

Committee Section  
Electoral College and Representative Government  
National Board Report

January 1970

LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

ELECTORAL COLLEGE

A study of the Electoral College

The League Position Resulting from the Study of the Electoral College

STATEMENT OF POSITION

As announced by the national board Jan. 15, 1970

The League of Women Voters supports the national direct popular vote method to elect the President and Vice President of the United States.

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The League of Women Voters believes that the direct popular vote method for electing the President and Vice President is essential to representative government and should include provision for a national run-off election in the event no candidates [President and Vice President] receive 40% of the popular vote.

The League of Women Voters believes that the Electoral College should be abolished and that, only as a last resort, should reform of the present Electoral College method be undertaken. Such reform, if undertaken, should include:

- ... allocating the electoral votes proportionally to the popular vote within each state and the District of Columbia
- ... abolishing the office of elector or binding electors in the U.S. Constitution
- ... improving the congressional contingent-election procedure

The League of Women Voters supports, in any event, uniform national voting qualifications and procedures for presidential elections.

EXPLANATION OF POSITION

Support of a constitutional amendment to provide the national direct popular vote method to elect the President and Vice President has top priority in the League's Electoral College position. League members indicated that candidates for President and Vice President should be voted upon as a pair. The League believes that uniform national voting qualifications and procedures should apply to presidential elections. However, it does not believe that such uniformity should be an integral part of a constitutional amendment for the direct popular vote method. These two goals and their implementation should be kept separate so as not to jeopardize the attainment of either reform.



For the vote necessary to elect a President and Vice President, the League of Women Voters specifies at least a 40 percent plurality, regardless of method of election. This figure is not likely to be too high to produce a victor nor low enough to cause frequent contingent elections. If no pair of candidates receives 40 percent of the vote, the League wishes to have the election decided by means of a national run-off contingent election between the top two pairs of candidates. This election should be held as soon as possible after the general election and further campaigning by candidates should be discouraged.

The constitutional amendment which provides for direct popular election of the President and Vice President will abolish the Electoral College (which is mentioned in Article 2, Section 1 of the Constitution, and in the 12th, 14th, 23rd and 24th amendments).

If abolishing the Electoral College appears to be politically impossible and reform within the Electoral College system attainable, then (and only then) would the League of Women Voters support, as a substitute for the direct popular reform plan, a method of allocating the electoral votes proportionally to the popular vote within each state and the District of Columbia. This type of reform would, of course, not necessitate a constitutional amendment. However, for practical considerations, such a change should be adopted by every state.

The League of Women Voters believes that the office of elector has become unnecessary and supports its abolition. If abolition is not attainable, the League believes that the elector should be bound by the US Constitution to vote for the pair of candidates upon whose slate he was elected. Either of these changes would require amending the US Constitution.

The League would continue to support a national run-off contingent-election method within the proportional plan. If a run-off election does not appear to be possible, the League would then push for reform (via a constitutional amendment) of the congressional contingent-election method as it existed in 1969. The League prefers to have a joint session of Congress with each member voting on the top two pairs of contenders. Such election should be held as soon as possible after the new Congress convenes and with some provision for voting by the District of Columbia. If a joint session of Congress is not provided for in any change in the congressional contingent-election method, the League prefers to have the House of Representatives vote on the top two pairs, with each member having one vote.

The League of Women Voters has agreed on the principle of uniformity of voting qualifications and procedures for presidential elections. There has been no expression as to the specifics of national voter qualifications or procedures, or whether they should be delineated in the US Constitution or legislated by Congress under authority of the Constitution. The League of Women Voters has shown concern about present national nominating procedures, about campaign financing and the use of the media in presidential elections.

#### How Did We Tell the World?

Mrs. Benson had a press conference in the national office on January 15 to announce the League position with Mrs. Clusen and Mrs. Resor of the national

board. Senator Birch Bayh of Indiana, chairman of the Subcommittee on Constitutional Amendments of the Senate Judiciary Committee was present. Representatives from the Associated Press, the Christian Science Monitor, the Wall Street Journal, Gannett News Service, the Washington Evening Star, Chicago Sun Times, ABC and CBS Radio, Time-Life Broadcasting, Congressional Quarterly, Medill Press and McClatchy Newspapers attended. (See Public Relations Committee Section for more details.)

Excerpts from the Washington Evening Star story follow:

THE EVENING STAR  
Washington, D. C., Friday, January 16, 1970

## LEAGUE BACKS ELECTORAL REFORM

# An Ally for Bayh Plan

By RUTH DEAN  
Star Staff Writer

Sen. Birch Bayh, D-Ind., gained a powerful ally yesterday in his fight for Senate passage and ratification of his proposed constitutional amendment for electoral reform in time for the 1972 elections.

The League of Women Voters of the United States, his new ally, announced it favors direct popular election of the President and Vice President and abolishment of the present electoral college system.

Sen. Bayh applauded the League's move at a press conference called by League president Mrs. Bruce B. Benson to announce the League's new policy.

"No better time could have been chosen by the League," he said. "It could be the chief factor between passage and failure. It is significant because of the dispersal of support and the almost universality of support."

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Sen. Bayh indicated, however, that the proposed constitutional amendment still faces rough sledding in the Senate Judiciary Committee where it has been tied up since September due to delaying tactics by Rep. Strom Thurmond, R-S.C.



Bayh said he "has no desire to tie up" the committee's consideration of the new Supreme Court justice nomination, expected from the President soon.

At the same time he indicated he intends to see his amendment eventually reported out.

"I will not hesitate to use what parliamentary tactics are necessary to get it out," he said. He added, however, he would favor "persuasion" over the ultimate parliamentary weapon of a discharge petition.

Mrs. Benson announced that she has written to each member of the Senate Judiciary Committee urging the Committee to report favorably to the Senate floor a resolution providing for the direct national popular vote method of electing the President and Vice President.

#### What Did Your Consensus Reports Say?

A record number of reports on the Electoral College study were received -- 1065 from local Leagues (and 47 from provisional Leagues). All but four of the 1065 local Leagues wanted change in the method of electing the President and Vice President. Many Leagues reported that this was a unanimous decision. Two Leagues did not want any change, and two could not reach consensus on the question.

That Leagues of all sizes and in all areas of the country understood the complexity of the Electoral College program item was evidenced in a variety of ways -- in their thoughtfully developed lists of reasons for desiring change and in their reasons for a direct or a state-related reform plan, in their suggestions for further study on related topics, in the inability of 11 percent of the reporting Leagues to reach consensus at all on the question of direct popular vote or a state-related plan, in the frequent mention of various concerns.

A typical comment was voiced by a small League in Pennsylvania:

"Some changes, though they seem to be desirable, also seem to have some far-reaching and yet inassessable ramifications."

Despite their realization of the complexity of the choices to be made, the Leagues unquestionably reached a national consensus: over three-fourths of the Leagues reporting preferred the direct popular election method of electing the President. Those preferring an election process that includes a state-related step totalled only 11 percent of the reporting Leagues. Four-fifths of the Leagues were for a national run-off contingent election.

Almost all of the Leagues that replied to questions about electors did not wish to retain the office of elector, but if the office were retained they wished to bind electors in the US Constitution to vote for the candidate on whose slate they had been elected. A very large majority of the Leagues were for the proportional method of allocating electoral votes.

Regardless of the high percentages of preferences for abolishing the office of elector or binding electors in the US Constitution, the conviction was frequently expressed that "there was very little interest in halfway reform, such as binding electors, because this seemed too much effort to expend for the resulting reform."

To summarize the response about a direct popular plan or a state-related step: Those members who supported the direct popular vote method did so either without any reservations or with some reservations which they believed were more than cancelled out by the disadvantages of a state-related step. Those who supported a reform plan with a state-related step did so more often than not because of their apprehensions about the imponderables of change or doubts about the political feasibility of a direct popular vote plan.

A League in Indiana provided a typical example of the expression of both majority and minority viewpoints:

"Although concerned about the implementation of change, 80 percent wanted direct popular vote because they felt that this method favored more democratic elections. 20 percent of the members wanted to retain a state-related step because they were anxious over the uncertain results that a radical change in the election process might bring. For example, would the party system be destroyed by the springing up of splinter parties; how would candidates be selected, how would campaigns be financed; would there be national election laws to standardize age, residence requirements, other eligibilities, etc; what about the recounting of challenged votes and the delay involved in holding a run-off election ???? (Actually, many of the 80 percent above voiced these same concerns, but voted as they did hoping and thinking that implementation could be accomplished.)"

A New Jersey League stated that:

"We feel confident that direct election will not undermine the two-party system, whose stability depends more upon laws defining political parties and on the national nominating conventions. Realignment of factional political forces may occur, but is not regarded as an obstacle to change. A third party will require broader popular support to affect the outcome of an election by direct vote than it would under the present system."

An Illinois League stated that "formation of nationwide splinter parties (which would weaken the two-party system) would be equally difficult under any system because of financing."

The reasons listed for wanting the direct popular vote ran the gamut from philosophical principles such as one man-one vote, through practical considerations such as the possible increase of voter participation because of a direct plan, to correction of a variety of defects (such as the winner-take-all electoral vote allocation) in the present system of electing a President.



As far as the vote necessary to elect is concerned, more than three-fourths of the reporting Leagues desired a 40 percent plurality. That 40 percent is not likely to be too high a figure to produce a victor is indicated by the fact that no President has been elected with less than 40 percent of the popular vote except Abraham Lincoln (who in 1860 received 39.8 percent in a four-way race when his name was not on the ballot in ten states).

In response to the question "If provisions for electing the U.S. President and Vice President are to be altered, what changes in the method of election does your League consider most necessary?" Leagues mentioned most frequently uniform voter qualifications and procedures for presidential elections. When the changes mentioned were computed in order of urgency indicated by the Leagues, the direct popular vote method, abolishing the office of elector, and then uniform national voting qualifications and procedures were listed.

What is stirring in Electoral College reform?

During the summer and fall of 1969 the Senate full Judiciary Committee stalled consideration of the proposed constitutional amendment reported by the Subcommittee on Constitutional Amendments on May 26. This is Senator Bayh's SJ RES 1, amended to be, in effect, Senator Mundt's SJ RES 12 for-the-district plan.

Opposition to a direct popular vote plan is being voiced in a number of quarters. For instance, the New York Times Magazine of November 23, 1969, had a lead story titled "A Bad Idea Whose Time Has Come" by Irving Kristol, Henry Luce Professor of Urban Values at New York University, and Paul Weaver, assistant professor of government at Harvard. Neither of these men testified at any of the 1966-67 or 1969 Senate or House hearings.

Also, the Farm Bureau has purportedly selected 13 states in which to focus on preventing ratification of any direct popular plan amendment. For another viewpoint about prospects for reform, look up in your local library the Kiplinger Washington letter for December 19. It is rumored that a group of young liberal lawyers with plenty of funds will also attack the direct popular vote plan on the basis that minority groups in urban centers may lose their political clout. (It is argued by other liberals that this particular kind of clout does not in reality exist as far as swinging presidential elections is concerned.) A young lawyer named Myron P. Curzan, from Arnold and Porter (Abe Fortas' former law firm in Washington), is promoting a hybrid plan for Electoral College reform called the "Federal System Plan." Mr. Curzan was formerly on the staff of Senator Robert Kennedy.

In the Christian Science Monitor of January 9, an Associated Press story stated that Senator Bayh blamed the stalemate on

"what he termed 'the obstructionist tactics of opponents of direct election.' This was after Senator Strom Thurmond (R-S.C.) objected to the Judiciary Committee's sitting while the Senate was debating the big tax-reform bill. However, the committee did agree to take up the amendment for discussion but not necessarily to vote on it, at a meeting this month.... Even if the direct election amendment should finally win committee approval, it could have an even harder time in the Senate itself.... A filibuster against it is a possibility."

Whether a proposed constitutional amendment incorporating a direct popular vote method will be recommended favorably for Senate floor debate depends on decisions made by 17 Senators from 15 states -- members of the Senate Judiciary Committee.

WHAT CAN THE LEAGUE DO TO GET  
A DIRECT POPULAR ELECTION CONSTITUTIONAL AMENDMENT?

We can ACT NOW -- fast and furiously and thoroughly. Your League hopefully has already begun to do everything outlined in the TIME FOR ACTION from Mrs. Benson. We hope you are also engaged in all the innovative action possibilities your League board and the Electoral College Committee can dream up for members and for various segments of your community. Ask your League president for copies of the TIME FOR ACTION. Order additional copies from the national office TODAY. Hold an Electoral College Committee meeting to discuss ACTION. Time is absolutely of the essence in the situation in which Electoral College reform finds itself right now. Do keep in mind that the League campaign must be waged at all three levels -- national (first the Senate Judiciary Committee and then the whole Senate), state (with your legislators) and local (to convince important individuals and groups in your community whose opinion is important to your Senators). And it cannot be won by just a letter from the President in the name of the League. Each League member and every possible contact she has must also get into the drive. Only if this action campaign quickly becomes an ever-widening circle can we hope to change the minds of sufficient Senators to achieve success. And the time is NOW.

The press has labeled us "a powerful ally" for direct popular election and "one of the strongest women's lobby groups." Let's prove just how powerful and how strong the League can be by carrying through an intense, well planned and thorough campaign --

- 1) to get favorable Senate Judiciary Committee and full Senate votes
- 2) to get the proposed amendment ratified by the states

-- and all this in time for the 1972 presidential election. A tall order but not an impossible one!

Postscript:

Although the League is now in the ACTION phase of its Electoral College work, we would like to call your attention to a book being published in March by Johns Hopkins Press in Baltimore. The Supreme Court and the Electoral Process, by Richard Claude, is a scholarly but fascinating book with chapters on the Voting Rights Act of 1965, Judicial Review of State Legislative Apportionment, Voting and Representation, Voting for the President and Nationalization of the Electoral Process. This is a reference work, a comprehensive study which covers all of the constitutional law affecting voting rights in this country. The author teaches graduate level government and political science at the University of Maryland. The price will be \$10. Perhaps you might like to urge your library to purchase it.



REPRESENTATIVE GOVERNMENT

## APPORTIONMENT

Support of apportionment of both houses of state legislatures substantially on population.

Recent Happenings in Wisconsin. The petition to Congress to call a constitutional convention which would propose a Dirksen-type amendment to the US Constitution, allowing apportionment of one house of a bicameral legislature on factors other than population, was decisively defeated in the Wisconsin Assembly on November 5, 1969. The vote was decisive -- 62 against, 36 for. The Wisconsin League of Women Voters had spearheaded an all-out effort in opposition, involving not only League members but various groups in a state-wide organization: the Wisconsin Committee for One Man, One Vote. With Mrs. John Toussaint, president of the Wisconsin League, acting as chairman, this organization included such groups as the AFL-CIO, the Wisconsin Farm Union, the American Association of University Women, United Auto Workers and church groups.

In the 1969 session, however, the Assembly in Wisconsin passed another resolution for a convention to propose popular election of U.S. Supreme Court Justices. Speaker of the Wisconsin State Assembly Harold Froehlich was quoted as saying that, if the Wisconsin legislature should pass this resolution, Wisconsin might be added to the 33 states having passed the apportionment resolution, thus making 34, the number required to call a convention.

When the 1969 Wisconsin legislative session again met for two weeks in January 1970 the Senate did not consider the resolution concerning popular election of U.S. Supreme Court Justices. The legislative session will not reconvene until January 1971 unless called into special session. The League, of course, has no position on popular election of U.S. Supreme Court Justices.

Other News. The Dirksen-type petition for a constitutional convention has appeared in the 1970 session of the New Jersey legislature. It was introduced in the New Jersey General Assembly and referred to a committee.

General Alert. On January 9, 1970, a memo was sent to all state Leagues to be on the alert for introduction of the petition on apportionment. Passage by only one more legislature would bring the number of petitioning states to 34, the required number. Leagues in 33 states should also be watching for opportunities to support rescission of petitions already passed, if their legislatures are meeting in 1970. While the Oklahoma petition may have been declared no longer valid by the state attorney general and rescissions may have been passed in one house in several states, there has not yet been a rescission passed by both houses of any bicameral legislature. (See the September 1969 National Board Report, Apportionment Section, for complete run-down of current status of legislative petitions on apportionment.)

Some commentators say that the apportionment issue is dead. There is still activity around the country to add petitions. The status of those already passed is not clear. The Constitution does not clarify who is to determine the life of a petition, how long a petition is valid or whether or not rescission by one house invalidates a petition. There is also no implementing legislation passed by Congress to establish any rules. A total of 34 states petitioning for a convention on apportionment would put the matter of these determinations on the floor of Congress. Those state Leagues which have put considerable time and effort into opposing state resolutions, whether they have won or lost their fights, are aware of the thin margin of safety.

## DISTRICT OF COLUMBIA

Support of self-government and representation in  
Congress for citizens of the District of Columbia.

D.C. Petition Drive -- April 15-22

The D.C. Petition Drive is well underway:

- . A press conference to launch the drive officially is to be held in Washington, D.C., by Mrs. Benson on February 3.
- . Many national organizations have already responded to Mrs. Benson's recent letter with their suggestions for ways to cooperate.
- . The national D.C. Petition Committee is making final arrangements for the presentation to Congress of the petitions during our national convention in May.

An array of materials is available:

- . The February/March NATIONAL VOTER contains a copy of the petition form, with information on the back of the sheet about the plight of the citizens of the District of Columbia, their need for help and details about the Petition Drive.
- . A colorful bumper sticker, with the slogan D.C. LAST COLONY, is appearing on more and more bumpers around Washington. Hopefully, cars from Maine to California and in between will soon be sporting the attractive (and easy to remove) red-and-white bumper sticker.
- . A give-away size pamphlet, Washington, D.C., The Last Colony, is now available for your orders. A number of free copies is being sent to every League right away. Minimum order is 100 copies at \$2.
- . The Facts and Issues - The Nation's Capital: 'A Nice Place to Visit But' costs 25 cents, 15 cents a copy for orders of 50 or more.



COMMITTEE SECTION

REPRESENTATIVE GOVERNMENT

The special Petition Drive materials -- letter labels and the bumper stickers -- being sold by the League of Women Voters of the District of Columbia are to be ordered directly from

Mrs. W. J. Gallman  
[REDACTED]

These and other materials (plus order blanks) will be in the D.C. Petition Drive Kit to be mailed at the end of January to each local and state League president and on the Duplicate Presidents Mailing.

