

fifteen (15) days before the return day of such process, a true and attested copy thereof, and by sending to the defendant by registered mail, postage prepaid, a like true and attested copy with an endorsement thereon of the service upon said Secretary of Revenue, addressed to such defendant at his last known address. The registered mail return receipts of the Secretary of Revenue, and of such defendant, shall be attached to and made a part of the return of service of such process.

Section 3. The officers, serving such process upon the Secretary of Revenue, shall pay to said secretary at the time of service, a fee of two dollars (\$2.00), which fee shall be taxed as costs in the case. The Secretary of Revenue shall keep a record of each such process, and the day, and hour of the service thereof upon him. Fee.

Section 4. This act shall be construed to extend the right of service or process upon nonresidents, and upon residents who subsequently become nonresidents, or who conceal their whereabouts, and shall not be construed as limiting any provisions for the service of process now or hereafter existing. Construction.

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

APPROVED—The 7th day of May, A. D. 1935.

GEORGE H. EARLE

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No. 54

### AN ACT

To amend sections one and seven as amended, clauses (a) and (d), and clause (g) as amended, of section fifteen, and clauses (b) and (c) as amended, of section twenty-three, and sections twenty-four and twenty-six of the act, approved the eighteenth day of April, one thousand nine hundred and twenty-nine (Pamphlet Laws, five hundred forty-nine), entitled "An act to permit the use of voting machines for recording and computing the vote at all elections, including primaries, in any county, city, borough or township of the Commonwealth, at the option of the electors thereof; prescribing regulations with reference to the adoption, requirements, examination, purchase, installation, preparation, custody and demonstration of use of voting machines; providing rules and regulations for the conduct of elections held with voting machines; prescribing the qualifications, number and duties of election officers in election districts in which voting machines may be used; placing duties upon county commissioners and the Secretary of the Commonwealth; providing for redivision of wards of cities and boroughs into election districts, and the consolidation of election districts; providing for the payment of expenses incident to the purchase and use of voting machines by the counties in which they are used; and providing penalties for violation of the provisions of this act," by making provisions for voting machines designed to be made secure by the use of two or more seals; changing the requirements as to the printing of return sheets and statements; providing the requirements of

and rules and regulations for the conduct of elections held with voting machines equipped with mechanism for printing paper proof-sheets; providing for the printing and distribution of said proof-sheets; providing for their use in canvassing the vote; making them part of the election returns; defining their probative value and effect; and enlarging the powers of return boards.

Section 1, act of April 18, 1929 (P. L. 549), as amended by act of June 23, 1931 (P. L. 1185), further amended.

Section 1. Be it enacted, &c., That section one of the act, approved the eighteenth day of April, one thousand nine hundred and twenty-nine (Pamphlet Laws, five hundred forty-nine), entitled "An act to permit the use of voting machines for recording and computing the vote at all elections, including primaries, in any county, city, borough or township of the Commonwealth, at the option of the electors thereof; prescribing regulations with reference to the adoption, requirements, examination, purchase, installation, preparation, custody and demonstration of use of voting machines; providing rules and regulations for the conduct of elections held with voting machines; prescribing the qualifications, number and duties of election officers in election districts in which voting machines may be used; placing duties upon county commissioners and the Secretary of the Commonwealth; providing for redivision of wards of cities and boroughs into election districts, and the consolidation of election districts; providing for the payment of expenses incident to the purchase and use of voting machines by the counties in which they are used; and providing penalties for violation of the provisions of this act." as amended by section one of the act, approved the twenty-third day of June, one thousand nine hundred and thirty-one (Pamphlet Laws, one thousand one hundred eighty-five), is hereby further amended to read as follows:

Elections.

Use of voting machines.

Section 1. Definition of Terms.—Be it enacted, &c., That the list of offices and candidates, and the statements of questions on the voting machine shall be deemed an "official ballot."

As used in this act:

(1) The words "ballot-labels" shall mean the cards, paper, or other material, containing the names of offices and candidates and statements of questions to be voted on;

(2) The word "diagram" shall mean an illustration of the official ballot, when placed upon the machine, showing the names of the parties, offices, and candidates, and statements of the questions, in their proper places, together with the voting devices therefor, and shall be considered a specimen ballot;

(3) The word "question" shall mean a statement of such constitutional amendment or other proposition as shall be submitted to a popular vote at any election;

(4) The words "irregular ballot" shall mean the paper or other material on which a vote is cast on a

voting machine for persons whose names do not appear on the ballot-labels;

(5) The words "vote indicator" shall mean those devices with which votes are indicated for candidates, or for or against questions;

(6) The words "candidate counters," and "question counters," shall mean the counters on which are registered numerically the votes cast for candidates, and on questions, respectively;

(7) The words "public counter" shall mean a counter or other device which shall, at all times, publicly indicate how many times the machine has been voted on at an election;

(8) The words "protective counter" shall mean a counter or protective device or devices that will register each time the machine is operated, and shall be constructed and so connected that it cannot be reset, altered, or operated, except by operating the machine;

(9) The words "voting machine booth" shall mean the enclosure occupied by the voter when voting;

(10) The word "model" shall mean a mechanically operating model of a portion of the face of the machine, illustrating the manner of voting;

(11) The word "custodian" shall mean the person charged with the duty of testing and preparing the voting machine for the election, and instructing the election officers in the use of the voting machine;

(12) The words "election" and "elections," whenever used in this act, shall be held to include and mean all general, municipal, primary and special elections;

(13) The word "borough" shall be held to include incorporated town;

(14) *The word "seal," and other words of the singular number relative thereto, shall include the plural number as applied to a voting machine, designed to be made secure with two or more seals.*

Section 2. That section seven of said act, as amended by section six of said amending act, is hereby further amended to read as follows:

Section 7. Requirements of Voting Machines.—No voting machine shall, upon any examination or reexamination, be approved by the Secretary of the Commonwealth, or by any examiner appointed by him, unless it shall, at the time, satisfy the following requirements:

(a) It shall provide facilities for voting for such candidates as may be nominated, and upon such questions as may be submitted.

(b) It shall permit each voter, at other than primary elections, to vote a straight party ticket in one operation, and, in one operation, to vote for all the candidates of one party for presidential electors, and, in one operation, to vote for all the candidates of one party for every

Section 7 of the act, as amended by section 6, act of 1931 (P. L. 1185), further amended.

office to be voted for except those offices as to which he votes for individual candidates.

(c) It shall permit each voter, at other than primary elections, to vote a ticket selected from the nominees of any and all parties, from independent nominations, and from persons not in nomination.

(d) It shall permit each voter to vote, at any election, for any person and for any office for whom and for which he is lawfully entitled to vote, whether or not the name of such person appears upon a ballot-label as a candidate for nomination or election, and to vote for as many persons for an office as he is entitled to vote for, and to vote for or against any question upon which he is entitled to vote.

(e) It shall preclude each voter from voting for any candidate, or upon any question, for whom or upon which he is not entitled to vote, and from voting for more persons for any office than he is entitled to vote for and from voting for any candidate for the same office or upon any question more than once, except in districts and for offices where cumulative voting is authorized by law.

(f) It shall be capable of adjustment by election officers, so as to permit each voter at a primary election to vote only for the candidates for nonpartisan nomination, if any, and for the candidates seeking nomination by the political party in which he is enrolled, if he is enrolled as a member of a political party, and so as to preclude him from voting for the candidate seeking nomination by any political party in which he is not enrolled.

(g) It shall permit each voter to deposit, write in, or affix upon receptacles or devices provided for the purpose, ballots containing the names of persons for whom he desires to vote, whose names do not appear upon the machine.

(h) It shall permit each voter to change his vote for any candidate, or upon any question appearing upon the ballot-labels, up to the time he begins the final operation to register his vote, or indicates or expresses his intention to register his vote.

(i) It shall permit and require voting in absolute secrecy, and shall be so constructed that no person can see or know for whom any other elector has voted or is voting, save a voter whom he has assisted or is assisting in voting as prescribed by law.

(j) It shall have voting devices for separate candidates and questions, which shall be arranged in separate parallel rows or columns, so that, at any primary election, one or more adjacent rows or columns may be assigned to the candidates of a party, and shall have parallel office columns or rows transverse thereto.

(k) It shall have a counter, or other device, the register of which is visible from the outside of the machine, which shall show during any period of voting the total number of voters who have operated the machine during said period of voting.

(l) It shall have a protective counter, or other device, the register of which cannot be reset, which shall record the cumulative total number of movements of the operating mechanism.

(m) It shall be provided with a lock or locks, by the use of which, immediately after the polls are closed, or the operation of the machine for an election is completed, all movement of the registering mechanism is absolutely prevented.

(n) It shall be provided with a screen, hood or curtain, which shall conceal the actions of the voter while voting.

(o) It shall be constructed of material of good quality, in a neat and workmanlike manner.

(p) It shall, when properly operated, register or record correctly and accurately every vote cast.

(q) It shall be so constructed that a voter may readily learn the method of operating it.

(r) It shall be safely transportable.

(s) It shall be so constructed and controlled that, during the progress of voting, it shall preclude every person from seeing or knowing the number of votes registered for any candidate, and from tampering with any of the registering mechanism.

*(t) If it is of a type equipped with mechanism for printing paper proof-sheets and not requiring the counters to be made visible in order to canvass the votes recorded on the machine, the door, or other device, concealing such counters, or keeping the same concealed, may be equipped with a lock or locks, requiring the simultaneous use of three separate and substantially different keys to open or operate the same.*

Section 3. That clauses (a) and (d) of section fifteen of said act are hereby amended, and clause (g) of section fifteen of said act as amended by section thirteen of said amending act, is hereby further amended to read as follows:

(a) The county commissioners shall deliver the keys, which unlock the operating mechanism and the registering counters or counter compartment of the voting machine, to the judge of election, not earlier than noon the Saturday preceding an election, nor later than three-quarters of an hour before the time set for the opening of the polls, and shall take his receipt therefor. The keys shall be enclosed in a sealed envelope, on which shall be written or printed: (1) the number of the voting machine; (2) the name or designation of the election district; (3) the number of the seal; and (4) the number registered on the protective counter or

Clauses (a) and (d) of section 15 of said act amended, and clause (g) as amended by act of 1931 (P. L. 1185), further amended.

device as reported by the custodian: *Provided, however, That if the type, of voting machine used, requires the simultaneous use of three keys to unlock the registering counters or counter compartment, only two of said keys shall be enclosed in said sealed envelope, the third key being retained by the custodian, the county commissioners, or such other person as they shall have authorized.*

(d) But if the numbers on the seal and the protective counter or device shall *both* be found to agree with the numbers on the envelope, *the envelope shall be opened, and where the voting machine provided is not equipped with mechanism for printing paper proof-sheets, the election officers shall examine the registering counters, and, for that purpose, shall open the doors concealing such counters, if the construction of the voting machine shall so require, and, before the polls are opened, the judge and each inspector shall carefully examine every counter, and shall see that it registers zero (000), and shall allow the watchers to examine the counters. When the voting machine provided is equipped with mechanism for printing paper proof-sheets, and requires the simultaneous use of three keys to unlock the registering counters or counter compartment, the judge of election shall deliver one of the two keys, aforesaid, to the minority inspector to be retained by him as hereinafter provided, and shall then print at least two proof-sheets, one of which the judge and each inspector shall carefully examine to ascertain whether every counter registers zero (000), and shall then preserve said proof-sheet to be signed by them and returned to the prothonotary or the county commissioners, as the case may be, with the duplicate return sheet, and shall sign and post the other proof-sheet upon the wall of the polling place, where it shall remain until the polls are closed. The key delivered by the judge of election to the minority inspector as aforesaid, shall be retained by the minority inspector until the polls have been closed, and the voting and counting mechanism of the machine shall have been locked and sealed against voting, and shall then be returned to the judge of election, for return by him to the county commissioners, as hereinafter provided.*

(g) The machine shall remain locked against voting until the polls are opened, and shall not be operated except by voters in voting. If any counter is found not to register zero (000), the election officers shall immediately notify the custodian, or the county commissioners, who shall, if practicable, adjust or cause the counters to be adjusted at zero (000); but, if it shall be found impracticable for the custodian or other person authorized by the county commissioners to arrive in time so to adjust such counters before the time set for opening the polls, the election officers shall immediately make

a written record of the designation or designating letter or number of [each] *such* counter, together with the number registered thereon, hereinbelow called the initial number, and shall sign and post the same upon the wall of the polling place, where it shall remain until the polls are closed: *Provided, however, That if the voting machine used is equipped with mechanism for printing paper proof-sheets, in any case where any counter is shown by such proof-sheet not to register zero (000), if it shall be found impracticable to have such counter adjusted before the time set for opening the polls, the election officers shall sign such printed proof-sheet and post the same upon the wall of the polling place where it shall remain until the polls are closed;* and, in filling out the returns of the election, if the final number of such counter is greater than the initial number, the election officers shall subtract the initial number from the final number and enter the difference on the returns as the vote for the candidate or on the question represented by such counter, if the final number of such counter is less than the initial number, the election officers shall add one thousand to the final number and shall subtract the initial number from the sum so ascertained, and shall enter upon the returns as the vote for the candidate or on the question represented by such counter the final number plus one thousand less the initial number.

Section 4. That clauses (b) and (c) of section twenty-three of said act, as separated and amended by section nineteen of said amending act, are hereby further amended to read as follows:

(b) [The] *If the type of voting machine provided shall require the counters to be seen in order to enable the election officers to canvass the vote, the election officers, in the presence of the watchers and all other persons who may be lawfully within the polling place, shall then make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the same, giving full view of all the counter numbers. If the voting machine is equipped with mechanism for printing paper proof-sheets, the election officers shall forthwith print not less than five proof-sheets and as many more as may be necessary to supply one to each member of the election board, overseer, candidate, watcher, representative of a newspaper, and other person who may be lawfully present within the polling place, requesting the same. The judge of election shall then, under the scrutiny of the two inspectors of election, the overseers, if any, and the watchers, and in the order of the offices as their titles are arranged on the machine, read from the counters or from one of the proof-sheets, as the case may be, and announce, in distinct tones, the designation or designating number*

Clauses (b) and (c) of section 23 of the act, as separated and amended by section 19, act of 1931 (P. L. 1185), further amended.

and letter on each counter for each candidate's name, the result as shown by the counter numbers, the votes recorded for each office for persons other than nominated candidates, and the designation or designating numbers and letters on each counter, and the results as shown by the counter numbers for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the election officers, in ink, on duplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the election officers and certified by the overseers, if any. The vote for presidential electors shall be computed and returned as provided hereinbefore in section nineteen of this act. If more than one voting machine is used in any election district, the vote registered on each machine shall be ascertained in like manner, and separately entered in appropriate spaces on the general and duplicate return sheets and statement. The total vote cast for each candidate, and for and against each question, shall then be computed and entered on the general and duplicate return sheets and statement. There shall also be entered on the general return sheet and statement the number of voters who have voted, as shown by the lists of voters, and the number who have voted on each machine, as shown by the public counters, and also the number registered on the protective counter or device on each machine immediately prior to the opening of the polls and immediately after the closing thereof and sealing of the machine. The number or other designation of each machine used shall also be entered thereon. In the case of primary elections, duplicate return sheets shall be prepared for each party. The registering counters of the voting machine *or the paper proof-sheets, as the case may be*, shall remain exposed to view until the said returns, and all other reports have been fully completed and checked by the inspectors and overseers, if any. During such time, any candidate, or duly accredited watcher, who may desire to be present, shall be admitted to the polling place.

(c) The proclamation of the result of the votes cast shall be announced distinctly and audibly by the judge of election, who shall read the name of each candidate, the designation or designating numbers and letters of his counters and the vote registered on each counter, also the vote cast for and against each question submitted. During such proclamation, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the



machine or with the paper proof-sheets, as the case may be, and any necessary corrections shall then and there be made by the election officers, after which the doors or other cover of the voting machine shall be closed and locked. Any ballots deposited, written, or affixed, in or upon the voting machine, shall be inclosed in properly sealed packages, and properly indorsed, and shall be delivered by the judge of election as hereinafter provided. The judge of election shall promptly deliver to the county commissioners, or their duly authorized representative, the keys of the voting machine, inclosed in a sealed envelope, if the construction of the voting machine shall permit their separate return. Said envelope shall have indorsed thereon a certificate of the election officers, stating the number of the machine, the election district where it has been used, the number on the seal, and the number on the protective counter or device at the close of the polls.

Section 5. That section twenty-four of said act is hereby amended to read as follows:

Section 24  
of said act,  
amended.

Section 24. Return of Votes.—The general return sheet, duplicate return sheets, and statement, shall be printed to conform with the type of voting machine used, and in form approved by the Secretary of the Commonwealth. The designating number and letter, if any, on the counter for each candidate, shall be printed thereon opposite the candidate's name: *Provided, however, That it shall not be necessary to print the name or designating counter number or letter of any candidate for any borough, township, ward, or election district office.* Immediately after the vote has been ascertained, the statement thereof shall be posted on the door of the polling place. The minority inspector shall retain one of said duplicate return sheets, one numbered list of voters, sealed as aforesaid, the voting check list (in districts other than cities), and one set of oaths of election officers and other affidavits. The other duplicate return sheet, numbered list of voters, oaths of election officers, and affidavits of voters and others, and the ballot check list (in districts other than cities), shall be sealed up and given to the judge of election, who shall deliver them, together with the general return sheet and the package of ballots deposited, written or affixed in or upon the voting machine, to the prothonotary, in the case of general, municipal or special elections, and to the county commissioners in the case of primary elections, provided that returns of elections for borough and township officers shall be made to the officer directed by law to receive them. *If the type of voting machine is equipped with mechanism for printing paper proof-sheets, one of said proof-sheets shall be posted on the door of the polling place with the statement aforesaid; one shall be retained by the minority inspector; one*

*shall be placed in the envelope and delivered with the general return sheet; and one shall be sealed in the envelope with the duplicate return sheets and delivered by the judge of election to the prothonotary or to the county commissioners, as the case may be. These four proof-sheets having been printed and preserved, the election officers shall print an additional proof-sheet and deliver the same to each member of the election board, overseer, candidate, watcher, representative of a newspaper or news agency, and other person who may be lawfully present within the polling place requesting the same, until the supply of paper in the voting machine shall have been exhausted. The printed proof-sheet returned with the general return sheet, and the printed proof-sheet returned with the duplicate return sheet, shall each be part of the return of the election.*

Section 26 of  
said act,  
amended.

Section 6. That section twenty-six of said act is hereby amended to read as follows:

Section 26. Provision for Recanvass of Vote.—(a) Whenever it shall appear that there is a discrepancy in the returns of any election district, or, upon petition of three voters of any district, verified by affidavit, that an error, although not apparent on the face of the returns, has been committed therein, *or of its own motion*, the court of common pleas, board of county commissioners, or other return board, shall, at any time prior to the completion of the computation of all of the returns for the county, summon the election officers of the district, and said officers, in the presence of said court or board, shall make a record of the number, of the seal upon the voting machine, and the number on the protective counter or other device, shall make visible the registering counters of such machine, and, without unlocking the machine against voting, shall recanvass the vote cast thereon. Before making such recanvass, the said court or board shall give notice in writing to the proper custodian of voting machines, and to each candidate, and to the county chairman of each party or independent nominating body, affected by the canvass, and each such candidate may be present in person, or by attorney, and each of such parties, or nominating bodies, may send two representatives to be present at such recanvass. If, upon such recanvass, it shall be found that the original canvass of the returns has been correctly made from the machine, and that the discrepancy still remains unaccounted for, the said court or board, with the assistance of the custodian, in the presence of the election officers and the authorized candidates and representatives, shall unlock the voting and counting mechanism of the machine, and shall proceed thoroughly to examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in returns from such machine. Each counter shall be reset at zero

(000) before it is tested, after which it shall be operated at least one hundred times. After the completion of such examination and test, the custodian shall then and there prepare a statement, in writing, giving in detail the result of the examination and test, and such statement shall be witnessed by the persons present, and shall be filed with the said court or board. If, upon such canvass, it shall appear that the original canvass of the returns by the election officers was incorrect, the said returns and all papers being prepared by the said court or board shall be corrected accordingly.

*(b) Provided, however, That in the case of returns from any election district wherein the election was held by the use of a voting machine equipped with mechanism for printing paper proof-sheets, said proof-sheets, if mutually consistent, shall be deemed to be the primary evidence of the result of the election and to be prima facie accurate, and there shall not be considered to be any discrepancy or error in the returns from any such district, such as to require a canvass of the vote, if all available proof-sheets, from the voting machine used therein, identified to the satisfaction of the return board and shown to its satisfaction to have been produced from proper custody, shall be mutually consistent, and, if the general and duplicate returns, or either of them, from said district shall not correspond with said proof-sheets, they, and all other papers being prepared by said return board, shall be corrected so as to correspond with the same, in the absence of allegation of specific fraud or error, proved to the satisfaction of the return board by the weight of the evidence, and only in such case shall the vote of said election district be canvassed under the provisions of this section.*

Section 7. This act shall become effective immediately upon final enactment.

When effective.

APPROVED—The 7th day of May, A. D. 1935.

GEORGE H. EARLE

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No. 55

AN ACT

To preserve the purity of the waters of the Commonwealth and to avoid the danger of fire, by requiring the owners, operators and lessees of abandoned bituminous coal mines and workings to seal the entries and air shafts thereof; and conferring powers upon the Department of Mines to carry into effect the provisions of this act.

WHEREAS, It is a known fact that the combination of oxygen and water is necessary to liberate the sulphuric acid content from the pyrites of iron and sulphur in

Preamble.