

NOVEMBER 1, 1950.

KATHERINE CLARKE, *Chairman*,
Camden County Board of Elections,
Court House,
Camden, New Jersey.

FORMAL OPINION—1950. No. 71.

DEAR MADAM:

Receipt is acknowledged of your letter of October thirtieth, in which (a) you state that the County Clerk, in preparing the official ballots for the voting machines and the sample ballots "made an error in the placing of the Republican candidates' names for the Board of Chosen Freeholders by transposing the names of the two candidates;" that the "error was discovered and ballots printed for the voting machines and also sample ballots were prepared before mailing to the voters" but that "on the Official Absentee Service Ballot [military service ballot] the error was not discovered and ballots have been mailed to the Service Men [military service voters];" and (b) you request an opinion "as to procedure in canvassing and tabulating" for the official return "these improperly printed and mailed" military service ballots.

We understand your inquiry to be really directed to the question whether these military service ballots, by reason of the transposition of names thereon, will be void either in whole or in part for the purpose of counting and canvassing the votes for the respective candidates for the various offices.

It is our opinion that the military service ballots in question are not invalidated either in whole or in part because of the transposition thereon of the names of candidates; and we advise you that the Board of Elections should count and canvass all the votes represented by these ballots.

Section 2 of the military service voting law (P. L. 1948, c. 1; N. J. S. A. 19:56-2) declares that it is the purpose of the act "to afford every military service voter the opportunity to vote," and enjoins that the act "shall be liberally construed to effectuate such purpose." Section 8 (N. J. S. A. 19:56-8) prescribes: "Each military service ballot to be used at any general election . . . shall conform generally to the ballot to be used at said election in the military service voter's election district" (italics ours); and section 26 (N. J. S. A. 19:56-26) specifies that

No election shall be held to be invalid by *reason of any irregularity or failure in the preparation* or forwarding of any military service ballots pursuant to the provisions of this act. (Italics ours).

These provisions will suffice to show the tenor of the military service voting law. It was obviously the intent of the Legislature that so long as the military service voter qualifies as such and complies with all requirements of law in voting and returning the ballot forwarded to him, the candidates for whom he has cast his vote are entitled to have such votes counted and canvassed in their favor. But, more important still, to hold the ballots void either in whole or in part would be contrary to the clear mandate of the Legislature that the act should be liberally construed to effectuate its declared purpose.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: DOMINIC A. CAVICCHIA,
Deputy Attorney General.