 450-457).	
18.	Metropolitan elections district (§§ 470-483).	
19.	Soldiers' and sailors' elections (§§ 500-522).	
20.	Corrupt practices (§§ 540-561).	
21.	Laws repealed; when to take effect (§§ 570, 571).	

## ARTICLE I.

## SHORT TITLE.

## Section 1. Short title.

§ 1. Short title.—This chapter shall be known as the "Election Law."

Source.—Former Elec. L. (L. 1896, ch. 909) § 1.

Source of chapter.—Before 1890 the provisions of law relating to elections were for the most part contained in ch. 6 of pt. 1 of the Revised Statutes. In that year the adoption of the system of voting by official ballot (L. 1890, ch. 262), and the requirement for personal registration in cities (L. 1890, ch. 321), greatly modified the existing law. The statutory revision commission revised the law in 1892, ch. 680, and repealed the prior legislation on the subject. This chapter was amended in many respects, especially in relation to primaries and conventions, and by the abolition of the "paster ballot." The law was revised and re-enacted as a whole in 1896, ch. 909. It is impracticable to indicate to any great extent the original sources of the law, nor would such indication be of any great value, on account of the complete change which has been made in the system. The source references, therefore, are made only to the act of 1896, or other independent act included by the board of statutory consolidation. See note of consolidators.

Consolidators' note.—(Rept. of 1903.) The election law as here consolidated includes the following formerly separate laws, as amended to January 1, 1908:

Primary Election Law, L. 1899, ch. 473 (amending throughout L. 1898, ch. 179),

Town Enrollment Act, L. 1902, ch. 195,

Soldiers' and Sailors' Election Law, L. 1898, ch. 674,

Metropolitan Elections District Law, L. 1905, ch. 689 (amending throughout L. 1898, ch. 676),

Act creating a Commissioner of Elections in Erie County, L. 1904, ch. 334,

Act creating a Commissioner of Elections in Westchester County, L. 1907, ch. 255.

Certain provisions relating to elections in towns, villages and school districts, appearing heretofore in the Town, Village and School Laws, and closely involved in provisions of those laws more analogous to certain parts of the Constitution and the Legislative Law than to the Election Law, have been left in the Town, Village and School Laws where they were. The penal provisions already in the Election Law have been allowed to remain, instead of being placed in the Penal Code with the considerable body of provisions there concerning crimes against the elective franchise. But otherwise, and excepting also the constitutional provisions, all the existing statute law of a general nature relating to elections, including certain exceptions to the general scheme, which are in one sense special or local, but without which the general law would be

incomplete, e. g. the special provisions for a board of elections in New York City, and for the commissioners of elections in Erie and Westchester counties, are included.

## ARRANGEMENT OF LAW.

An effort has been made to follow the chronological order of the election process so far as a fairly close adherence to the form of the old law permitted, beginning with the primaries and enrollment in parties, continuing through registration for elections, the proceedings in preparation for and upon election day, the proceedings of the boards of canvassers, and coming finally to the proceedings of the presidential electors in presidential years. To these have been added the provisions which have no special relation to the others in order of time, or which are incapable of adaptation to such an arrangement without fundamental change in the form of the law. The several laws here consolidated were themselves more or less consistently arranged upon the chronological plan, and accordingly the various main divisions of this consolidated law will be found to conform within themselves in greater or less degree to the chronological principle.

## EDITING.

The rearrangement incidental to the consolidation has made necessary an entire renumbering of the sections of the law. Advantage has been taken of this opportunity to simplify the arrangement by eliminating the "subdivisions" of sections wherever they occurred in the old laws, the division here being into sections only. At the same time many of the old sections and subdivisions, at times of inordinate length and not wholly homogeneous in character, have been cut into two or more sections. The sectional numbers run consecutively with the articles, but gaps are left between the articles for new sections. It is conceivable, indeed, that subdivision of sections may be wisely resorted to in certain instances in making further amendments, rather than renumbering; but it is deemed advisable, especially in a law which is subject to such continual amendment as this, to begin with a clean slate.

For convenience of consultation, many of the sections have been divided into paragraphs, but without numbers or other designation. No notice of this is taken in the special notes relating to the sections.

The consolidation of several laws herein and the renumbering of the sections have necessitated changes in many references throughout the law, e. g. "the Election Law" becomes "this chapter," "this act" frequently becomes "this article." New section headings have been supplied where necessary, and the old ones amended; new analyses have likewise been prefixed to the articles where necessary, and the old ones amended.

"Elector," "electors," "an elector," have been changed throughout to "voter," "voters," "a voter," except when used of presidential electors. The several laws consolidated herein, like the Constitution, use both terms indiscriminately—sometimes both appear in the same section—although "elector" largely predominates. The impossibility of any confusion arising out of the use of the word "voter," the everyday use of the word by everybody outside of legal circles, and particularly the desirability of having a distinctive word for presidential electors, determined the consolidators in favor of "voter" rather than "elector," it having been previously determined that the usage should be made uniform throughout, whichever word was adopted.

The consolidators of this law have spent a large amount of time in merely editing the text. It may be justly charged that such work yields but superficial results in a case where thorough revision is demanded. The consolidators freely concede that such a course was a mere tithing of mint, anise and cummin,

while letting go the weightier matters of the law. But under the limitations imposed upon the present work there was no alternative. In no instance has the intent of the law been changed in making these verbal changes.

## ARTICLE II.

### PRIMARIES; GENERAL PROVISIONS.

Section 2. Definitions of primary and convention.

3. Notice of primary.
4. Organization and conduct of primaries.
5. Qualifications of voters at primaries.
6. Duties of chairman of primary.
7. Watchers and canvass of votes at primaries.

§ 2. Definitions of primary and convention.—As used in articles two and three, a convention is an assemblage of delegates representing a political party or independent body, duly convened for the purpose of nominating candidates for public office, electing delegates to other conventions, electing officers for party or independent organizations, or for the transaction of any other business relating to the affairs or conduct of the party or independent body; and a primary is any other assemblage of voters of a political party or independent body duly convened for any such purpose.

Source.—Former Elec. L. (L. 1896, ch. 909) § 50.

References.—Misdemeanor in connection with primaries and conventions, Penal Law, § 751.

Consolidators' note.—Words "two and three" inserted after word "article" to make application of definitions clear. The word "public" is supplied before "office," to make express what is implied; the word "other" is supplied before "conventions"; and the words "or independent" are supplied before "organizations," to make the latter part of the definition conform to the earlier.

Powers of convention.—The conventions have important legislative functions, and committees, appointed for county and state, simply have administrative and executive powers. *Brown v. Cole*, 54 Misc. 273, 104, N. Y. Supp. 109 (1907).

§ 3. Notice of primary.—Elsewhere than in a city or in a village having five thousand inhabitants or more according to the last preceding federal or state enumeration, every primary shall be called and held pursuant to notice given according to the regulations and usages of the political party or independent body holding it.

Source.—Former Elec. L. (L. 1896, ch. 909) § 51.

Consolidators' note.—The provision relating to the publication of notice of primaries in cities and in villages having five thousand inhabitants is omitted, because it has been in effect repealed by the provisions relating to the same subject constituting §§ 50-51 of Election Law.

When posting sufficient.—*Matter of Mitchell*, 81 Hun 401, 30 N. Y. Supp. 962 (1894).

§ 4. Organization and conduct of primaries.—Every primary, unless otherwise provided by law, shall be presided over and conducted by officers to be selected in the manner prescribed by the rules or regulations of the

political party or independent body holding such primary. If the rules and regulations of the political party or independent body calling it so required, or if it shall be, by a vote of the voters present, so resolved, or, if it be in a city or in a village having five thousand inhabitants or more according to the last preceding federal or state enumeration, and five qualified voters of the district where it is held, belonging to the political party calling it, shall serve upon the secretary or chairman of the general committee of the party, or of its organization in such city or village, or upon the chairman of the district committee, a written demand, stating that they so required it, the following additional requirements, or such of them as may be specified in such demand, shall be complied with:

1. The chairman and other officers shall take the constitutional oath of office.

2. Candidates and delegates and officers of the organization or committee shall be chosen by ballot.

3. The meeting shall be held open not less than one hour for voting thereat.

4. The tellers shall keep a poll list of the names and residences of all persons voting, and assist the secretary in the canvass of the votes.

5. A voter shall be appointed watcher for each candidate or set of candidates or delegates requesting the same.

6. The chairman shall publicly announce the number of votes cast for each candidate, and the result of the canvass at the completion thereof, and shall, if the primary be held in a city or in a village having a population of more than five thousand inhabitants, as shown by the last preceding federal or state enumeration, file a statement of such results and the oath taken at such primary, and the poll list kept thereat, in the office of the county clerk, if located in such city or village, and otherwise in the office of the city or village clerk, and the papers so filed shall be public records and open to inspection and examination by any voter of the state.

Source.—Former Elec. L. (L. 1890, ch. 909) § 52.

References.—Form of oath, Const. art. 13. Who may administer, Pub. Off. L. § 10; General Construction L. § 36.

Consolidators' note.—The purposes of a primary having been referred to in its definition in § 2, their repetition here is omitted. When this provision was originally put into L. 1896, ch. 909, and made to apply to "every primary," the Primary Election Law, L. 1893, ch. 179, had not been adopted; but in re-enacting the provision here, the limitation "unless otherwise provided by law" is required to make the expression correct. All cities and all villages of five thousand inhabitants and over are made the subject of special provisions relating to primaries; the form of reference here to the class is harmonized with the expressions used elsewhere in this law.

Conduct of caucuses and conventions.—See Matter of Redmond, 5 Misc. 369, 25 N. Y. Supp. 381 (1893); Matter of Broat, 6 Misc. 445, 27 N. Y. Supp. 173 (1894). May adjourn, *Id.* Courts governed by decision of state committee as to which faction is regular. Matter of Pollard, 55 N. Y. St. Rep. 155, 25 N. Y. Supp. 385 (1893); Fairchilds v. Ward, 151 N. Y. 359 (1897); Matter of Redmond, *supra*. Irregularity on account of size of hall. Matter of County Clerk of Clinton Co.,

§§ 5-7.

Primaries; general provisions.

21 Misc. 543, 48 N. Y. Supp. 407 (1897). See also Reports of Atty. Genl. (1898) 77, (1902) 290.

§ 5. Qualifications of voters at primaries.—No person shall be entitled to vote at any primary held for the purpose of nominating candidates for public office unless he may be qualified to vote for such candidates on the day of election. Voters at primaries shall possess such other qualifications as shall be required by the regulations and usages of the political party or independent body holding the same.

Source.—Former Elec. L. (L. 1869, ch. 909) § 53.

References.—Qualification of voters. See § 162, post; Matter of Sheridan, 57 Misc. 42, 46, 107 N. Y. Supp. 244 (1907).

Consolidators' note.—The provisions of § 5 were intended to apply only to primaries for the purpose of making nominations. The former expression, "No person shall be entitled to vote at any primary unless he may be qualified to vote for the officers to be nominated thereat on the day of election," *on its face* implied (1) that primaries could not be held for any other purpose than that of making nominations, although by definition, § 2, they could be; and (2) that the officers were to be nominated thereat on *election* day. The new expression avoids both faults.

Rights of electors at primaries will be enforced by the courts. *Brown v. Cole*, 54 Misc. 278, 104 N. Y. Supp. 109 (1907).

Mandamus to determine qualifications. Matter of Guess, 16 Misc. 306.

Section cited.—Matter of Murphy, 126 App. Div. 53, 110 N. Y. Supp. 1020 (1908).

§ 6. Duties of chairman of primary.—The chairman may administer any oath required to be administered at any primary. He shall decide all questions that arise relating to the qualifications of voters when a voter is challenged by an elector and shall reject such vote, unless the person offering the vote is willing to be and shall be sworn that he will truly answer all questions put to him touching his qualifications as such voter, and shall state under oath that he is qualified to vote at such primary.

Source.—Former Elec. L. (L. 1896, ch. 909) § 54.

Duties of chairman.—Matter of Broat, 6 Misc. 445, 27 N. Y. Supp. 176 (1894); *French v. Roosevelt*, 18 Misc. 307, 41 N. Y. Supp. 1030 (1896); *In re County Clerk of Clinton*, 21 Misc. 543, 48 N. Y. Supp. 407 (1897).

Refusal to comply with section.—If a person who is challenged refuses to take the required oath or to answer the questions touching his qualifications, his vote may be rejected. Rept. of Atty. Genl. (1895) 223.

§ 7. Watchers and canvass of votes at primaries.—The ballot box used at any primary shall be examined by the secretary and by the tellers, if any, in the presence of the watchers, if any, before any ballots are received, to see that there are no ballots therein. Such watchers are entitled to be present from the commencement of the primary to the close of the canvass and the signing of the certificates thereof. At the close of the canvass of the ballots cast for each candidate the secretary shall publicly announce the vote and the result of the canvass.

Source.—Former Elec. L. (L. 1896, ch. 909) § 55.

L. 1909, ch. 22.

Voting machines.

§§ 414, 415.

shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine and any necessary corrections shall then and there be made by the election board, after which the doors of the voting machine shall be closed and locked.

Before adjourning the board shall, with the seal provided therefor, so seal the operating lever of the machine that the voting and counting mechanism will be prevented from operation. [*Thus amended by L. 1909, ch. 240, § 24, in effect April 22, 1909.*]

Source.—Former Elec. L. (L. 1896, ch. 909) § 178, as added by L. 1899, ch. 466, § 1, and amended by L. 1907, ch. 654, § 2, and L. 1908, ch. 491, § 6.

§ 414. Disposition of irregular ballots; and preserving the record of the machine.—The inspectors of election shall, as soon as the count is completed and fully ascertained as in this chapter required, lock the machine against voting, and it shall so remain for the period of thirty days, except by order of a court of competent jurisdiction or as hereinafter provided. Whenever irregular ballots have been voted, the inspectors shall return all of such ballots in a properly secured sealed package indorsed "irregular ballots," and file such package with the original statement of canvass. It shall be preserved for six months after such election, and may be opened and its contents examined only upon order of the supreme court or a justice thereof, or a county judge of such county, and at the expiration of such time, such ballots may be disposed of in the discretion of the officer or board having charge of them.

Source.—Former Elec. L. (L. 1896, ch. 909) § 179, as added by L. 1899, ch. 466, § 1, and amended by L. 1901, ch. 530, § 6, and L. 1908, ch. 491, § 7.

→ § 415. Disposition of keys; opening counter compartment.—The keys of the machine shall be enclosed in an envelope which shall be supplied by the officials, on which shall be written the number of the machine and the district and ward where it has been used, which shall be securely sealed and indorsed by the election officers, and shall be so returned to the officer from whom they were received. The number on the seal and the number registered on the protective counter, if so provided, shall be written on the envelope containing the keys. All keys for voting machines shall be kept securely locked by the officials having them in charge. It shall be unlawful for any unauthorized person to have in his possession any key or keys of any voting machine; and all election officers, or persons entrusted with such keys for election purposes, or in the preparation of the machine therefor, shall not retain them longer than necessary to use them for such legal purpose. All machines shall be boxed and collected as soon after the close of the election as possible, and the machines, and the boxes for the machines, shall at all times be stored in a suitable place. [*Thus amended by L. 1909, ch. 465, in effect May 24, 1909.*]

Source.—Former Elec. L. (L. 1896, ch. 909) § 179-a, as added by L. 1908, ch. 491, § 8.

§ 416. Provision for re-canvass of vote.—Whenever it shall appear that there is a discrepancy in the returns of any election district, the county board of canvassers shall summon the inspectors of election thereof and said inspectors shall, in the presence of said board of canvassers, or a bi-partisan committee thereof, make a record of the number on the seal and the number on the protective counter, if one is provided, open the counter compartment of said machine, and without unlocking said machine against voting, shall re-canvass the vote cast thereon. Before making such re-canvass the county board of canvassers shall give notice in writing to the custodian and to the county chairman of each political party or nominating body that shall have nominated candidates for the election, of the time and place where said re-canvass is to be made; and each of such political parties or nominating bodies may send two representatives to be present at such re-canvass. If, upon such re-canvass, it shall be found that the original canvass of the returns has been correctly made from the machine, and that the discrepancy still remains unaccounted for, the county board of canvassers, or said committee thereof, with the assistance of the custodian of said machine, shall, in the presence of the inspectors of election and the authorized representatives of the several said political parties or nominating bodies, unlock the voting and counting mechanism of said machine and shall proceed to thoroughly examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in the returns from said machine. Before testing the counters they shall be reset at zero (000) after which each counter shall be operated at least one hundred times. After the completion of said examination and test, the custodian shall then and there prepare a statement in writing giving in detail the result thereof, and said statement shall be witnessed by the persons present and shall be filed with the secretary of the county board of canvassers.

Source.—Former Elec. L. (L. 1896, ch. 909) § 179-b, as added by L. 1908, ch. 491, § 3.

→ § 417. Application of other articles and penal law.—The provisions of the other articles of this chapter apply as far as practicable to voting by voting machines, except as herein provided. The provisions of the penal law and of this chapter relating to misconduct at elections shall apply to elections with voting machines. Any person who shall before or during an election tamper with any voting machine; or who shall interfere or attempt to interfere with the correct operation of the voting machine, or the secrecy of voting; or shall wilfully injure a voting machine to prevent its use; or, any election or police officer or anyone employed to assist in the care or arrangement of the voting machine, who shall permit any person to violate the secrecy of the voting, or to interfere in any way with the correct operation of the voting machine; or any unauthorized person who shall make or have in his possession a key to a voting machine that has been adopted and will be used in elections in this state shall be

L. 1909, ch. 22.

Voting machines.

§§ 418, 419.

guilty of a felony, punishable by imprisonment in a state prison for not less than one year nor more than five years.

Source.—Former Elec. L. (L. 1896, ch. 909) § 180, as added by L. 1899, ch. 466, § 1, and amended by L. 1908, ch. 491, § 9.

§ 418. When ballot clerks not to be elected.—Ballot clerks shall not be elected or appointed for any district for which a voting machine shall have been adopted, and which will be supplied and ready for use at the next election to be held therein.

Source.—Former Elec. L. (L. 1896, ch. 909) § 131, as added by L. 1899, ch. 466.

§ 419. Number of voters in election districts.—For any election in any city, town or village in which voting machines are to be used, the election districts in which such machines are to be used may be created by the officers charged with the duty of creating election districts, so as to contain as near as may be six hundred voters each. Such redistricting or redivision may be made at any time after any November election and on or before August fifteenth following, and when so made shall take effect immediately. Where such redistricting or redivision shall be made in any town, the board making the same shall, on or before September first following, appoint from the inspectors of election then in office (if sufficient therefor are then in office, and, if not, from persons not in office, sufficient to make up the requisite number) four inspectors of election for each election district thus created, who shall be equally divided between the two parties entitled to representation on said boards of inspectors. Thereafter no redivision of such election districts shall be made for election by such machines until at some general election the number of votes cast in one or more of such districts shall exceed seven hundred. But the town board of a town in which such machines are used may alter the boundaries of the election districts at any time after a general election and on or before August fifteenth following, provided that the number of such election districts in such town shall not be increased or reduced, and the number of votes to be cast in any district whose boundaries are so altered shall not exceed seven hundred.

Source.—Former Elec. L. (L. 1896, ch. 909) § 132, as added by L. 1899, ch. 466, § 1, and amended by L. 1901, ch. 530, § 7, and L. 1903, ch. 122, § 1.

Consolidators' note.—The provision that after a redistricting of election districts in a town two of the inspectors of election "shall belong to and be of the same political faith and opinion on state and national issues as one of the two political parties which at the last preceding general election for state officers shall have cast the greatest number of votes in said town, and the other two" inspectors "shall belong to and be of the same political faith and opinion on state and national issues as the other of said two political parties," is omitted as unconstitutional.

The constitutional requirement (art. 2, § 6) is that "all laws creating, regulating or affecting boards of officers charged with the duty of registering voters, or of distributing ballots at the polls to voters, or of receiving, recording or counting votes at elections, shall secure equal representation of the two political parties which at the general election next preceding that for which such boards or officers

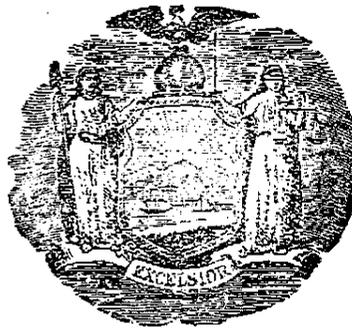
L A W S  
OF THE  
STATE OF NEW YORK,

PASSED AT THE  
ONE HUNDRED AND TWENTY-SECOND SESSION

OF THE  
LEGISLATURE,

BEGUN JANUARY FOURTH, 1899, AND ENDED APRIL TWENTY-  
EIGHTH, 1899, IN THE CITY OF ALBANY.

VOL. II.



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the animal, or for the keeping or storing of any wagon, truck, cart, carriage, vehicle and harness, under the agreement, and may detain the animal or wagon, truck, cart, carriage, vehicle and harness accordingly, until such sum is paid.

§ 2. This act shall take effect immediately.

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## Chap. 466.

AN ACT to amend the election law, in relation to the use of voting machines.

Became a law April 28, 1899, with the approval of the Governor. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Chapter nine hundred and nine of the laws of eighteen hundred and ninety-six, entitled "An act in relation to the elections, constituting chapter six of the general laws," is hereby amended by adding an article, to be article seven thereof, and to read as follows:

### ARTICLE VII.

#### VOTING MACHINES.

Section 160. State voting machine commissioners.

161. Examination of voting machine.

162. Requirements of voting machine.

163. Adoption of voting machine.

164. Experimental use of voting machine.

165. Providing machines.

166. Payment for machines.

167. Form of ballots.

168. Sample ballots.

169. Number of official ballots.

170. Distribution of ballots and stationery.

171. Tally sheets.

172. Unofficial ballots.

173. Opening the polls; independent ballots.

174. Location of machines; guard rail.

175. Manner of voting.

176. Instructing voter.

Section 177. Disabled voters.

178. Canvass of vote and proclamation of result.

179. Disposition of independent ballots; and preserving the record of the machine.

180. Application of other articles and penal code.

181. When ballot clerks not to be elected.

182. Number of voters in election districts.

183. Definitions.

184. Repeal of laws.

Section 160. State voting machine commissioners.—The commissioners appointed under chapter four hundred and fifty of the laws of eighteen hundred and ninety-seven are continued in office until and including December thirty-first nineteen hundred and two, and shall be known as voting machine commissioners. Their successors shall be appointed for a full term of five years. Vacancies shall be filled by the governor for the remainder of the unexpired term, and all terms shall expire on the thirty-first day of December. Any commissioner now in office or hereafter appointed may be removed at the pleasure of the governor. No voting machine commissioner shall have any pecuniary interest in any voting machine. There shall be three such commissioners, who shall constitute a board to be known as the state board of voting machine commissioners. One of such commissioners shall be an expert in patent law and two shall be mechanical experts.

§ 161. Examination of voting machines.—Any person or corporation owning or being interested in any voting machine may apply to the state board of voting machine commissioners to examine such machine and report on its accuracy, efficiency and capacity to register the will of voters. The commissioners shall examine the machine and report accordingly. Their report shall be filed in the office of the secretary of state and shall state whether in their opinion the kind of machine so examined can be safely used by such voters at elections, under the conditions prescribed in this article. If the report states that the machine can be so used, it shall be deemed approved by the commissioners and machines of its kind may be adopted for use at elections as herein provided. Any form of voting machine not so approved, or which has not been heretofore examined by said commissioners and reported on pursuant to law, and its use specifically authorized by law, cannot be used at any election. Each commissioner is entitled to one hundred and fifty dollars for his compensation and expenses in

court or a justice thereof, or a county judge of such county, and at the expiration of such time, such ballots may be disposed of in the discretion of the officer or board having charge of them.

→ § 180. Application of other articles and penal code.—The provisions of the other articles of this chapter apply so far as practicable to voting by voting machines, except as herein provided. The provisions of the penal code and of this chapter relating to misconduct at elections shall apply to elections with voting machines.

§ 181. When ballot clerks not to be elected.—Ballot clerks shall not be elected or appointed for any district for which a voting machine shall have been adopted, and which will be supplied and ready for use at the next election to be held therein.

§ 182. Number of voters in election districts.—For any election in any city, town or village in which voting machines are to be used, the election districts in which such machines are to be used may be created by the officers charged with the duty of creating election districts, so as to contain as near as may be six hundred voters each. Thereafter no redivision of such election districts shall be made for elections by such machines until at some general election the number of votes cast in one or more of such districts shall exceed seven hundred.

§ 183. Definitions.—The list of candidates used or to be used on the front of the voting machine shall be deemed official ballots under this chapter for an election district in which a voting machine is used pursuant to law. The word "ballot" as used in this article, (except when reference is made to independent ballots) means that portion of the cardboard or paper or other material within the ballot frames containing the name of the candidate for office, or a statement of a proposed constitutional amendment, or other question or proposition with the word "for" or the word "against";

§ 184. Repeal of laws.—Section forty of the town law as added by chapter eighty-two of the laws of eighteen hundred and ninety-three and renumbered by chapter four hundred and eighty-one of the laws of eighteen hundred and ninety-seven, chapter seven hundred and sixty-four of the laws of eighteen hundred and ninety-four, chapter seven hundred and sixty-five of the laws of eighteen hundred and ninety-four, chapter three hundred and thirty-nine of the laws of eighteen hundred and ninety-six, chapter four hundred

# **EXHIBIT 4**



# ***ASSEMBLY DEBATE TRANSCRIPT***

**1976**

**CHAPTERS 233 & 234**

4/1/76

**13 PAGES**

**ELECTION LAW**

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We accept the following:



ACTING SPEAKER DE SALVIO: Without objection, the bills are advanced.

MR. BLUMENTHAL: Mr. Speaker, I recommend that today we take the bills from the front of the calendar with no lay asides, and debate the bills in order. I would also like to say that starting on Monday that any bill which was laid aside by the sponsor three times, I request that bill be starred before it can be moved.

For the information of the members, we are using yesterday's calendar.

THE CLERK: Bill No. 8539, Calendar No. 135. Committee on Rules (M. H. Miller). An act in relation to the Election Law, recodifying the provisions thereof, by repealing Chapter 17 of the Consolidated Laws and re-enacting a new chapter 17 thereof and repealing Subdivision 6 of Section 42 of the Public Officers Law and amending such law in relation to filling vacancies.

MR. M. H. MILLER: I am ready to debate the bill.

MISS RUNNING: Will you explain the bill. I am especially interested in --

ACTING SPEAKER DE SALVIO: Use your mike, Miss Gunning.

MISS GUNNING: Can you hear me?

ACTING SPEAKER DE SALVIO: Yes.

MR. BLUMENTHAL: Miss Gunning, my understanding is that we will take this bill with the chapter amendment, and we have a bill affecting this as well on page 26.

MR. M. H. MILLER: Calendar No. 597 affects Tuesday's Primary, and I would like to --

MR. BLUMENTHAL: I would like to take that all together. Would you please ask the Clerk to -- I am sorry, is my mike working? We have agreement to take the main bill plus the chapter amendments, one of which is Calendar No. 506, and another bill on page 26. Mr. Miller, what is that?

MR. M. H. MILLER: Calendar No. 597.

MR. BLUMENTHAL: 597, which affects Tuesday's Primary, plus 506. To recap, we are now on Calendar No. 135, which is the main bill; and the chapter amendments which are Calendar Nos. 506 and 597. We will debate them together and vote on them separately.

ACTING SPEAKER DE SALVIO: Page 14, Calendar No. 506. The Clerk will read.

THE CLERK: Bill No. 10625-A, Calendar No. 506, M. H. Miller. An act to amend the Election Law generally

(The Clerk, continuing)

and repealing certain provisions thereof, the Public Officers law and the County Law relating to elections.

ACTING SPEAKER DE SALVIO: Page 26, Calendar No. 597, the Clerk will read.

THE CLERK: Bill No. 11270, Calendar No. 597, M. H. Miller. An act in relation to the deadline for receipt of absentee and military ballots for the primary election to be held on April 6, 1976.

MR. M. H. MILLER: Mr. Speaker, on Calendar No. 597, page 26, I would like to substitute the Senate bill and let me explain that briefly. It does affect the primary election on Tuesday, April 6, and is really not part of the recodification but part has been sent to the Governor. As you all know, we made extensive changes in the manner in which ballots will be set up for delegates to the National Convention. Because the change was so late it has been very difficult for the Board of Elections in the State to get out the absentee ballots in time for the voters to cast their votes.

The normal law in the State is that absentee ballots must be received on the Monday prior to the election. This bill, which is just effective for this primary on April 6, would permit the receipt of absentee

(Mr. M. H. Miller, continuing)

ballots until the close of the polls on Tuesday. The ballots would then be counted in the same manner as they are now. Under a bill which we passed last year, the Passannante bill, in the same situation where a person goes to vote and the "B" card is missing, they vote, the vote is put in an envelope and counted. We review the absentee ballots that arrive on Primary Day and they are counted at the same time.

This is a one-year bill only applicable to this election. We do have a permanent change coming later on in the session. It was passed by the Senate and we do have to send it to the Governor today.

ACTING SPEAKER DE SALVIO; Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER DE SALVIO: Call the roll.

(The Clerk called the roll and announced the results.)

ACTING SPEAKER DE SALVIO: The bill is passed.

MISS GUNNING: Will Mr. Miller yield to a question?

MR. H. H. MILLER: Yes.

ACTING SPEAKER DE SALVIO: Just a minute.

The House will be in order. Mr. Miller, the bill that

(Acting Speaker De Salvio, continuing)

just passed, was that the last bill?

MR. M. H. MILLER: That was 597.

ACTING SPEAKER DE SALVIO: The Senate substitute?

MR. M. H. MILLER: Yes, the Senate substitute.

Now we are on 135, and it is a bill to which Calendar No. 506 is the chapter amendment. Miss Gunning, may I make a statement before I answer any questions.

Mr. Speaker, and my colleagues: It has been requested by many members that they would like to lighten the burden of the books on their desks. This bill was lying there for approximately seven weeks. The bill is a recodification of the Election Law. The recodification of the Election Law was started 8-1/2 years ago by the Joint Legislative Committee on the Election Law, under the very fine leadership of Mr. Biondo. For many, many years --

ACTING SPEAKER DE SALVIO: Order in the House. Mr. Miller.

MR. M. H. MILLER: For many years the Joint Legislative Committee worked on this revision, holding hearings throughout the State and going through numerous drafts. When Mr. Biondo decided he was not seeing action,

(Mr. M. H. Miller, continuing)

the Chairmanship was taken over by Mr. Henderson, and through a bipartisan effort an attempt was made to bring the Election Law to the 20th Century.

Going through the Election Law, you find section upon section which has been declared unconstitutional; it has sections which override sections. It has no intelligent structure to define the section dealing with --

MR. WERTZ: Mr. Speaker, can we have some order in the Chamber. I can barely hear him across the well.

ACTING SPEAKER DE SALVIO: The House will come to order. Mr. Miller.

MR. M. H. MILLER: The decision was made to try to bring the Election Law up to 1976 in a logical, sequential type of law that the people can use and work with. There is not a great deal that is new in this recodification because the recodification is exactly what it says. We tried to make the Election Law reflect what the law is today.

We also realized, as we redid the recodification, that there were many changes that were very controversial, and the decision was made that in re-drafting those sections that were extremely controversial

(Mr. M. H. Miller, continuing)

go in separate bills so the members in this House and the other House vote in the changes independently on recodification. There were administrative changes so the operation of the election can go smoothly. We have made the effective date December 1977 for the purpose of rereading it and picking up points we may have missed because it is large.

We have a transfer section so anything new we pass will fit into recodification, and we have given our permission to the people that work with this day in and day out, Commissioners, State Boards, elected officials, and both party State Committees, and we will continue to review the bill and next year if we find there are things we missed and should have done, we will come in with another chapter amendment.

We did do a few things, though. If you look at the original Election Law, which is over 100 years old, you will find that the primary way of voting was paper ballot. They hardly recognized the fact there were machines. There are a whole host of similar changes that reflect what the law is, and the changes that were taking place in the election process.

(Mr. M. H. Miller, continuing)

We have distributed, over the last few months, a very extensive memorandum which is an analysis, section by section, of what changes were made, and an explanation of why the changes were made. The reason this bill was reported out the first week of January and is sitting on your desks for three months had a purpose. We realize that most people, legislators and other interested persons, do not really carefully look at a bill of this size until they think it will really go. We had this read by the Election Commissioners, State Board, members of the respective State Committees of both parties for comment, and after the comment came in a chapter amendment, which is Calendar No. 506, was drafted reflecting the comment and, of course, reflecting the technical errors in the first draft.

I would like to reiterate and make it very clear that this was a bipartisan effort. This bill would not be on the floor today if Assemblyman Henderson did not take weeks and hours and weekends going through this page by page. Even after it was printed we reviewed the entire bill on a page-by-page basis to try to give us a very sound and workable Election Law.

Miss Gunning, I yield to your question at this time.

MISS GUNNING: My concern is directed to Article 14, Section 14, page 254 and 255. In Section 14-104 you will note, on page 255 the provision that --

ACTING SPEAKER DE SALVIO: Can we please have some order. This is a very lengthy bill, and Mr. Miller would like to explain this.

Miss Gunning.

MISS GUNNING: I have already asked the question, Mr. --

ACTING SPEAKER DE SALVIO: I don't believe he heard that. Could you repeat that.

MR. M. H. MILLER: Regarding the question dealing with Article 14, I missed the question.

MISS GUNNING: It deals with Section 14-104 on page 255. My question and my concern relates to the provision where making a false statement is a misdemeanor, and I ask you, sir, as a matter of legislative intent as well as perhaps criminal law, whether that would mean that if an honest mistake is made this could be considered a false statement subject to being the person could be given a misdemeanor?

MR. M. H. MILLER: First, let me reiterate what you are pointing out is the present law. If you have an innocent mistake, be it in addition or subtraction,

(Mr. M. H. Miller, continuing)

there are a whole host of ways you can make a mistake when you will out the complicated forms. It has to be intentional, and it was the State Board's policy -- and I know members complained about it terribly. They are harassed because there was an adding mistake or subtracting mistake, or something in the wrong column of expense and income.

It is my understanding -- and I am not an expert -- innocent mistakes, a mistake in recording a number is not what the statute is aimed at. It is aimed at intentional omissions, false reports, and things of that sort. That was the whole function of the reporting part of the Article 16-A which we passed three years ago. This is a statement of the law as it presently exists. and I do not think -- it is my understanding it does not apply; it does not apply to innocent mistakes.

MISS GUNNING: One of the reasons I raised the question is on page 264, in Section 14-123 and 14-126, there it specifically states it is only where it is willful; however, in that provision of local financing, there is no provision that there shall be a notice given, which seems to contradict the section we just referred to on page 255.

MR. M. H. MILLER: Miss Gunning, as it was enforced, the notice provisions that were in the section were recodified because we put in another section dealing with that. If you make a mistake to the Board of Elections, if something does not check out in addition or subtraction, or you omitted something, they will give you a notice. It is not in this section. It is not in this article. You will get a notice in the mail and you have time to correct the problem.

I think by pointing out in Section 14-126 we are referring to criminal -- for purposes of criminal charges, it must be willful. A mere mistake is not a criminal charge penalty and has not been enforced as such.

ACTING SPEAKER DE SALVIO: Read the last section.

THE CLERK: This act shall take effect the first day of December, 1977.

ACTING SPEAKER DE SALVIO: Call the roll.

(The Clerk called the roll and announced the results.)

ACTING SPEAKER DE SALVIO: The Bill is passed. Calendar No. 506.

MR. M. H. MILLER: 506 is the chapter amendment

(Mr. M. H. Miller, continuing)

to the recode. It states if an error in typing or a mistake is made, this is corrective. This corrects the chapter amendment. This was done after consultation with the State Board and the Election Commissioner because of mistakes. There is no new material. There were omissions. That was the function of the chapter amendment.

ACTING SPEAKER DE SALVIO: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER DE SALVIO: Call the roll.

(The Clerk called the roll and announced the results.)

ACTING SPEAKER DE SALVIO: The bill is passed.

THE CLERK: Bill No. 4776-B, Calendar No. 286, Landes. An act to amend the Labor Law, in relation to the return of fingerprints to employees or prospective employees.

MR. RIFORD: Will Mr. Landes yield to a question?

MR. LANDES: Yes, sir.