

separate machine be placed at each polling place for each major political party is limited to situations where it is impossible or impracticable to place the names of all candidates seeking nomination in all parties on one machine. *Miller v. Reider*, 75 D. & C.2d 446, 98 Dauph. 179, 1976.

3. Party levers

Electors were not entitled to injunction to restrain city from utilizing voting machines employing state party voting levers on ground that voting instructions favored straight party voting to prejudice of independent candidates, where new instructions made clear to voter that he need not first pull a party lever before "splitting" his vote among other candidates. *Gilhool v. Chairman and Com'rs, Philadelphia County Bd. of Elections*, 306 F.Supp. 1202, D.C.1969.

In view of showing that voter wishing to vote for independent candidate for city council had just as many ways of voting for that candidate as he had for voting for candidate of one of regular political parties, electors seeking to enjoin use of party levers failed to sustain their burden of proving that use of party levers attained dimension of an "invidious discrimination" proscribed by the Federal Constitution. *Gilhool v. Chairman and Com'rs, Philadelphia County Bd. of Elections*, 306 F.Supp. 1202, D.C.1969.

A mandamus by nominee for councilman-at-large demanding that the election machines be so arranged that he might be voted for by means of a separate lever on a separate line, apart from and independent of all other offices being voted upon in the election, was dismissed, since the Election Code directs that the voting machines and ballot labels thereon be so arranged as to permit each voter to vote a straight political party ticket in one operation "for all the candidates of one political party for every office to be voted for". *Leon v. Philadelphia*, 9 D. & C.2d 706, 1958.

§ 3011. Preparation of voting machines by county election boards

(a) The county election board of each county shall cause the proper ballot labels to be placed on each voting machine which is to be used in any election district within such county; and shall cause

4. Political appellations

Provision of Act of 1893, June 10, P.L. 419, § 14, as amended, repealed, requiring listing of party appellations on ballot is mandatory, and must be complied with when voting machine is used by listing party appellations on lefthand column or top of machine. *Davidowitz v. Philadelphia County*, 187 A. 585, 324 Pa. 17, 1936.

Provision in Act of 1929, April 18, P.L. 549, as amended, repealed, authorizing Secretary of Commonwealth to determine form and arrangement of ballot labels on voting machines, "as nearly as may be in accordance with law and regulations of paper ballot, does not permit secretary to disregard mandatory provisions of Act of 1893, June 10, P.L. 419, § 14, as amended, repealed, relating to listing of party appellations. *Davidowitz v. Philadelphia County*, 187 A. 585, 324 Pa. 17, 1936.

Where number of political organizations participating in election was so large that not all parties could be provided with full row on voting machines, names of organizations without presidential candidates could be printed in type large enough to be clearly and quickly seen and placed one under the other in remaining rows for party names, followed by specific number and letter of ballot label where their candidates could be found unless number of parties was greater than remaining rows, in which event paper ballots would have to be used. *Davidowitz v. Philadelphia County*, 187 A. 585, 324 Pa. 17, 1936.

5. Laches

The fact that a violation of the form of the ballot was not attacked prior to the election will not defeat an action to declare the election invalid where a sample ballot had not been available for inspection prior to the election. In re Republican Election for Sup'rs of Derry Tp., 51 D. & C.2d 454, 94 Dauph. 73, 1971.

each machine to be placed in proper order for voting; shall examine each machine before it is sent out to a polling place; shall see that each registering counter, except the protective counter, on each machine is set at zero (000); shall lock each machine so that the counting machinery cannot be operated, and shall seal each machine with a numbered seal. The county election board or their duly authorized agent shall adjust each machine to be used at a primary election, so that the election officers may lock it on primary election day, in such a way that each voter can vote only for the candidates for nonpartisan nomination, if any, and for the candidates seeking nomination by the political party in which he is enrolled, if he is enrolled as a member of a political party, and so that no voter can vote for the candidates seeking nomination by any political party in which he is not enrolled.

(b) The county election board shall appoint one custodian of voting machines, and such deputy custodians as may be necessary, whose duty it shall be to prepare the machines to be used in the county at the elections to be held therein. Each custodian and deputy custodian shall receive from the county, for each day he is actually employed under the provisions of this act, such compensation as shall be fixed by the county election board, but not less than five dollars (\$5.00) per day. Such custodian shall, under the direction of the county election board, have charge of and represent the county election board during the preparation of the voting machines as required by this act, and he and the deputy custodians, whose duty it shall be to assist him in the discharge of his duties, shall serve at the pleasure of the county election board. Each custodian shall take the constitutional oath of office, which shall be filed with the county election board.

(c) On or before the fortieth day preceding an election, the county election board shall mail to the chairman of the county committee of each political party, which shall be entitled under existing laws to participate in primary elections within the county, and to the chairman or presiding officer of any organization of citizens within the county having as its purpose or among its purposes the investigation or prosecution of election frauds, which has registered its name and address, and the names of its principal officers with the county election board at least fifty (50) days before such election, a written notice stating the times when and the place or places where preparation of the machines for use in the several election districts in the county will be started. One representative of each of such political parties, certified by the respective chairmen of the county committees of such parties, and one representative of each such organization of citizens, certified by the respective chairmen or presiding officers of such organizations, shall be entitled to be present, during the prepara-

