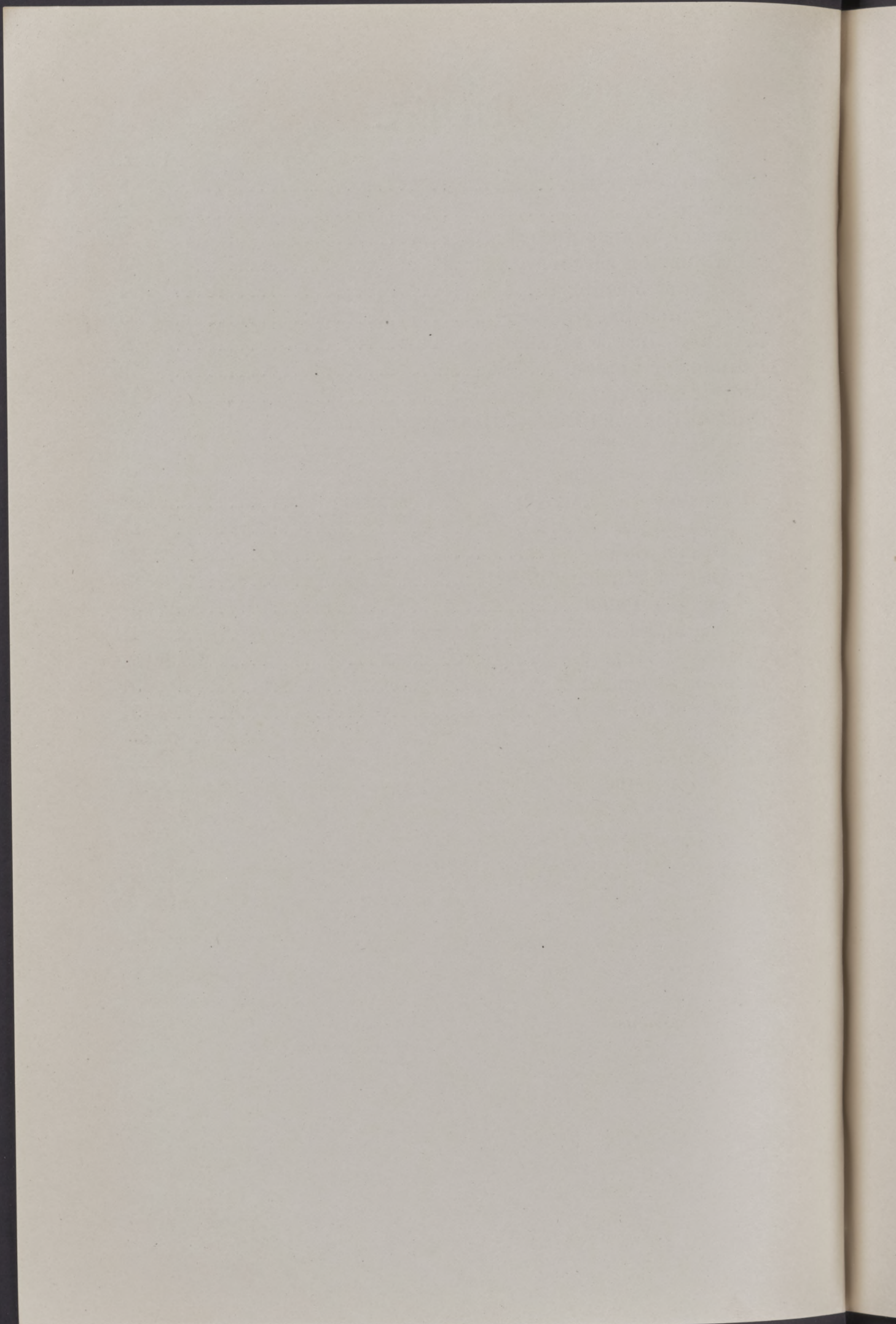


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Writ of Certiorari.

Writ of Certiorari.

(Returnable April 21, 1919.)

NEW JERSEY, ss.:

(SEAL) The State of New Jersey to the Honorable Charles W. Parker, Justice of the Supreme Court of the State of New Jersey, and to the Township of Hanover, in the County of Morris, a municipal corporation of the State of New Jersey, and the Clerk of said township. 10

GREETING:

We being willing for certain reasons to be certified of a certain order made by the Honorable Charles W. Parker, Justice of the Supreme Court of the State of New Jersey, on the seventh day of March, 1919, setting aside a certain election in a proceeding entitled, "In the matter of the application of Jacob Stroh to contest the validity of an election held in the Township of Hanover, in the County of Morris, on Tuesday, November 5th, 1918, under the provisions of Chapter 2, Laws of 1918," do hereby command you that the said order, together with all things touching and concerning the same, to our Supreme Court to be held at Trenton on the 21st day of April, 1919, you do certify and send, together with this writ, that therein may be done what of right and according to the laws and constitution of the State of New Jersey ought to be done. 20

WITNESS, WILLIAM S. GUMMERE, Chief Justice of our Supreme Court at Trenton aforesaid, this eleventh day of April, 1919. 30

ENOCH L. JOHNSON,
Clerk.

COLLINS & CORBIN,
Attorneys.

40

*Return of Township Clerk.***Allocatur.**

I allow this writ. Let it be sealed. Not to stay the order to be reviewed.

Dated April 9, 1919.

10

C. W. PARKER,
Justice Supreme Court.

Let writ be returnable April 21, 1919. C. W. P.

Return of Township Clerk.

(Filed April 22, 1919.)

20

To the Honorable, The Justices of the Supreme Court of Judicature of New Jersey:

The Township Committee of the Township of Hanover and William A. Polhemus, Township Clerk of said Township, in obedience of the commands of the writ of certiorari, a copy of which writ is hereto annexed, does hereby certify and send to your Honors, the said Justices, copies of papers filed with the said Clerk and of resolutions and extracts from the minutes of said Township Committee relative to a certain election held in said Township on Tuesday, November 5, 1918, under the provisions of Chapter 2, Laws of 1918, together with all things touching and concerning the same.

30

40

Petition for Election.

(1) *Petition for election* filed with the Township Clerk May 22, 1918:

“A PETITION

For an Election to Determine Whether or not the Sale of Intoxicating Liquor as a Beverage in the Township of Hanover, Morris County, New Jersey, SHALL BE PROHIBITED. 10

To the Township Committee of the Township of Hanover in the County of Morris in the State of New Jersey:

We, the undersigned, respectfully represent that we are legal voters of the Township of Hanover in the County of Morris in the State of New Jersey, and that we hereby request you to order an election under the provisions of Chapter Two of the laws of one thousand nine hundred and eighteen (1918), to determine whether or not the sale of intoxicating liquor as a beverage in the Township of Hanover, Morris County, New Jersey, shall be prohibited. 20

George F. Smith Greystone Park May 15, “18.”
and signatures of twenty-four other legal voters of the Township.

“STATE OF NEW JERSEY, }
COUNTY OF MORRIS. } ss.

Arthur R. Chaffee being duly sworn according to law on his oath says that the signatures attached to the foregoing petition were made in his presence at the respective dates set opposite thereto, and that the several persons who made said signatures bear, to the best of his knowledge and belief, the names signed thereto by each of them respectively, and that said persons are legal voters of the municipality of Township of Hanover. 30

ARTHUR H. CHAFFEE

Subscribed and sworn to before me
this 15 day of May A. D. 1918.

GRIFFITH B. HUMPHREY

Justice of the Peace”

Notice of Meeting.

10 A petition in the same form, with fifteen names; another with fourteen names; another with twenty-five names; another with twenty-five names, another with twenty-five names, another with twenty-five names, another with two names of legal voters, with residence and dates of signing and affidavits, as on the first petition, were likewise joined to and filed therewith on May 22, 1918.

20 (2) Copy of written notice prepared and signed by the Clerk, setting a time for the meeting of the Township Committee at the regular meeting place on Saturday, June 8, 1918, at 2:30 P. M., a certified copy of which said notice was by the Clerk, at least five days before the date fixed for the hearing, mailed to each member of the Township Committee, with postage prepaid and addressed to their last known Post Office address, on June 3, 1918. Certified copies of said notice were likewise, on said June 3, 1918, posted by the Clerk in not less than five conspicuous places in said Township, to wit: one at Polhemus' store in Whippany; one at the Post Office in Whippany; one at Merchant's store in Morris Plains; one at the Club House in Mountain Lakes, and one at Webb's store in Parsippany, and a copy of said notice was also published by said Clerk in *The Daily Record*, a newspaper published in the County of Morris and circulated in the Township of Hanover, there being no newspaper published in said Township of Hanover:

"NOTICE.

30 TO THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER, and TO WHOM IT MAY CONCERN:

40 Notice is hereby given by the subscriber, Township Clerk of the Township of Hanover in the County of Morris, that on May 22, 1918 a petition for an election in accordance with and under the provisions of an act entitled, "An Act to prohibit the sale, or offer, or exposure for sale, or furnishing or otherwise dealing in intoxicating liquor as a beverage and the granting of licenses therefor in any town, township, village, borough, city or other municipality (not a county) in this State where the legal voters thereof shall decide by a majority vote in favor of such prohibition or the continuance thereof," approved January 29, 1918 (P. L. 1918, page 14), was filed in the Township Clerk's Office, and that I have fixed the time for a meeting of the governing body of the Township of Hanover in the County of Morris, to

Resolution and Minutes.

be held at the regular meeting place at Polhemus Hall, Whippany, N. J., on Saturday, June 8, 1918, at 2:30 P. M. At such time and meeting said application and said petition filed will be brought before said Township Committee which under the law shall consider and hear any objections as to the legality of such petition and take such action thereon as provided in and by said act.

10

Dated Whippany, New Jersey, June 1st, 1918.

WM. A. POLHEMUS,
Township Clerk."

(3) *Copy of resolution* passed by the Township Committee at the meeting held June 8, 1918, pursuant to the foregoing notice, and *extract of the minutes* relating thereto:

20

RESOLUTION AND MINUTES.

"June 8, 1918.

SPECIAL MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER IN THE COUNTY OF MORRIS,

Held at the Township Rooms, Polhemus Hall, Whippany, N. J., pursuant to notice.

Present—Committeemen Condit, Shipmen, Doremus, Totten and Young.

Absent—None.

30

The chairman stated the object for which the meeting was called, to wit for the purpose of a public hearing regarding a petition filed in the Township Clerk's Office May 22, 1918, in relation to permitting the people to vote whether or no Liquors or Beverages should be sold throughout the Township of Hanover.

After due consideration of same Committeeman Totten moved that the following resolution be adopted; same being seconded by Committeeman Doremus and unanimously carried:

40

'WHEREAS, on May 22, 1918, a petition under an act of the Legislature entitled, "An Act to prohibit the sale, or offer, or exposure for sale, or furnishing or otherwise dealing in intoxicating liquor as a beverage and the granting of licenses therefor

Resolution and Minutes.

in any town, township, village, borough, city or other municipality (not a county) in this State where the legal voters thereof shall decide by a majority vote in favor of such prohibition or the continuance thereof," approved January 29, 1918, was filed in the office of the Township Clerk; and

10 WHEREAS, the said Township Clerk prepared a written notice, setting a time for a meeting of the Township Committee of the Township of Hanover in the County of Morris, being the governing body of the said Township, to be held on Saturday, June 8, 1918, at 2:30 P. M., at Polhemus Hall, Whippany, New Jersey, which is the regular meeting place of this governing body, said notice also stating that at such time this governing body would consider said application or petition and hear any objections as to the legality of such petition and take such action thereon as provided in and by said act; and

20 WHEREAS, on June 3, 1918, being at least five days before the date fixed for said meeting, the said Township Clerk mailed a certified copy of said meeting to each member of this governing body, with postage prepaid and addressed to the Post Office address of each member of this governing body; and

30 WHEREAS, said Township Clerk did on said June 3, 1918, post a like certified copy of said notice in five conspicuous places in said Township, to wit: one at Polhemus store, one at the Post Office in Whippany, one at Merchant's store at Morris Plains, one at the Club House at Mountain Lakes, and one at Webb's store at Parsippany; and said Clerk did also cause to be published on said June 3, 1918, in the Daily Record, which is a newspaper published in the County of Morris and circulating in said Township of Hanover, a copy of said notice; and

40 WHEREAS, at the time and place fixed by said notice for such meeting the governing body has met and has proceeded to inspect and did inspect said petition and has opened the meeting to the public for a discussion on said petition and application, and no one appearing either for or against the same and it appearing that said petition contains signers thereto over twenty per centum in number of the number of legal ballots cast in said Township of Hanover at the last preceding election at which members of the General Assembly were elected;

THEREFORE, BE IT RESOLVED, That the said Township Committee of the Township of Hanover in the County of Morris, after con-

Resolution and Minutes.

sidering the matter and the objections and remarks that have been made and evidence submitted, does find from its said inspection and upon said evidence that said petition was signed by legal voters in number more than twenty per centum of the number of legal ballots cast in the Township of Hanover at the last preceding election at which members of the General Assembly were elected, and does determine and deem therefrom and thereon that the said petition is sufficient under and by virtue of the provisions of the said act of the Legislature;

10

And this application coming up before this governing body at this time, to wit, on June 8, 1918, and said petition being found sufficient at such a time; Therefore, that the order for a special election if made pursuant to the provisions of the said act would bear date between May 1st and October 10;

THEREFORE, BE IT RESOLVED, that the question mentioned and set forth in said application and petition whether the sale of intoxicating liquors as a beverage in the Township of Hanover shall be prohibited, shall be and it is hereby ordered to be determined by ballot at the general election at which members of the General Assembly are to be elected to be held in the Township of Hanover next after the date of the filing of said petition and hereof, and in the manner directed by said act, and the Township Clerk is ordered to so notify the County Clerk of the County of Morris.

20

BE IT FURTHER RESOLVED, that record of the hearing and of the testimony presented shall be kept and remain on file.'

30

As no further business, the meeting on motion adjourned.

WILLIAM A. POLHEMUS,
Township Clerk."

IN WITNESS WHEREOF, I have hereto set my hand and affixed the corporate seal of the Township of Hanover in the County of Morris, the seventeenth day of April, Nineteen Hundred and Nineteen.

(SEAL)

WILLIAM A. POLHEMUS,
Township Clerk.

40

*Return of Supreme Court Justice.***Return of Supreme Court Justice.**

To the Hon. The Chief Justice and Associate Justices of the
Supreme Court:

10 The Petition, Proofs of Service and Publication, Notice, Orders, Stipulation and Finding of Facts and Order setting aside Election in the Matter of the Application of Jacob Stroh to Contest the Validity of an Election held in the Township of Hanover in the County of Morris, on Tuesday, November 5th, 1918, under the provisions of Chapter 2, Laws of 1918, together with all things touching and concerning the same, as fully and entirely as before me they remain, or are in my custody or control, whereof mention is within made, I do hereby certify and send under my seal, as within I am commanded.

20

C. W. PARKER, (L. S.)

Justice of the Supreme Court of New Jersey.

30

40

*Petition for Contest.***Petition for Contest.**

To the Honorable CHARLES W. PARKER, Justice of the Supreme Court of the State of New Jersey:

The petition of JACOB STROH, residing in the Village of Whippany, in the Township of Hanover, in the County of Morris and State of New Jersey, respectfully shows: 10

1. Your petitioner is a legal voter of the Township of Hanover in the County of Morris, and was legally entitled to vote and did vote at an election held in the Township of Hanover in the County of Morris, on the 5th day of November, 1918, to determine whether or not the sale of intoxicating liquor as a beverage should be prohibited in said Township of Hanover in the County of Morris; which election was held under the provisions of Chapter 2 of the Laws of 1918.

2. That under Chapter 150, Laws of 1918, it is the duty of the County Board of Elections of Morris County to canvass the vote cast by the qualified electors resident in the Township of Hanover in the County of Morris, in the military service of the State of New Jersey or of the United States, and that such canvass was had November 11th and 12th, 1918, and that the result of said election was duly determined at that time as follows: 20

624 votes were cast, 334 being "YES" and 290 being "NO."

3. Your petitioner contests the validity of the election so held, as above set forth, on the following grounds: 30

a. Because the Secretary of State of the State of New Jersey, disregarding the requirements of Chapter 150, Laws of 1918, failed to ascertain, within sixty days prior to November 5th, 1918, the date of such election, either from the Adjutant General of New Jersey, or from the Adjutant General or other proper authority of the United States, the names and post office addresses of every qualified elector of this State in active service in the military forces of this State or of the United States, in actual service as a member of the State Militia, New Jersey National Guard, any branch or department of the Army or Navy of the United States, or any auxiliary forces acting in co-operation therewith. 40

b. Because the Secretary of State of the State of New Jersey, disregarding the requirements of Chapter 150, Laws of 1918,

Petition for Contest.

failed to forward by mail or otherwise, at least twenty days prior to November 5th, 1918, the date of said election, to each person in such active service, as aforesaid, a blank ballot, conveniently prepared so that such person might vote on the question to be submitted to the voters at such election.

10 c. Because the Secretary of State of the State of New Jersey, disregarding the requirements of Chapter 150, Laws of 1918, failed to forward, at least twenty days prior to November 5th, 1918, the date of the election aforesaid, to the County Clerk of Morris County, whose duty it was to prepare the ballots for such election, or to the Township Clerk of the Township of Hanover in the County of Morris, the names and addresses of the qualified electors in the military forces of this State or of the United States, as aforesaid, residing within the limits of the Township of Hanover in the County of Morris.

20 d. Because the Secretary of State of the State of New Jersey, disregarding the requirements of Chapter 150, Laws of 1918, failed to send or forward by mail or otherwise, to each qualified elector of this State in such active service, as aforesaid, either a printed copy of Chapter 150, Laws of 1918, or printed directions for voting and transmitting a ballot, as required by Chapter 150, Laws of 1918, and also failed to send or forward to such electors two envelopes, as required by the provisions of said Chapter 150, Laws of 1918.

30 4. Your petitioner further shows, that the Governor of the State of New Jersey, by virtue of the provisions of Chapter 150, Laws of 1918, filed with the Secretary of State an order directing that the provisions of said Act should be enforced, and that thereupon it was the duty of the Secretary of State to carry out the provisions of said Act until the Governor should, by further order, determine that the emergency ceased to exist, and should direct that the provisions of said Act be discontinued; that no order by the Governor of this State determining that the emergency has ceased to exist and directing that the provisions of said Act be discontinued has ever been filed or made.

40 5. Your petitioner charges that by reason of the failure of the Secretary of State to carry out the provisions of said Act, as hereinbefore set forth, a large number of qualified electors of the Township of Hanover in the County of Morris, in the military service of this State or of the United States, within the

Petition for Contest.

meaning of Chapter 150, Laws of 1918, were deprived of the right and an opportunity to vote on the question submitted to the voters at the election held November 5th, 1918, as aforesaid.

6. Your petitioner further shows, that there were, twenty days prior to November 5th, 1918, the date of such election as aforesaid, upwards of seventy-five qualified electors of the Township of Hanover in the County of Morris, in the military service of this State or of the United States, within the meaning of Chapter 150, Laws of 1918, who had a right to vote at the aforesaid election, and that the aforesaid qualified electors did not receive the ballot of such election, as provided by law, and that only four ballots cast by said electors were received by the County Board of Elections. Said four ballots are included in the total number of votes above set forth. 10

Your petitioner therefore prays your Honor that such order may be made so that your petitioner may contest the validity of the aforesaid election according to the statute in such case made and provided, and that said election may be declared null and void, and that your petitioner may have such other and further relief as may be proper and just. 20

Dated November 20th, 1918.

JACOB STROH,
Petitioner.

KING & VOGT
Attorneys of Petitioner. 30

(Affidavits attached.)

*Order Fixing Date of Hearing.***Order Fixing Date of Hearing.**

Upon reading and filing the duly verified petition of the petitioner, Jacob Stroh, in the above stated matter;

10 It is, on this twenty-first day of November, A. D. 1918, hereby ORDERED that Saturday, the fourteenth day of December A. D., 1918, at ten o'clock in the forenoon of said day, at the Court House in Jersey City, be and are hereby fixed as the time and place of hearing the contest on the aforesaid petition.

20 And it is further ORDERED, that the petitioner forthwith publish in *The Daily Record*, a newspaper published in the Town of Morristown, in the County of Morris, the County in which the municipality of the Township of Hanover in the County of Morris is situated, a notice announcing the filing of such petition and stating the time and place at which the contest shall be heard by the undersigned, and shall also post copies of such notices in the manner as is provided for the posting of notices for hearings on application for elections, as set forth in Section two of Chapter 2 of the Laws of 1918.

And it is further ORDERED, that a true but uncertified copy of the aforesaid petition and notice shall be served forthwith on the Clerk of the Township of Hanover in the County of Morris.

30 And it is further ORDERED, that the petitioner, within ten days from the date hereof, shall deposit with the Clerk of the County of Morris the sum of two hundred dollars in cash as security for costs on this proceeding.

CHARLES W. PARKER,
Justice Supreme Court.

*Stipulation of Facts.***Order Adjourning Date of Hearing.**

A duly verified petition having been filed in the above stated matter, and an order having been made dated the 21st day of November, 1918, fixing Saturday, the 14th day of December, 1918, at 10 o'clock in the forenoon, at the Court House in Jersey City, as the time and place of hearing the contest on the afore-said petition, and application now being made to adjourn the hearing on said contest; 10

It is, on this fourteenth day of December, A. D. 1918, ORDERED, that the hearing of the contest on said petition be and the same is hereby adjourned from Saturday, the 14th day of December, 1918, to Saturday, the 28th day of December, 1918, at 10 o'clock in the forenoon, at the Court House, Jersey City, Hudson County, New Jersey.

CHARLES W. PARKER, 20
J. S. C.

I consent to the making of the above order.

NATHANIEL C. TOMS,
Attorney for the Township of Hanover in the County of Morris.

Stipulation of Facts.

It is hereby stipulated and agreed by and between the parties hereto by their respective attorneys, that the following are the facts submitted to the Court upon which the above matter is to be heard: 30

1. That the petitioner, Jacob Stroh, is a legal voter of the Township of Hanover in the County of Morris, and was legally entitled to vote and did vote at the election held in the Township of Hanover in the County of Morris on November 5th, 1918, under the provisions of Chapter 2 of the Laws of 1918.

2. At a canvass of the vote of said election on November 5th, 11th and 12th, and December 5th, 1918, the result thereof was duly determined as follows:— 40

626 votes were cast, of which 335 were "YES" and 291 were "NO;" included in this final canvass were 6 votes of qualified

Stipulation of Facts.

electors who were in active service in the military forces of this State, or of the United States, within the meaning of Chapter 150, Laws 1918, at the date of said election, and of those 6 votes, 5 votes were counted "YES" and 1 vote was counted as "NO."

10 At the canvass of the votes of the qualified electors or voters in the military service, as aforesaid, by the County Board of Election, 6 votes only were received from the Secretary of State.

3. There were at least 75 qualified electors or voters of the Township of Hanover in the County of Morris in active service in the military forces of this State, or of the United States, within the meaning of Chapter 150, Laws 1918, at the time the aforesaid election was held. Annexed hereto, hereby referred to and made a part hereof, and marked Schedule A., is a list of qualified electors or voters of the Township of Hanover in the County of Morris, as near as the same can be ascertained, who
 20 had been inducted into service, and, at the time of said election and for more than twenty days previous thereto, were in active service in the military forces of this State, or of the United States, within the meaning of Chapter 150, Laws 1918. It is admitted that, as near as can be ascertained, all of those whose names appear on said list were absent on said election day from the election district in which they resided, such absence being due to their military service. The draft board record of the Camp or Naval base to which a soldier or sailor was assigned was made at the time he was inducted or enlisted in the service and was not thereafter changed. The information contained in
 30 said Schedule has been obtained partly from the records in the office of Local Board for Division No. 3 Morris County, partly from the registry lists on file in the Clerk's Office of Morris County, and partly from inquiry, and the facts stated in said schedule may be used on the argument of this matter and shall have the same force and validity as though proven by evidence taken in the proper manner.

4. Annexed hereto, hereby referred to and made a part hereof, and marked Schedule B., is a statement prepared by Mr. Frank
 40 Transue, Chief Clerk in the Office of the Secretary of State of New Jersey, setting forth in what manner the Secretary of State of New Jersey, or his office, carried out the provisions of Chapter 150, Laws 1918, which said statement is to have the same force and validity as though his evidence were taken according to law and the rules of the New Jersey Supreme Court.

Stipulation of Facts.

5. That the names and last known post office addresses of the qualified electors or voters of Hanover Township in the military service, within the meaning Chapter 150, Laws of 1918, whose names appear on Schedule A, were known to their respective relatives or families residing in the said Township of Hanover, and said names and addresses could have been obtained by any person by application to said respective relatives or families of said voters. Said names and addresses and also the respective stations were of record in the proper government office at Washington and a search of said records, if permitted, would have ascertained the same, but such search would not have been permitted. But said names and addresses and said stations were not obtained, as set forth in the statement of Frank Transue attached hereto. 10

6. That more than twenty days prior to the aforesaid election an emergency existed, whereby it became necessary to concentrate, within and without the State of New Jersey, citizens of this State who were legal voters therein for the purpose of defence against foreign enemies. 20

7. In 1917 the said Township of Hanover was divided into three election Districts, constituting the Northern, Southern and Western Districts. In 1918, the Northern District was divided and made into two districts, constituting the Northern and Eastern Districts.

In 1917 there were 432 voters registered in the Northern District: 30

432

443 in the Southern District,

and

464 in the Western District,

a total of

1339 voters registered in

the entire Township.

There were polled—223 votes in the Northern District;

273 votes in the Southern District,

258 votes in the Western District,

a total of

754 votes. 40

Stipulation of Facts.

In 1918 there were registered—

242 voters in the Northern District;
 408 voters in the Southern District;
 204 voters in the Eastern District;
 483 voters in the Western District,

10 a total of

 1337 voters registered in the entire Township.

There were polled—141 votes in the Northern District;
 231 votes in the Southern District;
 119 votes in the Eastern District;
 305 votes in the Western District,

a total of

 796 votes cast in the entire Township.

20 In 1917, for the office of members of the General Assembly, there was an average vote 690 in the entire Township. For the office of Surrogate 724 votes were cast in the entire Township. For the office of Sheriff 711 votes were cast in the entire Township.

30 In 1918, for U. S. Senator, (full term) there were 747 votes cast in the entire Township; for State Senator 713 votes were cast in the entire Township, and for the members of the General Assembly an average of 677 votes were cast in the entire Township. For County Clerk, 660 votes were cast in the entire Township. For Coroner 675 votes were cast in the entire Township.

40 8. The Township Clerk of said Township of Hanover did at least eight days prior to and within thirty days next preceding the day of election, put up an advertisement in at least five of the most public places in the said Township of Hanover, which advertisement made known the time, place and purpose of holding such election and the office and offices to be filled thereat, and including the question, "Shall the sale of intoxicating liquor as a beverage in the Township of Hanover be prohibited;" which notice was signed by the said Township Clerk. And the said Township Clerk did, at least two weeks preceding the primary election, which was held on September 24, 1918, cause a notice to be published at least once a week in the Madison Eagle and the Morristown Daily Record, two newspapers of the County of Morris, wherein the said Township of Hanover is situate, set-

Stipulation of Facts.

ting forth that the Boards of Registry and Election in and for each election district of said Township of Hanover would meet for the purpose of making registration of voters on the days required by law for that purpose, and that a primary election for making nominations would be held on said September 24th, between the hours of 12:30 and 9 P. M. at the four polling places in said Township of Hanover, stating the places, and making known the time, place and purpose of holding a general election and the office and offices to be filled thereat, including therein the question "Shall the sale of intoxicating liquor as a beverage in the Township of Hanover be prohibited." Said notice was published in said newspapers, which papers would, in his opinion, afford the best possible information to all voters, and was continued in such newspapers at least once in each week up to and including the day before election day, which was November 5, 1918. There is no newspaper printed and published in the Township of Hanover.

10

20

9. The Boards of Election in each of the Election Districts of the said Township, on or before 12 o'clock on Wednesday preceding the general election, prepared and deposited in the Post Office in a properly stamped envelope a copy of the official sample ballot furnished according to law by the County Clerk of the County of Morris, and which were addressed to each of the registered voters in their respective districts, at the address shown on the registry book. The envelopes containing said ballots had printed on the face thereof the words "Sample Official Ballot" in large type, and in small type the words "If not delivered in two days return to E. Bertram Mott, County Clerk, Court House, Morristown, N. J." Said sample ballots were, as nearly as possible a facsimile of the official ballot to be voted at the election, and were printed on paper different in color from the official ballot, and printed on the top thereof, in large type, were the words "This ballot cannot be voted. It is a sample copy of the official ballot used on election day." A copy of said sample ballot is annexed hereto and made a part hereof. The clerk of each respective Board of Registry and Election of said Township did at the same time post such sample ballots in the polling place in their respective districts, and in at least five other public places therein.

30

40

Stipulation of Facts.

10. All notices required by the general election law to be posted by officials in connection with the election or to be advertised were duly posted and duly advertised according to the said general election law.

11. That the said Jacob Stroh is not and has not been at any time during the present war a soldier or in the active or other service of the military or naval forces of this State or of the United States or any auxiliary branch thereof, within the meaning of Chapter 150, Laws 1918.

Dated December 27th, 1918.

JACOB STROH,

By KING & VOGT,
His Attorneys.

20

THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER IN THE COUNTY OF MORRIS,

By

NATHANIEL C. TOMS,

Its Attorney.

GEO. S. HOBART,

Attorney of Intervenors.

30

40

Schedule A—Names of Soldiers.

Schedule A.

WHIPPANY.

Serial Number	Order Number	Name	Age	Address	Registered	Date of Entrainment	Camp	
973	979	Frank Allen,	27	Whippany	1916 V.	3/ 6/18	Greenleaf	10
997	1440	William J. Burns,	22	"	1916 V.		Fort	
					1917	5/13/18	Slocum	
					1918			
1011	648	Frank Conover,	23	"	917	8/ 5/18	Upton	
					1918			
1046	1000	William Holmes,	28	"	1916			
					1917 V.	8/ 5/18	Upton	
					1918			
1047	1409	Thomas Howard,	22	"	1916 V.			
					1917 V.	4/26/18	Dix	
					1918			
		John Howard, Jr.		"	1917 V.		Enlisted	20
					1918			
1052	1253	Charles Hulbert,	26	"	1916 V.			
					1917	4/ 3/18	Dix	
					1918			
1054	187	Frank F. Hull,	22	"	1916 V.			
					1917 V.	2/26/18	Dix	
					1918			
1069	998	Whitfield Lake,	24	"	1916 V.			
					1917	4/ 3/18	Dix	
1068	865	Whitfield Lake,	24	"	1916 V.			
					1917	4/ 3/18	Dix	
1071	776	Richard Lindabury,	31	"	1916 V.			
					1917 V.	8/31/18	Greene	
					1918			30
1085	1517	Charles M. Mills,	24	"	1916 V.			
					1917			
					1918	6/20/17	U. S. S. Olympic	
1108	419	William Schliff,	22	"	1917 V.	3/ 6/18	Greenleaf	
1131	1105	Earl Vanness,	25	"	1917	8/ 5/18	Upton	
1137	842	Carl D. Whitmore,	23	"	1917	2/26/18	Dix	
1048	673	John J. Howard,	23	"	1916 V.			
					1917 V.	11/20/17	Dix	
					1918			
1028	646	Percy H. Egnor,	25	"	1917 V.	11/20/17	Dix	
1010	314	Harry G. Conover,	26	"	1917	11/20/17	Dix	
1029	1003	Edward Fables, Jr.,	28	"	1916 V.			
					1917 V.			40
					1918	4/18/18	U. S. N. R.	
1099	96	Charles Pillion,	30	"	1916 V.			
					1917			
					1918	6/26/18	Vancouver Bar- racks, Wash.	

Schedule A—Names of Soldiers.

WHIPPANY.

Serial Number	Order Number	Name	Age	Address	Registered	Date of Entrainment	Camp
39(18)	49	Harvey Struble,	21	Whippany	1918	9/ 4/18	A. A. Humphreys, Va.
10	1135	1433 Thornton Webb,	27	Han.Neck	1916 V. 1917 V. 1918		King's County Am- bulance Corps, Brooklyn
	1042	798 Roswell Hait,		Whippany	1916 1917 V. 1918		Hicks, Texas
		William Scott,		"	1917 1918		Enlisted
		Raymond Scott,		"	1918		"
		Dr. Wm. G. McCormack,		"	1916 V. 1917 V. 1918		Enlisted Medical Corp.
20		A. J. Schneider,			1916 1918		Enlisted
		Richard W. McEwan, Jr.,		"	1916 1917 1918		Enlisted
		Harrison P. Vreeland,		"		June, 1917	Enlisted
	12(18)	56 Lewis V. Griffith,	21	"		9/12/18	Humphreys
	1005	1373 Wm. A. Christian,	29	"		4/25/18	Dix
		Carnot M. Ward,		"	1916 V. 1917 1918		Enlisted

30

MORRIS PLAINS.

	1155	1129 George L. Baldwin,	29	Morris Plains	1916 V. 917 1918	2/26/18	Dix
	1153	1158 John F. Baldwin,	23	"	1916 V. 1917 1918	2/26/18	Dix
	1184	895 Frank J. Connolly,	24	"	1916 V. 1917 V. 1918	2/26/18	Dix
40	1262	1015 Frank Marra,	23	"	1916 V. 1917 1918	5/29/18	Dix

Schedule A—Names of Soldiers.

Serial Number	Order Number	Name	Age	Address	Registered	Date of Entrainment	Camp
1261	1688	Salvadora J. Marra,	22	Morris Plains	1917 1918	5/29/18	Dix
1282	70	Daniel B. McElwee,	31	"	1917 V.	8/30/18	Colt
1304	504	Richard F. Sayer,	25	"	1916 1917 1918	8/ 7/18	Wadsworth
1328	1698	Horace N. Tyler,	25	"	1916 V. 1917	5/29/18	Dix
1189	543	Harold H. Davis,	22	"	1916 V. 1917 1918	11/20/17	Dix
1292	112	John O'Connor,	24	"	1916 V. 1917	9/20/17	Dix
1271	1635	Frank Q. Millen,		"	1916 V. 1917 1918		Enlisted Motor Truck S. T. A. E. F.
1159	751	Edwin M. Betts,	23	"	1916 1917 1918	7/30/17	McClellan
1178	59	William Coffey,	22	"	1917 V. 1918	6/ 4/17	Bensonhurst
1256	263	Matt. J. Madden,	26	"	1916 V. 1917 1918	7/ 5/17	War College, New- port, R. I.
		L. A. Monohan, Jr.,		"	1917 V. 1918		Enlisted
1295	863	Roy Pruden,		"	1917 1918		A. E. F.
74(18)	4	Clarence H. Myers	22	"	1918	7/ 9/18	U. S. N. R.

HANOVER NECK.

984	1057	George Bausewein,	28	Hanover Neck	1916 V. 1917 1918	2/26/18	Dix
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MOUNTAIN LAKES.

876	1751	Thomas Bowden,	28	Mountain Lakes	1917	5/ 6/18	R. I. State College, Kingston, R. I.
903	1335	Jas. A. Goodspeed,	23	"	1916 1917 V. 1918	4/ 3/18	Dix
877	465	John D. Bowden,	26	"	1917 V.	9/20/17	Dix
911	371	Rudolph J. Helmes,	21	"	1916 1917 1918	"	Dix

Schedule A—Names of Soldiers.

PARSIPPANY.

Serial Number	Order Number	Name	Age	Address	Registered	Date of Entrainment	Camp
10	892	1090	Lester Dickisson,	22	Parsippany	1916 1917 V. 1918	12/18/17 Dix
	870	179	John L. Baldwin,	23	"	1916 1917 1918	7/27/17 Fort Slocum
			William Ochs,			1917 V. 1918	Enlisted
	91	22	Leo O'Connor,	22	"	1918	6/21/18 U. S. Schoolship Meade
20	894	1710	Charles F. Dixon,	29	"	1917 V. 1918	8/26/18 Meade
			George M. Miller,		"	1916 1917 V. 1918	Enlisted
			John Daven,		Parsippany	1916 1917 1918	Enlisted
	880	414	Joe Buis	32	Troy Hills	1916 1917	3/ 6/18 Greenleaf
30			Levi Cole		" "	1918	Enlisted
	1789	429A.	Foster Van Duyne,	21	" "	(21 between 8/7/18 6/5/17 and 6/5/18)	Wadsworth
	960	1100	Richard Van Duyne,	24	" "	1916 .917	2/25/18 Dix
	928	1300	Steven Lesh,		" "		2/21/18 Dix
	908	1675	Norman Grimes,	22	" "	1916	
						1917 V.	12/12/17 U. S. Navy

MONROE.

1060	1725	George F. Kelleher,		Monroe	1917 1918	9/ 6/18 Dix
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Schedule A—Names of Soldiers.

Serial Number	Order Number	Name	Age	Address	Registered	Date of Entrainment	Camp	
885	1179	Leonard C. Cochen, 2nd Lieut., Arthur C. Judd, Capt.	26	Mountain Lakes	1916 1917 1916	5/12/17	A. E. F.	
920	697	I. Leonard Kitts, 2nd Lieut., Henry E. Loney, Lieut. Harry W. Wilson, Capt., Miles Browning, Lieut., Hugh V. McCabe, Lieut. Commander, Henry Willis Post, Ensign,	21	"	1917 1918 1918 1916 1917 1918 1917 1918	11/26/17	Fort Leavenworth	Enlisted Enlisted
1780	1596	A. Leroy Wilson, Ensign,	27	"	1916 1917 1918	12/15/17	U. S. N. R.	20

GREYSTONE PARK.

1188	363	August Davidson,	32	Greystone Park	1916 V. 1917 V.			
1300	125	Frank G. Rodimer,	23	"	1916 V. 1917 V. 1918	4/ 3/18	Dix	
1303	408	Henry W. Ross,	30	"	1916 V. 1917 V.	2/26/18	Dix	
1278	782	Wm. J. McCarthy,	27	"	1916 V. 1917	2/26/18	Dix	
1341	445	John H. Woolsey,	27	"	1916 V. 1917 1918	8/10/17	Dix	30
		Homer Stewart,		"	1917 1918	8/10/17	Johnston, Fla. Enlisted	
1242	817	John Kotsay,	27	"	1917		Dix	
47(18)	113	Raymond Evans,	21	"	1918	10/21/18	Fort Hancock	
1267	21	Maurice Maxton		"		9/20/17	Dix	
1254	496	Robert A. Lowery,			1916 V. 1917 V. 1918			
						11/20/17	Dix	

*Schedule B—Statement of Mr. Transue.***Schedule B.**

STATEMENT OF MR. FRANK TRANSUE.

10 I am Chief Clerk in the Office of the Secretary of State of New Jersey and have occupied that position for more than ten years. I am familiar with Chapter 150 of the Laws of 1918 and I had charge, for and on behalf of the Secretary of State, of the detail work of complying with the provisions of that act. I was assisted by special agents, who all came under my direct supervision.

20 Under Sec. 2, Chapter 150, Laws of 1918, the Governor filed with the Secretary of State an order which set out that an emergency, within the provisions of Section 1 of said act, existed, and directed that the provisions of said act be enforced. No order that such emergency has ceased to exist and directing that the provisions of said act be discontinued, has been filed.

30 I did not, nor did any one in the office of the Secretary of State, within 60 days prior to the general election held in the Township of Hanover in the County of Morris, on November 5th, 1918, under Chapter 2, Laws of 1918, ascertain or obtain either from the Adjutant General of New Jersey or from the Adjutant General or other proper authority of the United States, the names and post-office addresses of every qualified elector or voter of this State, or of said Township, in active service in the Military forces of this State or of the United States, *i. e.*, actually in active service as a member of the State Militia, New Jersey National Guard, any branch or department of the army or navy of the United States or any auxiliary forces acting in co-operation therewith.

40 I did not, nor did any one in the office of the Secretary of State, at least 20 days prior to the general election of November 5th, 1918, aforesaid, forward by mail or otherwise, to each person in such active service, this is, to each qualified elector of this State, or of said Township, in active service in the military forces of this State or of the United States, as aforesaid, a blank ballot, conveniently prepared so that such person might vote at such election on any question to be submitted to the voters at such election.

I did not, nor did any one in the office of the Secretary of State, at least 20 days prior to the election aforesaid, forward to either the Clerk of Morris County or to the Clerk of the Town-

Schedule B—Statement of Mr. Transue.

ship of Hanover (in the County of Morris), the names and addresses of the qualified electors of said Township in the military forces of this State or of the United States residing within the limits of said Township.

I did not, nor did any one in the office of the Secretary of State, at least 20 days prior to November 5th, 1918, or at any other time, send to each qualified elector or voter of such Township in active service in the military forces of this State or of the United States, a printed copy of Chapter 150 of the Laws of 1918, or printed directions for voting and transmitting the ballot, as required by said Act. 10

I did not, nor did any one in the office of the Secretary of State, at least 20 days prior to November 5th, 1918, or at any other time, mail or otherwise send to each qualified elector or voter of Hanover Township in active military service of this State or of the United States, 2 envelopes in accordance with Section 6 of Chapter 150, Laws of 1918. 20

The Secretary of War of the United States filed no objections in the office of the Secretary of State of New Jersey to the furnishing by us to the Clerk of Hanover Township, of the names and military addresses of the persons in active military service of the United States residing within the limits of the Township of Hanover in the County of Morris.

It was impossible for the Secretary of State to procure from the military or naval authorities of this State, or the military or naval authorities of the United States, a list of the names and addresses of all soldiers and sailors from New Jersey who were in actual military service of the United States, and a result thereof it was likewise impossible to forward to each soldier at his military address the envelopes, ballots, etc., required by Chapter 150 of the Laws of 1918. 30

The Secretary of State, in order to afford every opportunity to the soldiers to cast their ballots at the general election held in the State of New Jersey on the 5th day of November, Nineteen Hundred and Eighteen, appointed agents representing both political parties to visit the large military camps in this country and also appointed four agents to take the votes of the soldiers who were across the seas. The agents appointed to take the soldier vote across the seas secured their passports and the State Department prepared the necessary envelopes, ballots, etc., for shipment, but at the last moment the War Department notified 40

Schedule B—Statement of Mr. Transue.

the Secretary of State that the agents would be denied transportation, and as a result of such ruling no attempt was made to forward ballots to soldiers who were across the seas.

The agents so appointed were equipped with a sufficient number of ballots and envelopes to care for every soldier in said camps who might be entitled to vote in the State of New Jersey.

10 In addition to the naming of the agents, the Secretary of State forwarded by mail to the other military camps throughout the country, that is, all such military camps as came to his knowledge, a sufficient number of ballots, envelopes, etc., to enable the New Jersey soldiers who might be stationed in said camps, to vote at the General Election. These ballots were sent to the Commanding Officer of each military camp, with the request that he distribute same to such soldiers and sailors who might be residents of the State of New Jersey and qualified to

20 vote therein. In addition to forwarding ballots by agents and by mailing, the Secretary of State promulgated a rule in his department, to the effect that any person or persons interested in the General Election who would furnish the office with a list of the names and military addresses of the soldiers and sailors, the department would mail to the soldiers and sailors whose names appeared on said list, the necessary ballots, etc., for use at the General Election. In two or three instances this was done, but not in the case of the Township of Hanover, Morris County.

30 The Secretary of State reserved space on the soldiers' and sailors' ballots for a voter to indicate his choice for or against Local Option and in order that the soldiers might ascertain the municipalities in this State which were to vote upon this question, the Secretary of State prepared and forwarded with the envelopes and ballots, a list, dated October 1st, 1918, of the municipalities in this State which were to vote upon the Local Option question. A copy of this list is hereto attached, together with a list of the military camps which were covered by agents and by mail.

List of Camps.

LIST OF CAMPS.

The following is a list of the Military and Naval Camps in this country visited by Agents, etc., appointed by the Secretary of State, and also all the camps covered by mail.

Artillery Training Camp, Louisville, Ky.,	Agent.	10
Princeton Aviation School, Princeton, N. J.,	Agent.	
Recruiting Camp, Syracuse, N. Y.,	Agent.	
State College, Pa.,	Agent.	
Brown University, Providence, R. I.,	Mail.	
Ft. Thomas, Kentucky,	Agent.	
Camp Sheridan, Montgomery, Ala.,	Agent.	20
Lafayette College, Easton, Pa.,	Agent.	
Camp Forest, Lytle, Ga.,	Mail.	
University of Pennsylvania, Philadelphia, Pa.	Agent.	
Rutgers College, New Brunswick, N. J.,	Mail.	
Camp Dick, Texas,	Agent.	
Stevens Institute, Hoboken, N. J.,	Agent.	30
Lehigh University, Bethlehem, Pa.,	Mail.	
League Island, Philadelphia, Pa.,	Mail.	
Dickinson College, Carlisle, Pa.,	Agent.	
New London, Conn.	Mail.	
Drexel Institute, Philadelphia, Pa.	Agent.	40
Fort Slocum, N. Y.,	Agent.	
Camp Taylor, Louisville, Ky.,	Agent.	

List of Camps.

	Ft. Ethan Allen, Vermont,	Mail.
	Camp Dix, Wrightstown, N. J.,	Agents.
	Marine Corps Training Station, Quantico, Va.,	Mail.
10	Marine Corps Training Station, Port Royal, S. C.,	Mail.
	Fort Hamilton, N. J.,	Mail.
	Great Lakes Training Station, Great Lakes, Ills.,	Mail.
	Camp Jackson, Columbia, S. C.,	Agent.
	Camp Kearney, Cal.,	Mail.
	Navy Training Station, Charleston, S. C.,	Mail.
20	Navy Training Station, Norfolk, Va.,	Mail.
	Navy Training Station, Hampton Roads, Va.,	Mail.
	Camp Devens, Ayer, Mass.,	Agent.
	Reed Hospital, Washington, D. C.,	Mail.
	Camp Gordon, Atlanta, Ga.,	Agent.
30	Naval Station, Portsmouth, N. H.,	Mail.
	Camp Johnston, Jacksonville, Fla.,	Agent.
	Naval Station, Newport, R. I.,	Agent.
	Camp Upton, Yaphank, L. I.,	Agent.
	Fort Leavenworth, Kansas,	Mail.
	Camp Hancock, Augusta, Ga.,	Mail.
40	Camp Huston, Texas,	Agent.
	Camp Harrison, Indianapolis, Ind.,	Mail.
	Kelley Field, Texas,	Agent.

List of Camps.

Camp Meade Annapolis, Md.,	Agent.	
Camp Funston, Fort Riley, Kansas,	Mail.	
Camp Lewis, American Lake, Washington,	Mail.	10
Camp Lee, Petersburg, Va.,	Agent.	
Washington Barracks,	Mail.	
Fort Howard, Maryland,	Mail.	
Fort Myer, Virginia,	Mail.	
Governor's Island, New York,	Mail.	
Fort Jay, New York,	Mail.	
Camp Crane, Allentown, Pa.,	Mail.	
Camp Vail, Little Silver, N. J.,	Agent.	20
Camp Raritan, Bonhamton, N. J.	Agent.	
Wissahickon Barracks, New Jersey,	Agent.	
Port Newark,	Agent.	
Camp Merritt, Tenafly, N. J.	Agent.	
Camp Greenleaf, Georgia,	Agent.	
Camp McArthur, Waco, Texas,	Agent.	30
Park Aviation Field, Memphis, Tenn.	Mail.	
Ft. Washington, Maryland,	Mail.	
Camp Oglethorpe, Georgia,	Agent.	
Camp Greene, Charlotte, N. C.	Agent.	
Photo School, Rochester, N. Y.	Mail.	
Balloon School, Ft. Omaha, Nebraska,	Mail.	40
Camp Wadsworth, Spartanburg, S. C.,	Agent.	
Balloon School, Macon, Ga.,	Mail.	

List of Camps.

	University of Illinois, Urbana, Ill.,	Mail.
	State University of Texas, Austin, Texas,	Mail.
	State University of Ohio, Columbus, Ohio,	Mail.
10	Massachusetts School of Technology, Boston, Mass.,	Mail.
	Georgia School of Technology, Atlanta, Ga.,	Mail.
	Fort Wood, Bedloe Island, N. Y.,	Mail.
	Aviation School, Rantoul, Ill.,	Mail.
	Fort Monroe, Virginia,	Mail.
20	Camp Custer, Battle Creek, Mich.,	Mail.
	Signal Corps, College of New York City, N. Y.,	Mail.
	Camp Hill, Newport News, Va.,	Mail.
	Ordnance Department, Washington, D. C.,	Mail.
	Camp Humphreys, Acotink, Va.,	Agent.
30	Camp Lewis, American Lake Washington,	Mail.
	Pelham Bay, New York,	Agent.
	Fort Mott, New Jersey,	Agent.
	Camp McClellan, Anniston, Ala.,	Agent.
	Camp Sherman, Chillicothe, Ohio,	Mail.
	Camp Taylor, Louisville, Ky.,	Mail.
40	Camp Grant, Rockford, Ill.,	Mail.
	Camp Pike, Little Rock, Ark.,	Mail.
	Camp Dodge, Des Moines, Iowa,	Mail.

List of Camps.

Camp Travis, Houston, Texas,	Agent.	
Camp Sevier, Greenville, S. C.,	Mail.	
Camp Wheeler, Macon, Ga.,	Mail.	10
Camp Logan, Houston, Texas,	Agent.	
Camp Cody, Deming, New Mexico,	Mail.	
Camp Doniphan, Fort Sill, Okla.,	Mail.	
Camp Bowie, Fort Worth, Texas,	Agent.	
Camp Shelby, Hattiesburg, Miss.,	Mail.	20
Camp Beuregard, Alexandria, La.,	Mail.	
Camp Fremont, Palo Alto, Cal.,	Mail.	
Ft. Moultrie, Charleston, S. C.,	Mail.	
Picatinny Arsenal, Dover, N. J.,	Mail.	
Camp Meigs, Washington, D. C.,	Mail.	30
Flying School, Mineola, L. I.	Mail.	
Columbia University, New York City,	Mail.	
Fort Wadsworth, Staten Island, N. Y.,	Mail.	
Camp Perry, Ohio,	Mail.	
Fort du Pont, Delaware,	Agent.	

*Official Ballot.***Official Ballot.****SOLDIERS' (or SAILORS') VOTE. INSTRUCTIONS FOR VOTING.**

10 The ballot must be prepared by the person intending to vote the same and should be placed in the inner envelope (plain), which envelope shall then be sealed and placed in the outer envelope marked "Secretary of State, Trenton, N. J." The voter must write upon the back of said outer envelope, in the space left therefor, the name of the military organization to which he belongs, and his home address at which he is entitled to vote, giving street number, municipality, and county, and also state thereon the date of the preparation of the ballot, be-
 20 neath which statement he shall sign his name. This envelope must then be deposited with the officer designated by the Com- manding Officer of the force with which such person is operating, to receive such ballots. Such officer so designated aforesaid, shall endorse upon said envelope his name and rank and the time when such ballot was received and such envelope shall, with other like envelopes which shall have been deposited with such officer, be forwarded by him to the Secretary of State, Trenton, N. J.

30 In preparing the ballot, the voter may use a lead pencil, ink or pasters and will indicate his choice by making an \times or $+$ at the left of the name of the candidate for whom he desires to vote. It is impossible for the Secretary of State to furnish the names of candidates for municipal offices, but a blank space for this purpose has been reserved upon the ballot. If the voter has any information which will give him the names of the candidates for municipal offices, he may indicate his choice by writing the title of the office and the candidate therefor in the space reserved for this purpose. Any voter resident of a municipality which is to vote upon the Local Option question may register his vote upon said question by marking an \times in the space provided therefor at the foot of the ballot.

40

THOMAS F. MARTIN,
Secretary of State.

Official Ballot.

The following is a list of candidates for United States Senator, Members of Congress, State Senate, General Assembly and County Offices:

MORRIS COUNTY.

<hr/>		10
UNITED STATES SENATOR	(Vote for One)	
(To fill vacancy caused by death of William Hughes)		
<input type="checkbox"/> DAVID BAIRD	Republican.	
<input type="checkbox"/> GRAFTON E. DAY	National Prohibition	
<input type="checkbox"/> CHARLES O'CONNOR HENNESSY	Democrat.	
<hr/>		
UNITED STATES SENATOR	(Vote for One)	
(Full term beginning March 4, 1919)		
<input type="checkbox"/> GRAFTON E. DAY	National Prohibition	
<input type="checkbox"/> WALTER E. EDGE	Republican.	
<input type="checkbox"/> GEORGE M. LaMONTE	Democrat.	20
<input type="checkbox"/> JAMES M. REILLY	Socialist.	
<input type="checkbox"/> WILLIAM J. WALLACE	Single Tax Party.	
<hr/>		
CANDIDATES FOR CONGRESS	(Vote for One)	
(To fill vacancy)		
<input type="checkbox"/> WILLIAM F. BIRCH	Republican.	
<input type="checkbox"/> RICHARD E. CLEMENT	Democrat.	
<input type="checkbox"/> JAMES B. FURBER	Socialist.	
<hr/>		
CANDIDATES FOR CONGRESS	(Vote for One)	30
(For full Term)		
<input type="checkbox"/> ERNEST R. ACKERMAN	Republican.	
<input type="checkbox"/> RICHARD E. CLEMENT	Democrat.	
<input type="checkbox"/> JAMES B. FURBER	Socialist.	
<input type="checkbox"/> WILLIAM H. C. CLARKE	National.	
<hr/>		
STATE SENATE	(Vote for One)	
<input type="checkbox"/> ARTHUR WHITNEY	Republican.	
<input type="checkbox"/> CHARLTON A. REED	Democrat.	
<input type="checkbox"/> GEORGE B. ATWOOD	Independent	
	Republican.	40
<hr/>		

Official Ballot.

	MEMBERS OF ASSEMBLY	(Vote for Two)
	<input type="checkbox"/> GEORGE W. DOWNS	Republican.
	<input type="checkbox"/> DAVID YOUNG	Republican.
	<input type="checkbox"/> ALLEN H. FANCHER	Democrat.
	<input type="checkbox"/> ALLEN LOOKER	Democrat
10	COUNTY CLERK	(Vote for One)
	<input type="checkbox"/> E. BERTRAM MOTT	Republican.
	<input type="checkbox"/> E. BERTRAM MOTT	Democrat.
	FREEHOLDER	(Vote for One)
	<input type="checkbox"/> FRANK D. ABELL	Republican
	<input type="checkbox"/> STEWART NEIGHBOUR	Democrat
	CORONER	(Vote for One)
	<input type="checkbox"/> WILLIAM D. LEWIS	Republican
20	<input type="checkbox"/> LAWRENCE J. WELSH	Democrat

"Shall the sale of intoxicating liquor as a beverage in..... in the County of be prohibited?"	YES	
	NO	

INSTRUCTIONS TO VOTERS.

- 30 To vote in favor of the prohibition of the sale of intoxicating liquor as a beverage make an X mark in the square at the right of and opposite the word "Yes."
- To vote against the prohibition of the sale of intoxicating liquor as a beverage make an X mark in the square at the right of and opposite the word "No."

*List of Municipalities.***List of Municipalities.**STATE OF NEW JERSEY,
DEPARTMENT OF STATE.

The following municipalities of this State have given notice of intention to vote upon the Local Option Question. 10

ATLANTIC COUNTY

Somers Point	Hammonton
Absecon City	

BERGEN COUNTY

Allendale Borough	New Barbadoes Township	
East Rutherford Borough	Ramsey Borough	
Franklin Township	Ridgewood Township	20
Hillsdale Township	Riverside Borough	
Hohokus Borough	Westwood Borough	
Rutherford Borough		

BURLINGTON COUNTY

Burlington City	Florence Township
Evesham Township	Northampton Township
Palmyra Township	

CAMDEN COUNTY 30

Camden City	Pensauken Township
Merchantville Borough	Waterford Township
Clementon Township	Collingswood

CAPE MAY COUNTY

Upper Township

CUMBERLAND COUNTY 40

Greenwich Township

ESSEX COUNTY

Belleville Township

List of Municipalities.

HUNTERDON COUNTY

	Readington Township	Delaware Township
	Alexandria Township	Raritan Township
	West Amwell Township	Stockton Borough
	Union Township	High Bridge Borough
10	Clinton Township	Califon Borough

MERCER COUNTY

	Hopewell Borough	Hamilton Township
	Hightstown Borough	Washington Township
	Princeton Borough	Ewing Township
	Trenton, City of	

MIDDLESEX COUNTY

20	Borough of Milltown	Township of East Brunswick
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MONMOUTH COUNTY

	Eatontown Township	Millstone Township
	Howell Township	

MORRIS COUNTY

	Township of Morristown	Township of Washington
	Township of Hanover	Borough of Butler
	Township of Chester	Borough of Madison
30	Borough of Netcong	

PASSAIC COUNTY

Borough of Bloomingdale

SALEM COUNTY

Township of Pittsgrove

SOMERSET COUNTY

40	Bedmister Township	North Plainfield Township
	Bernards Township	Hillsborough Township
	Branchburg Township	

Sample Ballot.

SUSSEX COUNTY

Borough of Andover	Township of Lafayette	
Borough of Branchville	Township of Montague	
Borough of Ogdensburg	Township of Sandyston	
Borough of Stanhope	Township of Stillwater	
Borough of Sussex	Township of Wantage	10
Township of Fredon	Township of Vernon	
Township of Green	Town of Newton	

UNION COUNTY

City of Summit

WARREN COUNTY

Phillipsburg (Town)	Mansfield, Township of	
Washington (Borough)	White, Township of	20
Hackettstown, Town of	Allamuchy Township	

THOMAS F. MARTIN,
Secretary of State.

October 1, 1918.

Sample Ballot.

This Ballot Cannot Be Voted 30
It is a Sample Copy of the Official Ballot Used on Election Day
No. 307
To be torn off by the Judge of Election
Fold to This Line

OFFICIAL BALLOT

Township of Hanover	Southern Election District	
November 5, 1918		40

ELIAS BERTRAM MOTT
County Clerk

To vote for a person, mark a Cross × in the square at the left of the name of the person for whom you desire to vote.

Sample Ballot.

United States Senator Vote for One

(To fill vacancy caused by the death of William Hughes)

- DAVID BAIRD Republican
- GRAFTON E. DAY National Prohibition
- CHARLES O'CONNOR HENNESSY Democratic
- 10 JAMES M. REILLY Socialist

United States Senator Vote for One

(For full term)

- GRAFTON E. DAY National Prohibition
- WALTER E. EDGE Republican
- GEORGE M. LaMONTE Democratic
- WILLIAM J. WALLACE Single Tax Party
- JAMES M. REILLY Socialist
-

- 20 Member of the House of Representatives of the United States
(To fill vacancy caused by the death of John H. Capstick)

Vote for One

- RICHARD E. CLEMENT Democratic
- WILLIAM F. BIRCH Republican
- JAMES B. FURBER Socialist
-

Member of the House of Representatives of the United States
(For full term)

30

Vote for One

- RICHARD E. CLEMENT Democratic
- JAMES B. FURBER Socialist
- WILLIAM H. C. CLARKE National Party
- ERNEST R. ACKERMAN Republican
-

County Clerk

Vote for One

- E. BERTRAM MOTT Republican and Democratic

State Senator

- 40 (To fill vacancy caused by the resignation of Harry W. Mutchler)

Vote for One

- GEORGE B. ATWOOD Independent Republican
- ARTHUR WHITNEY Republican
- CHARLTON A. REED Democratic
-
-

Sample Ballot.

Members of the General Assembly Vote for Two

ALLEN H. FANCHER.....Democratic

ALLEN LOOKERDemocatic

GEORGE W. DOWNS.....Republican

DAVID YOUNGRepublican

10

Coroner Vote for One

WILLIAM D. LEWIS.....Republican

LAWRENCE J. WELSH.....Democratic

Member of the Board of Chosen Freeholders Vote for One
(For three years)

STEWART NEIGHBOUR.....Democrat

FRANK D. ABELLRepublican

20

Members of Township Committee Vote for Two

JOHN P. GEGENHEIMER.....Democratic

HARRY V. MOLLER.....Democratic

FRANKLIN W. MUIR.....Republican

JUDD CONDITRepublican

Assessor Vote for One

STANLEY H. LYON.....Democratic

HENRY M. de FOREST.....Republican

30

Collector Vote for One

E. HALSEY BALL.....Republican

HERMAN J. EGNOR.....Democratic

Supervisor of Roads Vote for One

C. HOWELL BATESRepublican

JAMES MONAHANDemocratic

40

Sample Ballot.

	Justices of the Peace	Vote for Three
	<input type="checkbox"/> GRIFFITH B. HUMPHREY	Republican
	<input type="checkbox"/>	
	<input type="checkbox"/>	
	<input type="checkbox"/>	
10	Constables	Vote for Three
	<input type="checkbox"/> THOMAS BEDDOW	Republican
	<input type="checkbox"/>	
	<input type="checkbox"/>	
	<input type="checkbox"/>	
	Surveyors of the Highways	Vote for Two
	<input type="checkbox"/>	
	<input type="checkbox"/>	
	Poundkeepers	Vote for Four
20	<input type="checkbox"/> PAT WALSH	Republican
	<input type="checkbox"/>	
	<input type="checkbox"/>	
	<input type="checkbox"/>	
	<input type="checkbox"/>	

"Shall the sale of intoxicating liquor as a beverage in the Township of Hanover be prohibited?"	YES	
	NO	

30

INSTRUCTIONS TO VOTERS.

To vote in favor of the prohibition of the sale of intoxicating liquor as a beverage, make an X mark in the square at the right of and opposite the word "Yes."

To vote against the prohibition of the sale of intoxicating liquor as a beverage, make an X mark in the square at the right of and opposite the word "No."

*Finding of Facts and Order Setting Aside Election.***Finding of Facts and Order Setting Aside Election.**

This matter coming on to be heard in the presence of King and Vogt, attorneys of the petitioner, Jacob Stroh, and Nathaniel C. Toms, Esq., attorney of the Township of Hanover in the County of Morris, and the said Charles W. Parker, Esq., Justice of the Supreme Court, having found the facts in the above stated cause to be as follows:

10

1. An election was held in the Township of Hanover in the County of Morris on November 5th, 1918, under the provisions of Chapter 2, Laws of 1918.

2. That Jacob Stroh was a legal voter of the Township of Hanover in the County of Morris, and was legally entitled to vote and did vote at the election held in the Township of Hanover in the County of Morris on November 5th, 1918, pursuant to the provisions of Chapter 2 of the Laws of 1918.

20

3. At said election, 626 votes were cast, of which 335 were "YES" (in favor of the prohibition of license and against the sale of intoxicating liquor as a beverage), and 291 were "NO" (against the prohibition of license and in favor of the sale of intoxicating liquor as a beverage), resulting in a majority of 44 in favor of the prohibition of license and against the sale of intoxicating liquor as a beverage. Included in this final canvass were 6 votes of qualified electors who were in active service in the military forces of this State, or of the United States, within the meaning of Chapter 150, Laws of 1918, at the date of said election, and of these 6 votes, 5 votes were counted as "YES" and 1 vote was counted as "NO." At the canvass of the votes of the qualified electors or voters in the military service, as aforesaid, by the County Board of Election, 6 votes only were received from the Secretary of State.

30

4. There were at least 75 qualified electors or voters of the Township of Hanover in the County of Morris in active service in the military forces of this State or of the United States, within the meaning of Chapter 150, Laws of 1918, at the time the aforesaid election was held, and for more than 20 days previous thereto.

40

5. That more than 20 days prior to the aforesaid election an emergency existed, whereby it became necessary to concen-

Finding of Facts and Order Setting Aside Election.

trate, within and without the State of New Jersey, citizens of this State who were legal voters therein, for the purpose of defense against foreign enemies.

10 6. Under Section 2, Chapter 150, Laws of 1918, the Governor filed with the Secretary of State an order which set out that an emergency, within the provisions of Section 1 of said act, existed, and directed that the provisions of said act be enforced, and at the time of said election no order that such emergency had ceased to exist, and directing that the provisions of said act be discontinued, had been filed.

20 7. No one in the Office of the Secretary of State of New Jersey, within 60 days prior to the General Election held in the Township of Hanover in the County of Morris on November 5th, 1918, under Chapter 2, Laws of 1918, ascertained or obtained either from the Adjutant General of New Jersey or from the Adjutant General or other proper authority of the United States, the names and post-office addresses of every qualified elector or voters of this State or of said Township, in active service in the military forces of this State, or of the United States, that is, actually in active service as a member of the State Militia, New Jersey National Guard, any branch or department of the army or navy of the United States or any auxiliary forces acting in co-operation therewith.

30 8. No one in the office of the Secretary of State, at least 20 days prior to the General Election of November 5th, 1918, aforesaid, forwarded by mail or otherwise, to each person in such active service, that is, to each qualified elector of this State, or of said Township, in active service in the military forces of this State, or of the United States, as aforesaid, a blank ballot, conveniently prepared, so that such person might vote at such election on any question to be submitted to the voters at such election.

40 9. No one in the Office of the Secretary of State, at least 20 days prior to the election aforesaid, forwarded to either the Clerk of Morris County or to the Clerk of the Township of Hanover in the County of Morris, the names and addresses of the qualified electors of said Township in the military forces of this State, or of the United States, residing within the limits of said Township.

Finding of Facts and Order Setting Aside Election.

10. No one in the Office of the Secretary of State, at least 20 days prior to November 5th, 1918, or at any other time, sent to each qualified elector or voter of such Township, in active service in the military forces of this State, or of the United States, a printed copy of Chapter 150 of the Laws of 1918, or printed directions for voting and transmitting the ballot as required by said Act. 10

11. No one in the Office of the Secretary of State, at least 20 days prior to November 5th, 1918, or at any other time, mailed or otherwise sent to each qualified elector or voter of Hanover Township, in active military service of this State, or of the United States, 2 envelopes in accordance with Section 6 of Chapter 150, Laws of 1918.

12. The Secretary of War of the United States filed no objections in the Office of the Secretary of State of New Jersey, to the furnishing by the Secretary of State to the Clerk of Hanover Township of the names and military addresses of the persons in active military service of the United States residing within the limits of the Township of Hanover in the County of Morris. 20

13. It was impossible for the Secretary of State to procure from the military or naval authorities of this State, or the military or naval authorities of the United States, a list of the names and addresses of all soldiers and sailors from New Jersey who were in the actual service of the United States, and it was likewise impossible to forward to each soldier at his military address, the envelopes, ballots, etc., required by Chapter 150 of the Laws of 1918. 30

14. The Secretary of State, in order to afford every opportunity to the soldiers to cast their ballot at the general election held in the State of New Jersey on November 5th, 1918, appointed agents, representing both political parties, to visit the larger military camps in this country, and also appointed 4 agents to take the votes of the soldiers who were across the seas. The agents appointed to take the soldier vote across the seas secured their passports and the State Department prepared the necessary envelopes, ballots, etc., for shipment, but at the last moment the War Department notified the Secretary of State that the agents would be denied transportation, and, as a result of such ruling, no attempt was made to forward ballots to sol- 40

Finding of Facts and Order Setting Aside Election.

10 diers who were across the seas. The agents so appointed were equipped with a sufficient number of ballots and envelopes to care for every soldier in said camps, who might be entitled to vote in the State of New Jersey. In addition to the naming of the agents, the Secretary of State forwarded by mail to the other military camps throughout the country, that is, all such military camps as came to his knowledge, a sufficient number of ballots, envelopes, etc., to enable the New Jersey soldiers who might be stationed in said camps, to vote at the general election. These ballots were sent to the Commanding officer of each military camp, with the request that he distribute the same to such soldiers and sailors who might be residents of the State of New Jersey and qualified to vote therein.

A list of the military camps which were covered by agents and by mail, is as follows:

20 (This list is the same as that attached to statement of Mr. Transue.)

15. In addition to forwarding ballots by agents and by mailing, the Secretary of State promulgated a rule in his department, to the effect that any person or persons interested in the General Election, who would furnish the Office with a list of the names and military addresses of the soldiers and sailors, the Department would mail to the soldiers and sailors, whose names appeared on said list, the necessary ballots, etc., for use at the General Election. In two or three instances this was done, but not in the case of the Township of Hanover in the County of Morris.

16. That the names and last known post office addresses of the qualified electors or voters of Hanover Township in the military service, within the meaning of Chapter 150, Laws of 1918, whose names appear on Schedule A of the stipulation where known to their respective relatives or families residing in the said Township of Hanover, and said names and addresses could have been obtained by any person by application to said respective relatives or families of said voters. Said names and addresses and also the respective stations were of record in the proper Government Office at Washington, and a search of said records, if permitted, would have ascertained the same, but such search would not have been permitted. But said names and addresses and said stations were not obtained.

Finding of Facts and Order Setting Aside Election.

17. The Secretary of State reserved space on the soldiers and sailors ballots for a voter to indicate his choice for or against local option, and in order that the soldiers might ascertain the municipalities in this State which were to vote upon this question, the Secretary of State prepared and forwarded with the envelopes and ballots, a list, dated October 1st, 1918, of the municipalities in this State which were to vote upon the Local Option question; included in this list was the Township of Hanover in the County of Morris. 10

18. In 1917, Hanover Township was divided into 3 election districts, constituting the Northern, Southern and Western districts. In 1918, the Northern district was divided and made into 2 districts, constituting the Northern and Eastern districts. In 1917, there were 432 voters registered in the Northern district, 443 in the Southern and 464 in the Western, making 1339 voters registered in the entire Township. There were polled 223 votes in the Northern district, 273 in the Southern, and 258 in the Western, a total of 754. In 1918 there were registered 242 voters in the Northern district, 408 in the Southern, 204 in the Eastern and 483 in the Western, a total of 1337 voters registered in the entire Township. There were polled 141 votes in the Northern district, 231 in the Southern, 119 in the Eastern and 305 in the Western, a total of 796 votes cast in the entire Township. 20

In 1917, for the office of members of the General Assembly, there was an average vote of 690 in the entire Township. For the office of Surrogate, 724 votes were cast in the entire Township, for the office of Sheriff 711 votes. 30

In 1918, for United States Senator, full term, there were 747 votes cast in the entire Township, for State Senator 713 votes, and for the members of the General Assembly an average of 677 votes; for County Clerk, 660 votes, for Coroner, 675.

19. The Township Clerk of Hanover Township did, at least 8 days prior to and within 30 days next preceding the day of election, put up an advertisement in at least 5 of the most public places in the said Township of Hanover, which advertisements made known the time, place and purpose of holding such election and the office and offices to be filled thereat, and including the question "Shall the sale of intoxicating liquor as a beverage in the Township of Hanover be prohibited," which notice was signed 40

Finding of Facts and Order Setting Aside Election.

by the said Township Clerk, and the said Township Clerk did, at least 2 weeks preceding the Primary Election which was held on September 24th, 1918, cause a notice to be published at least once a week in the Madison Eagle and the Morristown Daily Record, 2 newspapers of the County of Morris, wherein the said Township of Hanover is situate, setting forth that the Boards of Registry and Election in and for each election district of said Township, would meet for the purpose of making registration of voters on the days required by law for that purpose, and that a Primary Election for making nominations would be held on said September 24th, between the hours of 12:30 and 9 P. M., at the four polling places in said Township of Hanover, stating the places and making known the time, place and purpose of holding a General Election and the office and offices to be filled thereat, including therein the question "Shall the sale of intoxicating liquor as a beverage in the Township of Hanover be prohibited." Said notice was published in said newspapers, which papers would, in his opinion, afford the best possible information to all voters, and was continued in such newspapers at least once in each week up to and including the day before election day, which was November 5th, 1918. There is no newspaper printed and published in the Township of Hanover.

20. The Boards of Election in each of the election districts of the said Township, on or before 12 o'clock on Wednesday preceding the General Election, prepared and deposited in the post-office, in a properly stamped envelope, a copy of the official sample ballot furnished according to law by the County Clerk of the County of Morris, which were addressed to each of the registered voters in their respective districts, at the address shown on the registry book. The envelopes containing said ballots had printed on the face thereof the words "SAMPLE OFFICIAL BALLOT" in large type, and in small type the words, "If not delivered in 2 days, return to E. Bertram Mott, County Clerk, Court House, Morristown, N. J." Said sample ballots were, as nearly as possible, a fac-simile of the official ballot to be voted at the election, and were printed on paper different in color from the official ballot, and printed on the top thereof, in large type, were the words "THIS BALLOT CANNOT BE VOTED. IT IS A SAMPLE COPY OF THE OFFICIAL BALLOT USED ON ELECTION DAY." The Clerk of each respective Board of Registry and Election of said Township, did, at the same time, post such sample ballots in the polling

Finding of Facts and Order Setting Aside Election.

place in their respective districts, and in at least 5 other public places therein.

21. All notices required by the General Election law to be posted by officials in connection with the election, or to be advertised, were duly posted and duly advertised according to the said General Election law.

10

22. That the said Jacob Stroh has not been at any time during the present war, a soldier or in the active or other service of the military or naval forces of this State or of the United States, or any auxiliary branch thereof, within the meaning of Chapter 150, Laws of 1918.

23. The qualified electors in the Township of Hanover in the County of Morris, in the military or naval forces of this State, or of the United States, to whom no notice of any kind, no official ballots, envelopes, copy of act or direction to voters were sent, except as aforesaid, and who did not vote, were sufficient in number to have changed the result of the election.

20

The said facts having been considered, and argument of counsel having been heard, and it appearing that qualified electors in the Township of Hanover in the County of Morris, in the military or naval service of this State, or of the United States, who had a right to vote at the aforesaid election were deprived of the right and opportunity to vote at said election, and that the number of qualified electors so deprived of the right or opportunity to vote, was sufficient to have changed the result of said election.

30

It is, therefore, on this Seventh day of March, One Thousand Nine hundred and Nineteen, ORDERED, that the aforesaid election held in the Township of Hanover in the County of Morris on November 5th, 1918, pursuant to the provisions of Chapter 2, Laws 1918, and the result thereof, be and the same is hereby set aside and for nothing holden.

And it is further ORDERED, that E. Bertram Mott, Esq., Clerk of the County of Morris, forthwith return and refund to the petitioner herein, or his counsel, the deposit of \$200.00 heretofore made, under the order made herein, less the fees of said Clerk taxable in these proceedings against the petitioner.

40

CHARLES W. PARKER,
Justice Sup. Ct.

Reasons.

Reasons.

(Filed May 6, 1919.)

The prosecutor files the following reasons upon which he will rely for the reversal of the order under review in this case:

- 10 1. The finding or decision of the justice of the Supreme Court by whom the order under review was made that any qualified voters, or a sufficient number thereof to change the result of the election, who were absent from the municipality in the military service of the United States, were deprived of the right and opportunity to vote at the said election, was not justified nor reasonably supported by the stipulation of facts filed with the said justice on the hearing of the contest of the said election.
- 20 2. There was no evidence before said justice to support reasonably his finding or decision that any qualified voters, or a sufficient number thereof to change the result of the election, who were absent from the municipality in the military service of the United States, were deprived of the right and opportunity to vote at the said election.
3. All qualified voters, including those absent from the municipality in the military service of the United States, were afforded the right and opportunity to vote at the said election.
- 30 4. All qualified voters of the municipality, including those absent therefrom in the military service of the United States, were given notice of the manner in which they are required by law to prepare and transmit their ballots, for the reason that all such voters are presumed to have knowledge of the provisions of Chapter 150, Laws of 1918, whereby all such voters are authorized and permitted (in the event that they have not received an official ballot prior to the date of such election) to prepare and vote on the date of such election an unofficial ballot indicating thereon the proposition upon which they intend to vote; and they are also presumed to have knowledge of the date of the holding of the general election.
- 40 5. Assuming that the finding or decision of the said justice that a number of qualified voters sufficient to change the result of the election, who were absent from the municipality in the military service of the United States, were deprived of the right and opportunity to vote at said election, was justified or reasonably supported by said stipulation, nevertheless such fact should not

Reasons.

operate to invalidate the said election for the reason that it was impossible for the Secretary of State to comply with the provisions of Chapter 150 of the Laws of 1918 by ascertaining either from the Adjutant General of New Jersey or from the Adjutant General or other proper authority of the United States the names and post office addresses of such qualified electors, as required by said statute. 10

6. Assuming that the finding or decision of the said justice that a number of qualified voters sufficient to change the result of the election, who were absent from the municipality in the military service of the United States, were deprived of the right and opportunity to vote at the said election, was justified or reasonably supported by said stipulation, nevertheless such fact should not operate to invalidate the said election for the reason that the failure of the Secretary of State to comply with the provisions of said Chapter 150 (even if it had been possible for him so to do) was a mere mistake or irregularity which should not be permitted to disfranchise innocent voters who have expressed their will on the question submitted at the said election. 20

7. Assuming that the finding or decision of the said justice that a number of qualified voters sufficient to change the result of the election, who were absent from the municipality in the military service of the United States, were deprived of the right and opportunity to vote at the said election, was justified or reasonably supported by said stipulation, nevertheless such fact should not operate to invalidate the said election for the reason that it does not appear that the failure of such qualified electors to vote, or to have an opportunity to vote, at such election, prevented a full expression of the will of the voters of said municipality. 30

8. Assuming that it was possible for the Secretary of State to comply with the provisions of said Chapter 150, nevertheless it does not appear that a sufficient number of qualified electors, who were absent from the municipality in the military service of the United States, and who might have voted at said election, would have voted in such a way as to change the result of said election. 40

9. Under the Constitution of the State of New Jersey the right of qualified electors, who are absent from the municipality in which they are living, in the military service of the United

Reasons.

States, is limited to vote for persons to fill elective offices, and does not include the right to vote for such a proposition as was submitted at the said election.

10 10. The stipulation of facts shows that every reasonable effort was made to obtain the names and addresses of qualified voters of the municipality who were in the military service of the United States, and that notice of the said election was given to all qualified voters whose names and addresses were thus obtained, and that all such voters had the right and opportunity to vote at the said election.

20 11. The statute entitled, "A supplement to an act entitled 'An act to regulate elections' approved April fourth, one thousand, eight hundred and ninety-nine" (being Chapter 150, Laws of 1918) is in violation of the Constitution of the State of New Jersey in that it requires the Secretary of State to distribute the envelopes containing the ballots of voters in the military service to the County Board of Elections in the county in which said voters reside, instead of providing for the return and canvass of the votes of such voters in the election district in which they respectively reside, as required by Article II of said Constitution.

COLLINS & CORBIN,
Attorneys of Prosecutor.

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*Notice and Grounds of Appeal.***Rule for Judgment.**

(Filed May 13, 1919.)

The above cause having been dully submitted to me at Chambers by counsel of the respective parties, pursuant to the provisions of the Act entitled: "An Act relative to the writ of certiorari (Revision of 1903)," approved April 8, 1903, and the Return to the writ herein having been inspected and the Reasons assigned by the Prosecutor for reversal having been duly considered; 10

ORDERED, That the writ of certiorari herein be and the same is hereby dismissed.

JAMES F. MINTURN,
J. S. C.

Rule entered this 10th day of May, 1919,

On motion of 20

KING & VOGT,

Attorneys of Defendant, Jacob Stroh.

Notice and Grounds of Appeal.

(Filed May 14, 1919.)

To NATHANIEL C. TOMS, Esq.,
Attorney of Township of Hanover, and
KING & VOGT, Esq.'s.,
Attorneys of Jacob Stroh. 30

TAKE NOTICE that the Prosecutor appeals to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause on the following grounds:—

1. The Supreme Court erred in affirming the order setting aside the election held in the Township of Hanover in the County of Morris on November 5, 1918, under review herein, and in dismissing the writ of certiorari allowed to review said order.

2. The Supreme Court should have reversed said order setting aside said election, under review herein, for one or more of the Reasons filed by the Prosecutor in said Court and should have sustained the said election. 40

COLLINS & CORBIN,
Attorneys of Prosecutor-Appellant.

State and District of Texas

Bill for Judgment

Filed May 15, 1913

The undersigned being duly qualified in the State of Texas, do hereby certify that the following is a true and correct copy of the bill for judgment filed in the County of [] State of Texas, on the 15th day of May, 1913, at [] o'clock [] of the day.

WITNESSED my hand and seal of office this 15th day of May, 1913.

Notary Public in and for the State of Texas

Notice and Grounds of Appeal

Filed May 15, 1913

I, [] of the County of [] State of Texas, do hereby certify that the following is a true and correct copy of the notice and grounds of appeal filed in the County of [] State of Texas, on the 15th day of May, 1913, at [] o'clock [] of the day.

WITNESSED my hand and seal of office this 15th day of May, 1913.

Notary Public in and for the State of Texas

New Jersey Court of Errors and Appeals

REVAUD R. PERRINE,

Prosecutor-Appellant,

vs.

TOWNSHIP OF HANOVER, IN THE COUNTY OF MORRIS, a municipal corporation of the State of New Jersey, and JACOB STROH,
Defendants-Respondents.

*On Appeal from
Supreme Court.*

BRIEF IN FAVOR OF PROSECUTOR-APPELLANT.

(1)

Statement of the Case.

On November 5, 1918, an election was held in the Township of Hanover, in the County of Morris, under the provisions of Chapter 2, Laws of 1918, to determine whether or not the sale of intoxicating liquor as a beverage in said municipality should be prohibited. At said election the total vote cast in favor of prohibition was 335, and the total vote cast against same was 291, being a "dry" majority of 44. Included in the total vote were 6 votes which had been cast by electors who were in the active service in the military forces of the United States, of which number 5 were in favor of prohibition and 1 was against same.

Pursuant to Section 25 of the statute under which the election was held, one Jacob Stroh filed a petition with one of the Justices of the Supreme Court for the purpose of contesting the result of said election. The sole ground of the contest was that there had been a failure to comply with the provisions of Chapter 150, Laws of 1918, known as the "Soldier Vote Act," and that because of such failure 75 or more electors were deprived of their opportunity to vote at the election.

The petition was heard on a stipulation of facts and was duly argued, but before any decision was rendered the Supreme Court filed an opinion in the case of *Scheible v. Borough of Hightstown* (reported in 106 Atl., page 25), wherein it was held that a failure to comply with said Chapter 150 operated to invalidate a local option election, even though such election was held on the same date as the general election. Thereupon the Justice with whom

the petition for contest was filed made an order setting aside the election. A writ of certiorari was then allowed to review this order and said writ was dismissed and judgment entered accordingly in the Supreme Court. The present appeal is taken for the purpose of reviewing such judgment and the questions involved are—first, whether there was a failure to comply with the provisions of said Chapter 150, Laws of 1918; and second, if there was, whether such failure operated to invalidate the election.

(2)

Grounds of Appeal.

1. The Supreme Court erred in affirming the order setting aside the election held in the Township of Hanover in the County of Morris on November 5, 1918, under review herein, and in dismissing the writ of certiorari allowed to review said order.

2. The Supreme Court should have reversed said order setting aside said election, under review herein, for one or more of the reasons filed by the Prosecutor in said Court and should have sustained the said election.

(State of case, page 51, ll. 36 etc.)

The reasons filed by the Prosecutor in the Supreme Court are as follows:

1. The finding or decision of the Justice of the Supreme Court by whom the order under review was made that any qualified voters, or a sufficient number thereof to change the result of the election, who were absent from the municipality in the military service of the United States, were deprived of the right and opportunity to vote at the said election, was not justified nor reasonably supported by the stipulation of facts filed with the said Justice on the hearing of the contest of the said election.

2. There was no evidence before said Justice to support reasonably his finding or decision that any qualified voters, or a sufficient number thereof to change the result of the election, who were absent from the municipality in the military service of the United States, were deprived of the right and opportunity to vote at the said election.

3. All qualified voters, including those absent from the municipality in the military service of the United States, were afforded the right and opportunity to vote at the said election.

4. All qualified voters of the municipality, including those absent therefrom in the military service of the United States, were given notice of the manner in which they are required by law to prepare and transmit their ballots, for the reason that all such voters are presumed to have knowledge of the provisions of Chapter 150, Laws of 1918, whereby all such voters are authorized and permitted (in the event that they have not received an official ballot prior to the date of such election) to prepare and vote on the date of such election an unofficial ballot indicating thereon the proposition upon which they intend to vote; and they are also presumed to have knowledge of the date of the holding of the general election.

5. Assuming that the finding or decision of the said Justice that a number of qualified voters sufficient to change the result of the election, who were absent from the municipality in the military service of the United States, were deprived of the right and opportunity to vote at said election, was justified or reasonably supported by said stipulation, nevertheless such fact should not operate to invalidate the said election for the reason that it was impossible for the Secretary of State to comply with the provisions of Chapter 150 of the Laws of 1918 by ascertaining either from the Adjutant-General of New Jersey or from the Adjutant-General or other proper authority of the United States the names and post-office addresses of such qualified electors, as required by said statute.

6. Assuming that the finding or decision of the said Justice that a number of qualified voters sufficient to change the result of the election, who were absent from the municipality in the military service of the United States, were deprived of the right and opportunity to vote at the said election, was justified or reasonably supported by said stipulation, nevertheless such fact should not operate to invalidate the said election for the reason that the failure of the Secretary of State to comply with the provisions of said Chapter 150 (even if it had been possible for him so to do) was a mere mistake or irregularity which should not be permitted to disfranchise innocent voters who have expressed their will on the question submitted at the said election.

7. Assuming that the finding or decision of the said Justice that a number of qualified voters sufficient to change the result of the election, who were absent from the municipality in the military service of the United States, were deprived of the right and opportunity to vote at the said election, was justified or reasonably supported by said stipulation, nevertheless such fact

should not operate to invalidate the said election for the reason that it does not appear that the failure of such qualified electors to vote, or to have an opportunity to vote, at such election, prevented a full expression of the will of the voters of said municipality.

8. Assuming that it was possible for the Secretary of State to comply with the provisions of said Chapter 150, nevertheless it does not appear that a sufficient number of qualified electors, who were absent from the municipality in the military service of the United States, and who might have voted at said election, would have voted in such a way as to change the result of said election.

9. Under the Constitution of the State of New Jersey the right of qualified electors, who are absent from the municipality in which they are living, in the military service of the United States, is limited to vote for persons to fill elective offices, and does not include the right to vote for such a proposition as was submitted at the said election.

10. The stipulation of facts shows that every reasonable effort was made to obtain the names and addresses of qualified voters of the municipality who were in the military service of the United States, and that notice of the said election was given to all qualified voters whose names and addresses were thus obtained, and that all such voters had the right and opportunity to vote at the said election.

11. The statute entitled, "a supplement to an act entitled 'An act to regulate elections' approved April fourth, one thousand, eight hundred and ninety-eight" (being Chapter 150, Laws of 1918) is in violation of the Constitution of the State of New Jersey in that it requires the Secretary of State to distribute the envelopes containing the ballots of voters in the military service to the County Board of Elections in the county in which said voters reside, instead of providing for the return and canvass of the votes of such voters in the election district in which they respectively reside, as required by Article II of said Constitution.

(State of case, pages 48 to 50.)

(3)

Brief of the Argument.**I.**

The decision of the Supreme Court setting aside the election should be reversed for one or more of the Reasons urged in the Appeals of the Local Option Special Election Cases.

In the case of *Miller and others v. Town of Montclair* and certain other municipalities, certain questions are involved relative to the construction and the constitutionality of Chapter 150, Laws of 1918 (commonly called the "Soldier Vote Act"), with reference to local option *special* elections. The appeals from the decision of the Supreme Court sustaining the rulings of the summary tribunal before whom the contests in those cases were held, whereby the several elections were set aside, will be heard before this Court at the present term, and so far as those cases are concerned, we refer to the brief filed in those cases, and beg leave to urge the same points in the present case, without repeating the same at length.

II.

So far as relates to the provisions of Chapter 150, Laws of 1918, there is a distinction between Local Option Elections Held on a Special Date and those Held on the Same Date as the General Election.

If the Court agrees with the argument or some part thereof submitted in the special election cases, that result will be conclusive of the present case; but even if this Court should affirm the decision of the Supreme Court, setting aside the special elections by reason of the failure to comply with the "Soldier Vote Act," it does not follow that the present election should be set aside for the same reason. There is, we submit, a clear distinction between a special election and a general election. This was pointed out by Justice Kalisch in the case of *Re Holman*, 104 Atl., 212, and re-stated by him in the contest heard before him, arising out of the election in the Township of Northampton. The latter case is now under review in this Court in a case entitled: "*Bullock v. Township of Northampton*," and will be heard at the present term. In the brief filed in that case, we have attempted to sustain the views of Justice Kalisch

on this point and have endeavored to show the distinction between local option elections held on a special date, and those held on the same date as the general election, and in so doing, have had occasion to discuss the decision of the Supreme Court in the case of *Scheible v. Borough of Hightstown*. As the brief in the Northampton case will be before the Court at this term, it is unnecessary to repeat at length the argument on that subject and we beg leave to call attention to such argument as the same appears in such brief under point IV. (b).

III.

There was a substantial compliance with the "Soldier Vote Act."

We concede that the Secretary of State did not comply literally and strictly with the provisions of Chapter 150. No doubt the reason he failed to do so was because it was impossible for him to get the necessary information from the War Department, but nevertheless he did the best he could under the extraordinary conditions that existed in 1918. While it is quite true that he did not procure the names and addresses from the War Department and did not forward by mail or otherwise to each elector in the military service a blank ballot with envelopes and with instructions for voting, the testimony shows that the Secretary sent ballots to practically every camp in the United States, with envelopes and instructions, and with a list of the municipalities wherein there was to be a referendum on the question of the sale of intoxicating liquor, including the Township of Hanover. (Page 36, l. 28.) Under the statute, the Secretary was authorized to send the ballot and instructions "by mail or otherwise." In some cases he sent the ballots by mail and in other cases he sent them by his agent. This is indicated in the list of camps attached to the statement of Mr. Transue (pages 27-31). It is true the ballots and instructions were not sent *direct* to the men, but how could that be done when the Secretary was not able to obtain their names and addresses? What more could be done, or how better could it be done, than to send the ballots by mail or by agent, in bulk, to the camps with the request to the commanding officer that the same be distributed to the New Jersey voters therein located? That is exactly what was done. (Page 26, ll. 10 to 20.)

It is true that no ballots were sent to the camps outside of the United States, but the reason for the failure to do so appears very clear from the statement of Mr. Transue. It appears therefrom that the Secretary had appointed agents to visit the army across the seas and take the ballots with them. These agents had secured their passports, but at the last moment the War Department notified the Secretary that the agents would be denied transportation (page 25, l. 35 to page 26, l. 5). Under these circumstances the Secretary certainly could not be required to do the impossible. Furthermore, there is no evidence in this record to show how many, if any, voters from the Township of Hanover were abroad at the time of the general election of 1918. The stipulation shows that there were at least seventy-five qualified voters who were absent from their election district on account of their being in the military service (page 14, ll. 10 to 30), but there is nothing whatever to show that any one of them was outside of the United States. We insist that if the contestant in a case of this kind desires to raise the point that the men in the service did not have an opportunity to vote because they were abroad at the time of the election and no ballots were forwarded to them in France or wherever else they might happen to be, outside of the limits of the United States, the burden of proof is upon such contestant to show that such voters were in fact outside of the United States.

So far as concerns the voters who were *in* the United States, it clearly appears that the Secretary of State sent ballots to every camp where such men might possibly be located, and hence those voters had an opportunity to vote—and in fact six of them did so vote. (Page 14, l. 10.)

In the stipulation there is included a schedule which gives the name of each person who was in the military service and the name of the camp to which he was assigned (pages 19-22): but there is nothing to show that all of these persons were qualified voters—the only evidence on that subject being found in the stipulation to the effect that at least seventy-five of them were voters. But if we consider every person whose name appears in Schedule A., it will be found that ballots were sent to *every* camp named in the schedule. Of course there is no assurance that these men were in the same camp to which they had been assigned at the time they were inducted into the service, but it is also true that the contestant did not undertake to show that any of these men were *not* in those camps at the time of the election in 1918. The schedule does not give the camp ad-

dress of all the men in the service; some of them are merely noted as "enlisted," and others are marked with a "V"—presumably indicating a volunteer. A careful examination of the schedule will show that there are only twenty persons who are marked as "enlisted" and whose addresses are not indicated. Possibly there should be added to these, six names that are marked as in the Naval Reserve, or on some U. S. Steamship. *Even if everyone of these be considered as a qualified voter (as to which the contestant offered no proof whatever) that number would be insufficient to change the result of the election, as the "dry" majority was forty-four.*

In a proceeding of this kind, we respectfully urge that the contestant must prove his case and must not rely upon presumptions or inferences. So far as the record shows, all but twenty-six of the men whose names appear on the list were assigned to certain camps, and the Secretary of State *sent ballots* to everyone of those camps, with the request to the commanding officer that the ballots be distributed to any New Jersey voters who might be located therein.

Furthermore, every voter who may have been in the service presumably received notice of the election, including the referendum, by means of the sample ballots which were sent to every registered voter (page 17, ll. 20 to 42). It does not appear whether or not the sample ballots were forwarded to the men in the service, although they might well have been, as the stipulation shows that the names and addresses were known to their respective relatives or families (page 15, ll. 1 to 10). There certainly can be no presumption that they were not forwarded; and if the contestant desired to prove that these men did not have notice by means of the sample ballot, we submit the burden was upon him to show that their families did not forward such ballots when received in the due course of the mail.

Whatever the Court may decide as to other cases where this question is involved, we urge that the admitted facts in the present case show that there was a substantial compliance with the provisions of Chapter 150. The Secretary of State was unable to obtain the names and addresses and would not have been permitted to search the records at Washington for that purpose (page 15, l. 15). There was no obligation on his part to make the inquiry in any way other than that specified by the statute and hence he was not called upon to make inquiry of the relatives of the men in the service for the purpose of ascer-

taining their last known address. Moreover, the camp address of every man in the service, whether or not he was a qualified voter, (with the possible exception of twenty-six men who were marked either "enlisted" or in the United States Navy) is given in the stipulation and ballots were not in fact sent to every such camp either by mail or by the Secretary's agent.

While there was not a literal compliance with the provisions of the statute, we submit that the record shows that the Secretary, as said by the Supreme Court in the Hightstown case, "did the best he could"; and under those circumstances the election should not be set aside, even if the provisions of the "Soldier Vote Act" are held to apply to a general election with the same force and effect as to a special election.

(4)

Conclusion.

For these reasons, the judgment of the Supreme Court affirming the order setting aside the election should be reversed and the election should be sustained.

COLLINS & CORBIN,
Attorneys of Prosecutor-Appellant.

GEO. S. HOBART,
G. ROWLAND MUNROE,
Of Counsel.

The first thing I noticed when I stepped
 out of the train in the early morning
 was a sense of freedom. The air was
 fresh, and the sun was just beginning
 to rise. I had been told that the
 weather would be perfect, and indeed
 it was. The people were friendly,
 and the food was delicious. I had
 heard that the people were not
 very friendly, but I was wrong.
 They were just like any other
 people. I had heard that the
 food was not very good, but I
 was wrong. It was just like any
 other food. I had heard that the
 people were not very friendly, but
 I was wrong. They were just like
 any other people. I had heard that
 the food was not very good, but I
 was wrong. It was just like any
 other food.

CHAPTER 2

In the early morning, the sun was
 just beginning to rise. The air was
 fresh, and the people were friendly.
 I had heard that the people were
 not very friendly, but I was wrong.
 They were just like any other
 people. I had heard that the food
 was not very good, but I was wrong.
 It was just like any other food.

CHAPTER 3

After a few days, I had
 learned a lot about the
 people and the food. I had
 heard that the people were
 not very friendly, but I was
 wrong. They were just like
 any other people. I had heard
 that the food was not very good,
 but I was wrong. It was just
 like any other food.

The weather was perfect,
 and the people were friendly.
 I had heard that the people
 were not very friendly, but I
 was wrong. They were just
 like any other people. I had
 heard that the food was not
 very good, but I was wrong.
 It was just like any other
 food.

New Jersey Court of Errors and Appeals.

REVAUD R. PERRINE,
Prosecutor-Appellant,

vs.

TOWNSHIP OF HANOVER, IN THE
COUNTY OF MORRIS, a municipi-
pal corporation of the State
of New Jersey, and JACOB
STROH,
Defendants-Respondents.

On Appeal from
Supreme Court.

BRIEF ON BEHALF OF JACOB STROH, ONE OF THE DEFEND- ANTS-RESPONDENTS.

This is an appeal from the Supreme Court setting aside an election held on November 5th, 1918, the day of the general election in New Jersey, in the Township of Hanover in the County of Morris, at which election the voters of said Township voted on the question

“shall the sale of intoxicating liquor as a beverage in the Township of Hanover in the County of Morris be prohibited?”

The election was held under the provisions of Chapter 2, P. L. 1918, commonly known as the Local Option Act.

A contest was instituted under Section 25 of that

Act, P. L. 1918, page 32, upon the grounds that the provisions of the supplement to the election law, P. L. 1918, Chapter 150, page 437, relating to the votes of soldiers and sailors, and others in military service, were not carried out. Justice Parker set aside the election. A *certiorari* was taken to the Supreme Court which affirmed his order and dismissed the writ.

The facts are not disputed. There was an election on the proposition submitted: the proposition carried by a majority of 44; on election day and for more than twenty days previous there was over 75 legal voters of Hanover Township in the military service of the United States who could not get home to vote in their respective districts in the ordinary manner provided by law.

The result of this fact, as decided in the various local option cases which have been decided by the Supreme Court, is that, if the provisions of Chapter 150 of the Laws of 1918 have not been carried out, the election would be set aside.

The only difference between this case and all the other cases which have been decided is that in this case the election was held on the day of a general election, while in the other cases the election was a special election.

Chapter 2, Laws 1918 (the Local Option Law), provides for the submission of the question of prohibition or no prohibition to the voters at either a general or special election.

P. L. 1918, Chapter 2, Section 5 (General Election if petition signed by not less than 20 per cent. and not more than 30 per cent).

Section 6, (Special Election if signed by more than 30 per cent., except in certain cases.)

The supplement to the Election Law, P. L. 1918, Chapter 150, page 437, is mandatory.

A reading of the act makes this clear.

Section 3 declares that

“the purpose of this act is to afford every qualified elector of this State, who is in active service in the military forces of this State, or of the United States, the right to vote at any primary, *general* or *special* election held in this State, or in any sub-division thereof, notwithstanding the fact that such person may be absent on said election day from the election district in which he resides, whether such person is within or without this state, or within or without the United States, and notwithstanding the fact that such person may not be registered for such election as now required by law.”

Sections 4, 5 and 6 direct the Secretary of State to ascertain certain information and do certain acts so that a voter may properly be allowed to vote.

The right to vote is not an inherent right and does not exist unless specifically conferred by constitution or a statute.

Ransom *v.* Black, 54 L. 446 (Aff. 55 L. 688).

The right to vote in New Jersey is given by the Constitution, Article 2, Par. 1. Legislation is necessary to provide the means of voting and legislation conducive to such end is permissible.

Ransom *v.* Black, *supra*.

The constitution above referred to does not give the right to vote on questions to be submitted. Such right, so far as local option is concerned, is given by P. L. 1918, Chapter 2, Section 1, page 14, etc., and

P. L. 1918, Chapter 150, Section 3, page 438, Section 4, etc. Under these laws the voters of Hanover Township were given the right to vote for local option.

The soldiers and sailors, resident in The Township of Hanover in the County of Morris, were not permitted to vote on the proposition submitted at the election held November 5th, 1918, because the provisions of Chapter 150, P. L. 1918, were not carried out in any particular. (See statement of Mr. Frank Transue, Case, p. 24.)

Voters are not presumed to know when an election on a proposition is to be submitted to the electorate.

It has been said that a person is presumed to know the law, and it will no doubt be urged that the voters of Hanover Township in active service in the military service of the United States knew that a general election would be held in New Jersey, and in Hanover Township, on November 5th, 1918, the first Tuesday after the first Monday in November, when, by law, general elections are held throughout the State for the election of Governor, Congressman, etc., and, knowing such fact, could vote at such election on election day by the informal ballot, provided for by Section 9 of Chapter 150, Laws 1918. This argument might be very strong if the present contest was over an office to which a person had been elected. But surely there can be no presumption that a voter, who had no actual knowledge thereof, knew that on the general election day a proposition would be voted on, nor what such proposition might be. If there is a presumption, it is only fair to say that a voter is presumed to know of Chapter 150, Laws 1918, and having thereby

such knowledge, has the right to rely upon the Secretary of State carrying out the provisions of the act; that a ballot or printed instructions would be sent him. A voter could, therefore, wait until election day expecting to receive from the Secretary of State the information which would let him vote intelligently on both candidates and propositions, and when no such information arrived, could vote the informal ballot on *candidates* but not on propositions, of which he has had no knowledge. But without a copy of the law or printed instructions, he would not even know how to prepare the informal ballot. So that voting upon a proposition stands upon the same footing at a general election as it does at a special election, the only possible difference being that a voter might be presumed to know the date of a general election but not the date of a special election.

A voter might say that he knew there was going to be a general election on November 5th, 1918, and that he could vote for a United States Senator or some other officer, that one candidate was as good as another, and that he did not care who was elected. But when it comes to a proposition of liquor or no liquor affecting the place he lives in he might be very much interested and want to vote. For this reason, if for no other, the Act of 1918 should have been carried out fully and completely.

Justice Kalisch, sitting under the statute, in *In re Lamb*, 185 Atl. 448, held that a voter is presumed to know the day when a general election is held. But he does not point out how the voter can be presumed to know what question he can vote on.

Chapter 150, Laws 1918, applies to a primary, general or special election.

P. L. 1918, Chapter 150, Section 3.

The provisions of Chapter 150, Laws 1918, were not carried out in any respect.

See statement of Mr. Transue (Case, p. 24).

Partial or attempted compliance with the Act of 1918, Chapter 150, is not sufficient.

The act was passed for a specific purpose. (See Section 3.) The mere fact it was difficult or even impossible to enforce the law, is not a matter the Court can deal with, it is the fault of the law and not its construction. (Bergen, *J.*, in Borough of Roselle Case.) It is purely a matter for the legislature. No one would seriously contend that, if the act had not been passed and the Secretary of State had actually done just what he did do, that a voter absent from his election district could vote because the Secretary of State sent an agent to a camp with a ballot. Either the act, giving the authority, must be complied with, or no authority is given. There is no pretense that the act was complied with. The Secretary of State made his own law and nothing that he attempted to do was done by virtue of any legal authority. The act is mandatory so far as sending a copy of the Law or printed instructions to voters is concerned. (Justice Bergen, in Borough of Roselle Case.)

The method prescribed by the legislature must be followed and the Court cannot set up its own judgment as to the advisability of legislation. (Bergen, *J.*, *supra.*)

In *Brown vs. Street Lighting District*, 70 New

Jersey Law, page 762, Mr. Justice Pitney, speaking for the Court of Errors, said that

“the rule to be derived from a review of the authorities is that where the time, place and purpose of an election are fixed by public law, all voters must take notice thereof, and such an election, if held, is not invalid, because no special notice was given, nor proclamation made; certainly not, if it appear that there has been a fair expression of the will of the voters.”

Applying this rule to the case at bar, the voters, that is the soldiers and sailors, were not required to take notice of the general election, in so far as the local option question was concerned, because they had no notice, neither actual or constructive, of the purpose of the general election, other than that it was for the usual officers.

In *d'espard v. Essex Fells*, 84 L. 181, Mr. Justice Minturn speaking for the Supreme Court, said:

“In any event it may be said that when the fact clearly appears that a statutory provision is entirely directory in character; that the essential purpose of the law has been answered; that no claim is made that any substantial fraction of the electors have been misled, and that to all intents and purposes the legislative scheme has been complied with by a substantial expression of the popular will, the mere failure of punctilious compliance by a local administrative official, entrusted with the performance of the statutory details of the election law, will be held not to subvert the popular will thus practically expressed. * * *

The general principle upon which such controversies are determined, is thus succinctly and authoritatively stated; ‘statutory provision regulating the conduct of public elections, if not made mandatory by the expressed terms of the law will be construed as so far directory that the election will not be nullified by mere irregularities, not fraudulently brought about

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when the departure from the prescribed method was not so great as to throw substantial doubt on the result; and where it is not shown that there was any obstacle to a fair and free expression of the will of the electors."

The wording of the Statute, Chapter 150, Laws of 1918, is clearly mandatory and the requirements thereof have not been complied with, with the result that a sufficient number of soldiers and sailors to change the result of the election have been deprived of their vote.

The present case is on all fours with *Scheible v. Hightstown*, 106 Atl. Rep. 25, where the Supreme Court set aside a local option election held on a general election day because Chapter 150, P. L. 1918, had not been complied with.

Over 75 qualified electors of Hanover Township were in service on election day (Case, p. 14, par. 3; p. 41, par. 4). This was enough to turn the election. They were not given an opportunity to vote according to law, and the decision of the Supreme Court should therefore be affirmed.

Respectfully submitted,

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& Co