COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

No. SJC-11109

LIBERTARIAN ASSOCIATION OF MASSACHUSETTS and
LIBERTARIAN NATIONAL COMMITTEE, INC.,

Appellants,

v.

WILLIAM F. GALVIN, in his official capacity as
Secretary of the Commonwealth of Massachusetts,

Appellee.

ON RESERVATION AND REPORT OF
SINGLE JUSTICE OF
THE SUPREME JUDICIAL COURT FOR SUFFOLK COUNTY
NO. SJ-2011-0348

REPLY BRIEF OF APPELLANTS
LIBERTARIAN ASSOCIATION OF MASSACHUSETTS and
LIBERTARIAN NATIONAL COMMITTEE, INC.

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The Libertarian Association of Massachusetts and Libertarian National Committee, Inc. ("Libertarians") hereby reply to the Brief of Appellee Secretary of the Commonwealth ("S.Br."). The Secretary argues that (1) no actual controversy exists, (2) G.L. c. 53, § 14 does not allow minor parties to substitute the presidential/vice-presidential candidates selected at their national conventions for those listed on their nomination papers, and (3) Article 9 is no broader than the 14th Amendment and does not guarantee the right of substitution sought by the Libertarians.

Respectfully, the Secretary is incorrect. First, this case presents an actual controversy because the Libertarians' void-for-vagueness claim remains before the District Court, pending this Court's decision. Second, G.L. c. 53, § 14 must allow minor parties to fill vacancies caused by the voluntary withdrawal of presidential elector candidates listed on their nomination papers because such candidates fall within the scope of the statute which provides that such vacancies "may be filled." Third, as this Court held in *Batchelder v. Allied Stores*, 388 Mass. 83 (1983), Article 9 guarantees greater ballot access rights than does the U.S. Constitution.

I. The Case is Justiciable

A. An "Actual Controversy" Exists

According to the Secretary, the Libertarians' claim that G.L. c. 53, § 14 is unconstitutionally vague, which remains pending in the District Court, "does not establish the existence of an actual controversy for this Court" because "nothing substantive remains to be decided" with respect to this claim. S.Br. at 26, 29 (emphasis in original). Respectfully, the Secretary is mistaken.

Federal courts abstain under the Pullman doctrine, as the First Circuit did here, "where the challenged state statute is susceptible of a construction by the state judiciary that would avoid or modify the necessity of reaching a federal constitutional question." *Babbitt v. United Farm Workers Nat'l Union*, 442 U.S. 289, 306 (1979).[1] In this case, the federal constitutional question that the First Circuit sought to avoid by abstaining under

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[1] *See also, Barr v. Galvin*, 626 F.3d 99, 107 (1st Cir. 2010) ("Pullman abstention 'is warranted where: (1) substantial uncertainty exists over the meaning of the state law in question, and (2) settling the question of state law will or may well obviate the need to resolve a significant federal constitutional question.'")(citations omitted).

the Pullman doctrine concerns whether G.L. c. 53, § 14 is unconstitutionally vague.

While the First Circuit indicated that "section 14 seems susceptible to clarification by judicial interpretation," it did not dismiss the Libertarians' void-for-vagueness claim or discard the possibility that G.L. c. 53, § 14 may be unconstitutionally vague.[2] *Barr*, 626 at 113. Had it done so, the court would have negated the very purpose of Pullman abstention (i.e., avoiding a federal constitutional question by deferring to the state judiciary's interpretation of a state statute). In short, the First Circuit's opinion must be read to mean what it holds, which is that no decision has been made on the Libertarians' claim that G.L. c. 53, § 14 is unconstitutionally vague. *Id.*

Of course, the fact that the Libertarians' void-for-vagueness claim remains unresolved rebuts the Secretary's argument that "nothing substantive remains to be decided" in connection with this claim. *See* S.Br. at 29. On the contrary, everything substantive

[2] The Secretary focuses on the court's opening remark that "while not unconstitutionally vague" the statute is in need of "interpretative clarification." S.Br. at 26 (quoting *Barr*, 626 F.3d at 101.) This introductory remark should be afforded no weight in light of the court's actual holding under the Pullman doctrine that "the district court . . . *abstain* on the 'void for vagueness' claim." *Barr*, 626 F.3d at 113 (emphasis in original).

remains to be decided with respect to this claim. This Court's interpretation of G.L. c. 53, § 14 will determine if the statute is unconstitutionally vague, and if not, whether it allows the substitution of presidential and vice-presidential candidates requested by the Libertarians in connection with the 2008 presidential election.

Moreover, if this Court declines to interpret G.L. c. 53, § 14, the District Court must vacate its stay and decide if the statute is unconstitutionally vague, and if not, what it means. *See, e.g., Lister v. Lucey*, 575 F.2d 1325, 1333 (7th Cir. 1978)(ordering federal court that had abstained from interpreting a state statute under the Pullman doctrine to vacate its stay and decide the case after the state supreme court declined to interpret the statute). *Cf. England v. Louisiana State Bd. of Medical Examiners*, 375 U.S. 411, 421 n. 12 (1964)("if the state court has declined to decide the state question because of the litigant's refusal to submit without reservation the federal question as well, the District Court will have no alternative but to vacate its order of abstention").

Simply put, there is no basis for the Secretary's claim that the First Circuit was "merely suggesting

the possibility of state-court litigation at some future point." S.Br. at 27 (emphasis in original). Under the Pullman doctrine, "the case is sent to state court for a clarification of state law." 17A Moore's Federal Practice ¶122.07[1][a] (3d. 2011) (ADD54).[3] If the state court does not clarify the state law, the federal court must then vacate its stay and decide the matter. *See Lister*, 575 F.2d at 1333. It is not an option to wait and see if the same issue happens to present itself "at some future point."[4] S.Br. at 27.

Nor should any significance be placed on the fact that "the First Circuit did not certify to this Court the state-law question concerning the proper interpretation of G.L. c. 53, § 14." S.Br. at 28. As noted in the decision denying the Libertarians' motion for certification, "Pullman abstention and

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[3] "ADD__" refers to pages of the Addendum attached to the original Brief of Appellants. "R.ADD__" refers to pages of the Reply Addendum attached to this Reply Brief of Appellants.

[4] The Secretary also cites *Harris County Commissioners Court v. Moore*, 420 U.S. 77 (1975) and suggests that "the First Circuit may well have intended that the district court dismiss rather than stay the vagueness claim." S.Br. at 30, n. 16. This argument is a nonstarter because in *Moore*, the Supreme Court only approved dismissal due to the fact that "[t]he Texas Supreme Court has ruled . . . that it cannot grant declaratory relief under state law if a federal court retains jurisdiction over the federal claim." 420 U.S. at 89, n. 14. The Court characterized the dismissal without prejudice as "unusual" and noted "[o]bviously, the dismissal must not be used as a means to defeat the appellees' federal claims if and when they return to federal court." *Id.*

certification [are] alternatives to one another" and "Judge Selya, who authored the First Circuit's Judgment in this case, has criticized publicly the practice of certification." *Barr v. Galvin*, 793 F. Supp. 2d 463, 465, n. 1 (2011).

B. The Case Is Not Moot

The Secretary also suggests the case may be moot because "[t]he practical considerations underlying the First Circuit's determination to exercise jurisdiction . . . are not present here." S.Br. at 26. According to the Secretary, one of the primary reasons the First Circuit found the case to be justiciable was because "the Secretary otherwise risked being bound, in future elections, by the incorrect reasoning and judgment of the district court." S.Br. at 25, 26. Not so.

The First Circuit found the case was not moot because it was "capable of repetition, yet evading review." *Barr*, 626 F.3d at 104-106. The court found the case to be "capable of repetition" because the Libertarians have "a reasonable expectation of being in a position to complain about the lack of a substitution mechanism in future Massachusetts elections." *Id.* at 106. The court further found "[t]he facts of this case plainly satisfy the 'evading

review' prong" as "[d]isputes concerning ballot access procedures are often time sensitive, and the temporal parameters are sometimes too short to allow the issues to be fully litigated within a single election cycle." *Id.* Nowhere in its opinion did the First Circuit express any concern that the Secretary might be bound by the District Court's decision in future elections.

Massachusetts courts employ the same "capable of repetition, yet evading review" standard when determining whether a case is moot. *See Karchmar v. Worcester*, 364 Mass. 124, 135 (1973) (applying "capable of repetition, yet evading review" standard); *Wolf v. Commissioner of Public Welfare*, 367 Mass. 293, 298 (1975)(same). Accordingly, because none of the relevant factors has changed since the First Circuit found that "a live dispute remains," 626 F.3d at 106, the Court should reject the Secretary's invitation to revisit the First Circuit's decision, and should instead decide this indisputably important matter which the parties continue to litigate actively.[5]

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[5] Additionally, this Court has made exceptions to the general rule against hearing moot claims in certain cases due to "the public interest involved and the uncertainty and confusion that exist." *Dimino v. Secretary of the Commonwealth*, 427 Mass. 704, 708 (1998). With the 2012 presidential election fast approaching and continued uncertainty concerning whether G.L. c. 53, § 14

II. Mass. Gen. Laws Ch. 53, § 14 Allows Minor Parties To Fill Vacancies When the Presidential And Vice-Presidential Candidates Listed on Their Nomination Papers Withdraw

A. The Libertarians' Position

The Secretary mischaracterizes the Libertarians' position as follows:

> The Libertarian Association argues that under G.L. c. 53, § 14, a convention-endorsed non-party presidential candidate who does not qualify for ballot access under G.L. 53, § 6 . . . nevertheless may demand "substitution" on the ballot in place of a candidate who has met the signature requirement but who thereafter withdraws.

S.Br. at 32.

The Libertarians' actual position is that minor parties which request, circulate, and file nomination papers listing the names of candidates affiliated with their political designation must be allowed to fill vacancies under G.L. c. 53, § 14 when the presidential and vice-presidential candidates listed on their nomination papers voluntarily withdraw. The need to fill vacancies often arises when the candidates chosen at the minor party's national convention differ from those listed on the nomination papers upon which the minor party has been collecting signatures.

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provides a mechanism for presidential/vice-presidential candidate substitution, such an exception would be warranted in this case.

B. Nomination Papers Provide a Means by Which Minor Parties May Place Their Presidential/ Vice-Presidential Candidates on the Ballot

The Secretary's view of the Libertarians' position is likely fueled by the Secretary's refusal to recognize nomination papers as a means by which minor parties may access the ballot. S.Br. at 10-12. Instead, the Secretary contends that nomination papers are a mechanism for candidate ballot access only. *Id.* The Secretary's position is incorrect.

It is well-established that minor parties have a constitutional right to ballot access. *See, e.g., Storer v. Brown*, 415 U.S. 724, 746 (1974) ("to comply with the First and Fourteenth Amendments the State must provide a feasible opportunity for new political organizations and their candidates to appear on the ballot"). The Secretary suggests that Massachusetts provides the requisite ballot access to minor parties by enabling them to become recognized "political parties" under G.L. c. 50, § 1. *See* S.Br. at 8. However, an examination of the two paths to becoming a recognized political party under G.L. c. 50, § 1 only highlights the fact that minor parties must be able to access the ballot using nomination papers.

One of the two avenues to becoming a recognized political party in Massachusetts is for a minor party to enroll at least 1% of the total number of registered voters in the Commonwealth under its political designation. *See* G.L. c. 50, § 1. This must be done more than two years before the election in which the minor party seeks ballot access. *See* G.L. c. 50, § 1; G.L. c. 53, § 38A; G.L. c. 51, § 26; G.L. c. 53, § 28. Going back to at least 1948, no minor party has ever become a recognized political party by enrolling at least 1% of the total number of registered voters in the Commonwealth under its political designation. *See* Massachusetts Registered Voter Enrollment, 1948-2010 (R.ADD1-7).

Yet the only other means of becoming a recognized political party in Massachusetts is for "**a party** . . . [to] poll[] for any office to be filled by all the voters of the commonwealth at least three percent of the entire vote cast in the commonwealth for such office." G.L. c. 50, § 1 (emphasis added). Obviously, a minor party can only poll 3% or more of the vote for an office if the minor party is on the ballot, i.e., through its candidates.

Accordingly, minor parties gain ballot access by submitting nomination papers with the requisite number of signatures for their candidates. If a minor party candidate then garners at least 3% of the vote in an election for "any office to be filled by all the voters of the commonwealth," the minor party becomes a recognized political party. G.L. c. 50, § 1. Needless to say, it would be senseless to reward a minor party with recognized political party status if the successful candidate did not, in fact, represent the minor party. Consequently, when defining "political designation" in G.L. c. 50, § 1, the Legislature made it explicit that a candidate listed on nomination papers "represents" the political designation listed next to her name.

In sum, nomination papers are clearly a mechanism by which minor parties access the ballot. Indeed, since at least 1948, the only way in which minor parties have ever achieved recognized political party status in Massachusetts is by using nomination papers to place their candidates on the ballot and having one of their candidates garner at least 3% of the vote.

C. Voters Demonstrate Their Support for the Minor Party and Its Candidates by Signing Nomination Papers

Despite the fact that a minor party chooses the candidates which appear on its nomination papers and its candidates' names are immediately followed by the minor party's political designation, the Secretary contends that voters who sign a minor party's nomination papers are expressing their support only for the specific candidates listed thereon and thus any candidates substituted by the minor party would not have the "demonstrable support" of Massachusetts voters. S.Br. at 36.

First, the reason for requiring the "demonstrable support" of voters before placing a candidate's name on the ballot is to protect "the integrity of elections by avoiding **overloaded ballots** and **frivolous candidacies**." *Barr*, 626 F.3d at 111 (emphasis added). Neither is an issue here. Allowing minor parties to fill vacancies will not change the number of candidates on the ballot, and a minor party's nationally-nominated candidates for President and Vice President may not be considered "frivolous."

Second, G.L. c. 53, § 14 allows gubernatorial candidate vacancies to be filled by a majority vote of

five individuals whose names are listed on the nomination papers circulated for signature. If, as the Secretary contends, voters who sign nomination papers are only expressing their support for the listed candidates, then substitute gubernatorial candidates also lack "demonstrable support."[6]

Third, the argument that Massachusetts has an interest in ensuring that its voters show "demonstrable support" for a candidate before the candidate's name appears on the ballot is especially weak where, as here, the candidates at issue are running for national offices which are decided by voters across the country.

Finally, the Secretary's argument that voters who sign nomination papers are expressing their support only for the specific candidates listed ignores the reality of why many voters sign nomination papers. Nomination papers are circulated by minor party representatives and often signed by voters who support the minor party. While these voters may not recognize

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[6] On the other hand, if voters who sign nomination papers may be said to recognize and approve the possibility of candidate substitution due to the fact that gubernatorial nomination papers list the names of five individuals (who are unknown to them), then voters must also recognize and approve the possibility of candidate substitution when presidential nomination papers list the minor party next to the candidates' names.

the candidates' names, they recognize the minor party, and they sign the nomination papers to help the minor party place its candidates on the ballot, whomever these candidates may be.

D. G.L. c. 53, § 14 Provides a Means of Filling Vacancies That Occur When Candidates Listed on Nomination Papers Withdraw

Turning to the text of the statute, the Secretary does not dispute the fact that candidates for presidential elector qualify as candidates for state office. *See* S.Br. at 37-38. Thus, if a candidate for presidential elector withdraws "the vacancy . . . **may be filled** by the same political party or persons who made the original nomination, and in the same manner . . ." G.L. c. 53, § 14 (emphasis added).

However, according to the Secretary, "persons who made the original nomination" must refer to the 10,000 voters who signed the nomination papers and "in the same manner" must require the re-circulation and re-signing of new nomination papers. *See* S.Br. at 38. While the Secretary acknowledges that, under this interpretation of the statute, it would be impossible to fill vacancies caused by the withdrawal of candidates for presidential elector listed on nomination papers, the Secretary contends that this

result is not problematic because G.L. c. 53, § 14 was not intended to provide a mechanism for filling such vacancies. *See* S.Br. at 41-42.

To support this contention, the Secretary relies on *Manser v. Secretary of the Commonwealth*, 301 Mass. 264 (1938). Yet, if anything, *Manser* undercuts the Secretary's position. *Manser* involved a petitioner who filed nomination papers listing himself as a candidate for governor and who later asked to withdraw his name from nomination. *Id.* at 265. When the Secretary refused the petitioner's request as untimely under G.L. c. 53, § 13, the petitioner argued that the statute did not apply to candidates listed on nomination papers. *Id.* at 266. This Court disagreed, concluding that the language of the statute "'**[a] person nominated as a candidate for any state . . . office' naturally includes a person nominated by nomination papers.**" *Id.* at 267 (emphasis added). While the petitioner objected that similar language appeared in G.L. c. 53, § 14 and argued that § 14 did not apply to candidates listed on nomination papers, the Court rejected this argument. *Id.* at 269. Although the Court did not reach the issue of § 14's applicability to candidates listed on nomination

papers, the Court's interpretation of the language of § 13 as "naturally includ[ing] a person nominated by nomination papers" indicates that § 14 is applicable to candidates listed on nomination papers. *Compare* G.L. c. 53, § 13 ("A person nominated as a candidate for any state...office") *and* G.L. c. 53, § 14 ("a candidate nominated for a state...office").

Despite the fact that *Manser* suggests G.L. c. 53, § 14 applies to candidates listed on nomination papers (thus providing a mechanism for filling such candidate vacancies), the Secretary contends that *Manser* prompted the Legislature to amend § 14 and add a means to fill vacancies caused by the withdrawal of candidates listed on nomination papers -- but only in the case of gubernatorial candidates. *See* S.Br. at 42-43. There is no support for this position.

First, *Manser* was decided in 1938, and the amendment the Secretary refers to occurred in 1972, thirty-four years later. Second, the 1972 amendment was a small part of a larger act titled "An Act Further Regulating the Nomination and Election of Candidates for the Office of Governor and Lieutenant Governor." *See* R.ADD9-10. The passage of an act revising the process of nominating and electing

gubernatorial candidates is irrelevant to the question of whether § 14 was intended to provide a means of filling vacancies caused by the withdrawal of non-gubernatorial candidates listed on nomination papers. In fact, as the rest of the Act merely contains revisions to pre-existing processes, if anything can be gleaned from the 1972 amendment, it is that the Legislature similarly intended to change the pre-existing process of filling vacancies caused by the withdrawal of gubernatorial candidates listed on nomination papers.

In the end, G.L. c. 53, § 14 applies to candidates for presidential elector and provides that when such a candidate withdraws "the vacancy . . . may be filled." As the Secretary acknowledges that filling vacancies caused by the withdrawal of presidential elector candidates listed on nomination papers would be impossible if "persons who made the original nomination" referred to the 10,000 voters who signed the nomination papers and "in the same manner" required the re-circulation and re-signing of new nomination papers, this interpretation must be rejected. The minor parties which request, circulate, and file nomination papers must be allowed to fill

vacancies when the presidential elector candidates listed on their nomination papers withdraw.

III. Article 9 of the Declaration of Rights Guarantees Greater Ballot Access Rights Than the Equal Protection Clause of the 14th Amendment

Although "state courts are absolutely free to interpret state constitutional provisions to accord greater protection to individual rights than do similar provisions of the United States Constitution," *Goodridge v. Dep't of Pub. Health*, 440 Mass. 309, 328 (2003), the Secretary argues that Article 9 does not afford greater ballot access rights than those guaranteed by the Equal Protection Clause of the 14th Amendment because this Court has cited federal case law when interpreting Article 9 in the past. *See* S.Br. at 47. Therefore, the Secretary argues, because the First Circuit dismissed the Libertarians' equal protection claims, this Court should follow suit and dismiss the Libertarians' Article 9 claim. *Id.* Respectfully, the Secretary is mistaken.

In *Batchelder v. Allied Stores*, 388 Mass. 83, 89 (1983), this Court held that Article 9 guarantees greater ballot access rights than those protected under the U.S. Constitution. Indeed, the Court began its analysis by stating: "a State may 'adopt in its

own Constitution individual liberties more expansive than those conferred by the Federal Constitution." *Id.* at 87. The Court then noted the vastly different language used by Article 9 and the 14th Amendment and accordingly found that there was "no reason . . . to force a parallelism" between these state and federal constitutional provisions. *Id.* at 89. Recognizing that "[b]allot access is of fundamental importance in our form of government because through the ballot the people can control their government," *id.* at 92, the Court ultimately held that Article 9 provides greater ballot access rights than the U.S. Constitution.

While the Secretary attempts to brush *Batchelder* aside as "rest[ing] on the textual differences between article 9 and the First and Fourteenth Amendments," S.Br. at 48, that is precisely the point. The text of Article 9 is utterly different from that of the 14th Amendment and this (as well as legislative history) provides the basis for the greater ballot access rights guaranteed by Article 9, including the right to presidential/vice-presidential candidate substitution.

Nor do any of the cases cited by the Secretary

hold otherwise.[7] Seizing on language in *Langone v. Secretary*, 388 Mass. 185 (1983), the Secretary contends that "the Court affirmatively rejected the argument that article 9 and other provisions in the Declaration of Rights confer greater ballot access rights than the federal Constitution." S.Br. at 49.

Not so. In *Langone*, the Court indicated that the plaintiffs had not separated their federal and state constitutional arguments, and after dispensing with the federal constitutional arguments, the Court found no need to make additional state constitutional arguments for plaintiffs. 388 Mass. at 199. Furthermore, the Court noted the possible inapplicability of Article 9 because plaintiffs' complaint concerned access to the Democratic primary ballot, not the general election ballot, and "[t]he Massachusetts Constitution does not refer to primaries as such, but concerns itself only with elections." *Id.* at 199-200 (internal citation omitted).

As held in *Batchelder*, Article 9 assures greater ballot access rights than the 14th Amendment including the right to candidate substitution requested here.

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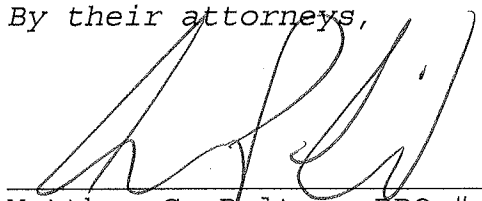
[7] Two decisions cited by the Secretary, *Opinion of the Justices*, 375 Mass. 795 (1974) and *Opinion of the Justices*, 368 Mass. 819 (1975), are advisory opinions without precedential value.

Respectfully submitted,

Appellants Libertarian Association of Massachusetts and Libertarian National Committee, Inc.,

By their attorneys,



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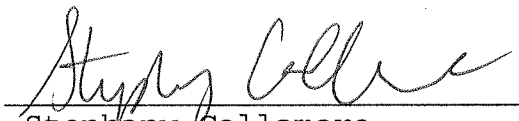
Dated: February 6, 2012

RULE 16K CERTIFICATION

The undersigned hereby certifies that this brief complies with the rules of court that pertain to the filing of briefs, including but not limited to Mass. R.A.P. 16(a)(6) (pertinent findings or memorandum of decision), Mass. R.A.P. 16(e) (references to the record); Mass. R.A.P. 16(f) (reproduction of statutes, rules, regulations); Mass. R.A.P. 16(h) (length of briefs); Mass. R.A.P. 18 (appendix to the briefs) and Mass. R.A.P. 20 (form of briefs, appendices and other papers.)



Stephany Collamore

CERTIFICATE OF SERVICE

I hereby certify that on this day two true copies of the above document was served by hand upon Amy Spector, Esq., attorney of record for the Appellee, at the Office of the Attorney General, One Ashburton Place, Boston, MA 02108.

Stephany Collamore

REPLY ADDENDUM

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Massachusetts Registered Voter Enrollment: 1948-2004

Note: I.V.P. = Independent Voters Party; U.W.S. = United We Stand; LIB. = Libertarian Party; REF. = Reform Party, AMR = American Party, GRN. = Green Party, GRN.-RNB. = Green-Rainbow

Year	Registered Voters	Democratic	Republican	Other Parties	Political Designations	Unenrolled
1948	2,484,938	632,543	628,624			1,223,771
1950	2,475,396	662,062	644,083			1,169,251
1952	2,666,025	748,171	725,223			1,192,631
1954	2,523,414	761,311	743,736			1,018,367
1956	2,671,369	767,386	709,106			1,194,877
1958	2,556,300	813,560	668,821			1,073,919
1960	2,720,359	808,319	657,774			1,254,266
1962	2,635,086	921,767	608,934			1,104,385
1964	2,559,725	1,003,722	641,588			914,415
1966	2,641,538	1,062,781	574,949			1,003,808
1968	2,591,051	1,117,530	557,820			915,701
1970	2,628,581	1,135,103	547,393			946,085
Feb. 1972	2,775,538	1,184,623	527,631			1,063,284
Aug. 1972	2,880,478	1,263,575	521,838			1,095,065
Feb. 1974	2,961,453	1,296,952	508,505			1,155,996
Aug. 1974	2,828,309	1,226,824	476,491	AMERICAN		1,124,994
Feb. 1976	2,872,483	1,305,863	460,949	315		1,105,356
Aug. 1976	2,912,001	1,364,013	458,726	1,034		1,088,228
Feb. 1978	3,030,373	1,421,968	445,328	1,665		1,161,412
Aug. 1978	2,919,514	1,346,896	419,228	1,534		1,151,856

Feb. 1980	3,026,097	1,389,382	430,180			1,206,535
Aug. 1980	2,963,467	1,368,713	453,838			1,140,916
Feb. 1982	3,048,180	1,388,543	442,522			1,217,115
Aug. 1982	2,918,682	1,322,143	409,093			1,187,446
Feb. 1984	3,054,129	1,475,942	391,072			1,187,115
Aug. 1984	3,029,010	1,469,252	386,132			1,173,626
Aug. 1986	2,933,464	1,367,841	389,812			1,175,811
Feb. 1988	2,965,272	1,377,655	380,674			1,206,943
Aug. 1988	2,969,506	1,378,262	400,544			1,190,700
Feb. 1990	3,144,448	1,390,785	424,800			1,328,863
Aug. 1990	3,088,848	1,324,601	412,282			1,351,965
Oct. 1990	3,213,763	1,342,239	441,942			1,429,582
Feb. 1992	3,130,572	1,263,607	425,559	**I.V.P.** 1,207	170	1,440,029
Aug. 1992	3,121,411	1,278,309	426,736	3,996	320	1,412,050
Oct. 1992	3,351,918	1,346,097	447,181	9,016	1,006	1,548,618
Feb. 1994	3,174,759	1,283,986	418,298	**U.W.S.** 291	684	1,471,500
Aug. 1994	3,047,011	1,224,887	396,344	327	613	1,424,840
Oct. 1994	3,153,378	1,266,358	419,120	619	726	1,466,555
Feb. 1996	3,166,047	1,237,488	425,631	**LIB.** 3,065	286	1,499,577
Aug. 1996	3,281,677	1,267,433	454,865	6,163	1,217	1,551,999
Oct. 1996	3,459,193	1,319,753	476,581	8,157	1,826	1,652,876
Feb. 1998	3,650,026	1,381,018	486,354	**REF.** 1,136	12,390	1,769,128
Aug. 1998	3,314,253	1,244,828	440,522	1,938	9,665	1,617,300
Oct. 1998	3,718,528	1,388,177	485,961	2,289	11,443	1,830,658
Feb. 2000	3,794,046	1,376,879	489,060	**LIB.** 11,696	6,920	1,909,491
Aug. 2000	3,836,451	1,406,226	535,517	**LIB.** 13,973	6,957	1,873,778
Oct. 2000	4,008,796	1,460,881	546,333	**LIB.** 16,071	7,738	1,977,773
Aug. 2002	3,922,412	1,430,277	526,787	**LIB.** 20,004 **GRN.** 5,741	6,673	1,932,930
Oct. 2002	3,972,651	1,442,897	530,512	**LIB.** 20,578 **GRN.** 6,729	6,723	1,965,212
Feb. 2004	3,904,361	1,410,388	512,396	**LIB.** 22,129	6,400	1,944,209

				GRN./RNB. 8,839		
Aug. 2004	3,961,356	1,479,055	515,860	**LIB.** 22,794 **GRN./RNB.** 9,176	6,194	1,928,277
Oct. 2004	4,098,634	1,526,711	532,319	**LIB.** 23,900 **GRN.-RNB.** 9,509	6,133	2,000,062

The Commonwealth of Massachusetts

Enrollment Breakdown as of 10/18/2006

County Totals

County	Number Of Precincts	Registered Voters	Democrat	Percentage Of Total	Republican	Percentage Of Total	Unenrolled	Percentage Of Total
BARNSTABLE	67	164,268	43,458	26.46%	30,581	18.62%	89,113	54.25%
BERKSHIRE	64	86,927	31,921	36.72%	9,614	11.06%	44,580	51.28%
BRISTOL	175	328,659	125,930	38.32%	36,185	11.01%	164,073	49.92%
DUKES	7	12,503	4,326	34.60%	1,615	12.92%	6,456	51.64%
ESSEX	236	456,534	151,282	33.14%	60,693	13.29%	241,332	52.86%
FRANKLIN	40	47,330	14,145	29.89%	5,261	11.12%	27,301	57.68%
HAMPDEN	171	278,970	111,144	39.84%	39,635	14.21%	126,066	45.19%
HAMPSHIRE	59	95,943	36,590	38.14%	9,415	9.81%	48,668	50.73%
MIDDLESEX	475	889,993	340,654	38.28%	103,784	11.66%	438,498	49.27%
NANTUCKET	1	7,998	2,154	26.93%	1,487	18.59%	4,258	53.24%
NORFOLK	205	434,811	158,567	36.47%	56,882	13.08%	216,819	49.87%
PLYMOUTH	141	309,342	91,318	29.52%	46,118	14.91%	169,564	54.81%
SUFFOLK	298	393,896	211,316	53.65%	31,330	7.95%	147,657	37.49%
WORCESTER	234	483,331	149,902	31.01%	66,362	13.73%	262,668	54.35%
Statewide Totals:	2173	3,990,505	1,472,707	36.91%	498,962	12.50%	1,987,053	49.79%

R. ADD4

The Commonwealth of Massachusetts

Enrollment Breakdown as of 10/18/2006

County Totals

Counties	Number Of Precincts	Registered Voters	Libertarian	Green	Conservative	Natural Law	New World	Reform	Rainbow	Green Rainbow	We The People	Constitution	Timesizing	New Alliance	Prohibition	Socialist	Inter. 3rd	American Ind.	America 1st	Veteran	World Citizens
BARNSTABLE	67	164,268	679	64	4	1	0	17	0	282	0	2	3	0	0	6	57	2	0	0	0
BERKSHIRE	64	86,927	443	41	3	0	0	26	2	255	0	2	0	1	0	4	29	4	1	0	0
BRISTOL	175	328,659	1,723	73	7	2	0	66	3	350	0	5	0	0	1	8	211	15	7	0	0
DUKES	7	12,503	49	14	1	1	0	3	1	34	0	0	2	0	0	0	1	0	0	0	0
ESSEX	236	456,534	2,174	97	18	2	0	111	5	489	7	11	10	0	0	15	270	13	3	0	1
FRANKLIN	40	47,330	224	32	0	2	0	16	0	310	0	0	3	0	0	4	26	6	0	0	0
HAMPDEN	171	278,970	1,443	88	9	1	0	77	1	381	0	3	0	0	1	9	93	17	2	0	0
HAMPSHIRE	59	95,943	438	66	2	1	0	22	5	691	0	1	0	0	0	18	20	7	0	0	0
MIDDLESEX	475	889,993	3,951	205	28	7	2	106	15	2,026	3	13	6	1	1	43	558	69	13	6	3
NANTUCKET	1	7,998	47	2	1	0	0	4	0	41	0	0	0	0	0	2	2	0	0	0	0
NORFOLK	205	434,811	1,606	100	14	2	0	58	4	464	0	8	4	2	1	21	232	7	7	9	4
PLYMOUTH	141	309,342	1,669	45	3	1	1	57	2	272	1	3	2	0	0	11	261	4	1	6	1
SUFFOLK	298	393,896	1,812	165	5	3	1	57	73	1,155	0	6	4	1	4	24	262	14	3	2	0
WORCESTER	234	483,331	2,995	146	16	5	0	125	7	690	1	11	15	1	4	27	327	26	1	1	0
Statewide Totals:	2,173	3,990,505	19,253	1,138	111	28	4	745	118	7,440	12	65	49	6	12	192	2,349	184	38	24	9

R. ADD5

Enrollment Breakdown as of 10/15/2008

County	Registered Voters	Democrat	Percentage Of Total	Republican	Percentage Of Total	Unenrolled	Percentage Of Total	Green Rainbow	Percentage Of Total	Working Families	Percentage Of Total	Political Designations	Percentage Of Total
BARNSTABLE	168,623	44,985	26.68%	29,017	17.21%	93,654	55.54%	255	0.15%	150	0.09%	562	0.33%
BERKSHIRE	90,434	33,821	37.40%	9,286	10.27%	46,594	51.52%	245	0.27%	115	0.13%	373	0.41%
BRISTOL	345,731	131,281	37.97%	35,691	10.32%	176,241	50.98%	346	0.10%	669	0.19%	1,503	0.43%
DUKES	13,148	4,712	35.84%	1,472	11.20%	6,879	52.32%	34	0.26%	11	0.08%	40	0.30%
ESSEX	484,391	161,632	33.37%	59,661	12.32%	260,164	53.71%	505	0.10%	531	0.11%	1,898	0.39%
FRANKLIN	49,876	15,218	30.51%	5,103	10.23%	29,033	58.21%	232	0.47%	78	0.16%	212	0.43%
HAMPDEN	289,250	115,151	39.81%	38,807	13.42%	133,115	46.02%	407	0.14%	580	0.20%	1,190	0.41%
HAMPSHIRE	102,834	39,581	38.49%	9,360	9.10%	52,828	51.37%	569	0.55%	116	0.11%	380	0.37%
MIDDLESEX	945,049	359,429	38.03%	101,713	10.76%	477,970	50.58%	1,659	0.18%	928	0.10%	3,350	0.35%
NANTUCKET	8,164	2,293	28.09%	1,360	16.66%	4,434	54.31%	37	0.45%	4	0.05%	36	0.44%
NORFOLK	453,612	163,231	35.98%	55,220	12.17%	232,885	51.34%	437	0.10%	393	0.09%	1,446	0.32%
PLYMOUTH	328,401	97,233	29.61%	45,832	13.96%	183,244	55.80%	284	0.09%	481	0.15%	1,327	0.40%
SUFFOLK	430,523	234,443	54.46%	31,271	7.26%	161,320	37.47%	1,015	0.24%	609	0.14%	1,865	0.43%
WORCESTER	510,452	156,454	30.65%	66,466	13.02%	283,517	55.54%	703	0.14%	869	0.17%	2,443	0.48%
Statewide Totals:	4,220,488	1,559,464	36.95%	490,259	11.62%	2,141,878	50.75%	6,728	0.16%	5,534	0.13%	16,625	0.39%

R. ADD6

Enrollment Breakdown as of 10/13/2010

County	Registered Voters	Democrat	Percentage Of Total	Republican	Percentage Of Total	Libertarian	Percentage Of Total	Unenrolled	Percentage Of Total	Political Designations	Percentage Of Total
BARNSTABLE	166,453	44,070	26.48%	27,687	16.63%	570	0.34%	93,815	56.36%	311	0.19%
BERKSHIRE	88,471	33,293	37.63%	8,420	9.52%	376	0.42%	46,089	52.10%	293	0.33%
BRISTOL	347,610	129,735	37.32%	35,469	10.20%	1,547	0.45%	180,285	51.86%	574	0.17%
DUKES	13,504	4,920	36.43%	1,415	10.48%	47	0.35%	7,081	52.44%	41	0.30%
ESSEX	480,387	158,409	32.98%	57,759	12.02%	1,768	0.37%	261,600	54.46%	851	0.18%
FRANKLIN	49,290	15,122	30.68%	4,849	9.84%	181	0.37%	28,922	58.68%	216	0.44%
HAMPDEN	294,099	116,645	39.66%	38,458	13.08%	1,201	0.41%	137,244	46.67%	551	0.19%
HAMPSHIRE	99,739	38,158	38.26%	8,917	8.94%	376	0.38%	51,849	51.98%	439	0.44%
MIDDLESEX	939,889	351,993	37.45%	98,461	10.48%	3,264	0.35%	484,279	51.53%	1,892	0.20%
NANTUCKET	7,931	2,283	28.79%	1,251	15.77%	22	0.28%	4,351	54.86%	24	0.30%
NORFOLK	453,376	159,956	35.28%	53,556	11.81%	1,371	0.30%	237,810	52.45%	683	0.15%
PLYMOUTH	331,348	96,467	29.11%	45,373	13.69%	1,373	0.41%	187,708	56.65%	427	0.13%
SUFFOLK	418,768	228,597	54.59%	28,895	6.90%	1,480	0.35%	158,682	37.89%	1,114	0.27%
WORCESTER	500,042	149,326	29.86%	64,288	12.86%	2,281	0.46%	283,125	56.62%	1,022	0.20%
Statewide Totals:	4,190,907	1,528,974	36.48%	474,798	11.33%	15,857	0.38%	2,162,840	51.61%	8,438	0.20%

R.ADD8

ACTS

AND

RESOLVES

PASSED BY THE

General Court of Massachusetts

IN THE YEAR

1972

TOGETHER WITH

TABLES SHOWING CHANGES IN THE STATUTES, ETC.

PUBLISHED BY

JOHN F. X. DAVOREN

Secretary of the Commonwealth

BOSTON
WRIGHT & POTTER PRINTING COMPANY
1972

or prevent any notation in the ordinary docket of criminal cases concerning commitment proceedings under sections one to eighteen against a defendant in a criminal case. Notwithstanding the provisions of this paragraph, any person who is the subject of an examination or a commitment proceeding, or his counsel, may inspect all reports and papers filed with the court in a pending proceeding, and the prosecutor in a criminal case may inspect all reports and papers concerning commitment proceedings that are filed with the court in a pending case.

Approved June 8, 1972.

Chap. 399. AN ACT RELATIVE TO THE ENFORCEMENT OF LABOR AND MATERIAL BONDS FOR BUILDINGS.

Be it enacted, etc., as follows:

Section 29A of chapter 149 of the General Laws, inserted by chapter 185 of the acts of 1949, is hereby amended by inserting after the word "provisions", in line 9, the words: — and need not prove that he relied upon the bond in furnishing labor or material.

Approved June 8, 1972.

Chap. 400 AN ACT FURTHER REGULATING THE NOMINATION AND ELECTION OF CANDIDATES FOR THE OFFICE OF GOVERNOR AND LIEUTENANT GOVERNOR.

Be it enacted, etc., as follows:

SECTION 1. Section 6 of chapter 53 of the General Laws is hereby amended by inserting after the first sentence the following sentence:— In the case of the offices of governor and lieutenant governor, only nomination papers containing the names and addresses of candidates for both offices shall be valid.

SECTION 2. The second paragraph of section 8 of said chapter 53 is hereby amended by striking out the third sentence, as amended by section 1 of chapter 869 of the acts of 1970, and inserting in place thereof the following two sentences:—Except in the case of nomination papers of candidates for offices to be filled by all the voters of the commonwealth, or of candidates for town offices, no nomination papers shall contain the name of more than one candidate. Such nomination papers for candidates for governor and lieutenant governor shall contain provision for the names and addresses of members of a committee of five registered voters who shall fill any vacancy caused by death, withdrawal, ineligibility or disqualification of either candidate.

SECTION 3. Section 14 of said chapter 53 is hereby amended by inserting after the first sentence the following sentence:—In the event of the death, withdrawal, ineligibility or disqualification of a candidate for governor or lieutenant governor who has been nominated by election nomination papers, except disqualification for insufficient signatures, the vacancy shall be filled by majority vote of the committee of five members whose names were placed upon said papers for the purpose before the signatures of voters were obtained thereon.

SECTION 4. Chapter 54 of the General Laws is hereby amended by striking out section 41A, inserted by section 4 of chapter 869 of the acts of 1970, and inserting in place thereof the following section:—

Section 41A. Names of candidates for the offices of governor and lieutenant governor shall be placed upon the official ballot for use at state elections in groups, according to the party or political principles which they represent. On the right of each such group shall appear a square in which the voter may designate by a cross (X) his choice. The placing of such a cross in the square shall constitute a vote for the candidate for governor and a vote for the candidate for lieutenant governor so designated. The order of the various groups on the ballot shall be determined as follows:—The group in which appears the name of a candidate for governor who is an elected incumbent shall be placed first, except as provided in section thirty-three. Next in order shall appear the groups of candidates of political parties, arranged alphabetically in accordance with the surnames of the candidates for governor, and all other groups of candidates for such offices shall follow, in like order.

SECTION 5. Section 42 of said chapter 54 is hereby amended by striking out the first paragraph, as most recently amended by section 5 of said chapter 869, and inserting in place thereof the following paragraph:—

Except as provided in section forty-one A, under the designation of the office, the names of the candidates for re-election to any office to be filled at a state election of which they are the elected incumbents shall, except in places where voting machines are used, as provided by section thirty-three, be placed first on the ballot in alphabetical order according to their surnames; next and in like order the names of candidates of political parties, as defined in chapter fifty, and the names of all other candidates shall follow in like order.

SECTION 6. The first paragraph of section 43A of said chapter 54, as most recently amended by section 7 of said chapter 869, is hereby further amended by striking out, in line 5, the words ", governor, lieutenant governor".

SECTION 7. The third paragraph of said section 43A of said chapter 54, as amended by section 8 of said chapter 869, is hereby further amended by striking out, in lines 10 to 12, inclusive, the words ", and next shall follow candidates for governor who were not nominated by a party, then candidates for lieutenant governor who were not nominated by a party",—and by striking out, in lines 16 to 18, inclusive, the words ", followed by candidates for governor who were not nominated by a party, and then by candidates for lieutenant governor who were not nominated by a party".

SECTION 8. Section seventy-seven A of said chapter fifty-four, inserted by section nine of said chapter eight hundred and sixty-nine, is hereby repealed.

SECTION 9. Section 78 of said chapter 54, as most recently amended by section 2 of chapter 424 of the acts of 1970, is hereby further amended by adding the following sentence:—In order to vote for governor and lieutenant governor, the voter shall mark a cross (X) in the square at the right of the names of the group of

R. ADD9

candidates for said offices for whom he desires to vote, or by inserting the name and residence of any person for either office in the blank space provided therefor and marking a cross (X) at the right; provided, however, that no such inserted name may be that of a candidate whose name is printed upon the ballot as a candidate for the office.

Approved June 8, 1972.

Chap. 401. AN ACT REPEALING THE REQUIREMENT THAT CITY AND TOWN CLERKS FORWARD COPIES OF CERTAIN RECORDS TO CLERKS OUTSIDE OF THE COMMONWEALTH.

Be it enacted, etc., as follows:

The first sentence of section 12 of chapter 46 of the General Laws, as appearing in chapter 439 of the acts of 1945, is hereby amended by striking out, in line 6, the words "or in any other state".

Approved June 8, 1972.

Chap. 402. AN ACT PROVIDING FOR CERTAIN STANDARDS TO BE PRESCRIBED BY THE COMMUNITY ANTENNA TELEVISION COMMISSION, AND IMPOSING A PENALTY FOR UNAUTHORIZED ATTACHMENTS TO COMMUNITY ANTENNA TELEVISION SYSTEMS.

Be it enacted, etc., as follows:

SECTION 1. Section 8 of chapter 166A of the General Laws, as appearing in section 1 of chapter 1103 of the acts of 1971, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:—Each licensee shall install its CATV system and maintain the quality of the signals transmitted over its system to its subscribers in accordance with standards to be prescribed by the Federal Communications Commission and the commission.

SECTION 2. Said chapter 166A is hereby further amended by adding the following section:—

Section 21. Any unauthorized person who attaches a wire, cable or any other device to any wire, cable or any other part of the transmitting units of a duly licensed community antenna television system shall be punished by a fine of not more than one thousand dollars or by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and one-half years or by both such fine and imprisonment.

Approved June 8, 1972.

Chap. 403. AN ACT REQUIRING INSURERS TO GIVE AN ANNUAL PHYSICAL EXAMINATION TO INJURED EMPLOYEES DURING THEIR HOSPITALIZATION.

Be it enacted, etc., as follows:

Section 30 of chapter 152 of the General Laws is hereby amended by striking out the first sentence, as appearing in section 1 of chap-

R. ADD10