



League of Women Voters of Minnesota Records

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Memo to Liz Ebbot, VP for Action/Program; Helene Borg, Action Chrm.
Ann Andersen, Editorial/Publications Chairman, and members of the
State Election Laws Committee — Amundson, Atchison,
Phillips, Waldo

From Mary Ann McCoy

Re: Report on Rotation of Names on Ballot research project
(authorized by August, 1973, Board Meeting)

8-31-73

Here is a draft copy (very drafty, I suspect) of a report from the
state Election Laws Committee (which does not have a chairman) to the
State Board. Since time is of the essential essence (when is it not?)
I am sending all of your copies of this draft. A copy is also in the
office with Harriett. Please wade through this--both Liz and I have
copies of the basic research piece, the So. Calif Law Review article.
Call us if you wish more details on statistics. I also have some
other supporting info which time and space did not allow quoting, but
further supports existence of the position-bias vote.

Please get your comments, editing-wise to Ann Andersen before Wed.,
or Thursday at the latest, Aug-Sept. 5 or 6, so the whole thing
can be duplicated and mailed to rest of Boarders (and back to this
mailing crew, too) prior to the Sept. 11 Board meeting.

Yes, you recognized it! This is that "concurrence" bit from Mrs.
Murphy's bag of new ways to handle Program; Liz and I feel that
this may be one of the issues on which it might be workable; what
do you think?

Someone raised the question: when (and if) this proposal goes to Local
Leagues for concurrence, who concurs--their Board, their membership?
How? Polling? Unit? Special Meeting? (heaven, forbid! another meeting!)

And the answer? It is up to the local League to find its best way;
a cover letter/ memo would go with the position and action recommenda-
tions, along with the background piece that evolves from this draft
copy and the copy of the NML reprint--but in a more readable form
than this print-of-a-print (we'd put it on stencil as a basic tool).

Any other ideas on the whole thing?

Latest word from the Secretary of State's Court Case: still not
final word, hope to have hearing prior to Nov. , 1973 , municipal and
special legis. ~~recess~~ elections.

J RLC Task force on Election Reform endorsed rotation for all offices
and will support measures to repeal present party position statutes.

Isn't August a sticky time to read and research and write?? (to say
nothing of type--forgive me 'n' my Underwood!)

HAPPY LABOR DAY (we do have a position on that?)

and THANKS THANKS THANKS, ONE AND ALL.

☺
Mary Ann

8-31-73

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Draft Copy: Report to Bard from State Election Laws Committee (by Mary Ann McCoy) . . . For action at September 11, 1973, Board meeting.

MOTION: That the LWV of Minnesota supports rotation of names of candidates for the same office on ballots and seeks repeal of present state election statutes forbidding rotation of names on partisan ballots.

Part II: Minnesota

What do present laws provide re: order of names of candidates for same office on primary and general election ballots?

Primary election: (MS 203.35, Sub. 5) Rotation of names in this election is specified for partisan and nonpartisan offices. These must be rotated so that the names of each candidate for the office shall be rotated with names of other candidates for the same office with the provision that the name of each candidate appears substantially an equal number of times at the top, at the bottom and at each intermediate place in the group of candidates for that office. Furthermore (Sub. 6) printers instructions are to be approved by the legal advisor to the ~~legal~~ public official charged with ordering the ballots and the printers must be bonded to print them as instructed and to conform with the law.

General election: Nonpartisan offices are handled as above. For partisan office only, the first name printed for each office shall be the candidate from the political party which at the last preceding general election polled the largest number of votes. How is this figure determined? By averaging votes cast for that party's candidates for partisan offices except representative in Congress. 2nd, 3rd, and other lines go to parties next in number of votes. Computing average vote by determining total votes cast in state for all of the party's candidates on the general election ballot (except representative in Congress), divide this sum by the number of the party's candidates appearing on that ballot (again excepting representative in Congress) to get "average vote".

Note: the above apply to paper ballots; state law on voting machines (MS 206.7) achieves the above alternation on these ballots as well, but allows in legislative districts where voting machines are used exclusively that any legislative candidate may petition the public official in charge of preparing ballots within 5 days after the primary election to change rotation of names for the general election. Petition must state: number of votes he and his opponent cast in last general election for office for which he is candidate; number of times he and his opponent will be first according to rotation method on state law; included in petition must be a specific remedy to the inequity that does not disturb rotation except in one precinct or comparable subdivision. If this remedy does not give petitioner first place more than the opponent, the proposal must be executed. If more than one petition comes in, the public official may select the proposal which most nearly equally distributes ^{first place} among candidates.

The new groups of partisan offices so named by the 1973 Legislature (in addition the legislators themselves) are mayors and city councils in cities of the first class. Their names must be rotated (SF 736, now Chap. 381, MS) on partisan ballot in the manner provided for state nonpartisan ballot (cited above), except so that names of all of the candidates of a party are to be in one column.

A new group of nonpartisan offices brought under rotation of names procedures by action of the 1973 Legislature is school district boards. The LWV of Minnesota supported this legislation ~~///~~ as part of its

(2)

concern to bring conformity of procedures in school elections with other elections in Minnesota.

What state constitutional provisions guarantee equal protection and forbid class legislation?

"No member of this state shall be disenfranchised or deprived of any of the rights or privileges secured to any ~~the~~ citizen thereof, unless by law of the land, (or the judgment of his peers; and

"The legislature shall pass no local or special law . . . granting to any private corporation, association or individual any special or exclusive privilege, immunity or franchise whatever . . ."
(Article IV, Sec. 33)

(It would appear that present statute for placement of names on ballot for partisan office represents a basic conflict between these two statements in the state constitution.)

What has been the Minnesota Supreme Court's attitude toward equal protection under election law?

In Bley v. Donovan (an election case involving name confusion) the court stated: "Our election laws are bottomed on the theory that no candidate for an office be given an unfair advantage over another. . ."

Summary of present statutes: Contradictions and confusions now appear in dealing with rotation of names: rotation is specified for some partisan offices in some elections and not in others; rotation is specified for all offices in the primary; rotation is specified for only nonpartisan offices in the general election (with the exception of partisan offices for mayor and council in cities of the first class which must be rotated).

Conclusion: Does being first on a list of candidates constitute an advantage to the candidate so listed? From the abundance of statutory provisions determining when and in what circumstances this position may be held and by what kind of candidate, it would appear to be an advantage.

Part 3:
Let us look at what basis there may be for such a conclusion:

1. Report of the Minnesota Legislature: Legislative Interim Commission on Election Laws (1959), p. 66, noted in its recodification of the election laws proposals that specific ~~proposed details on~~ ^{formula} for rotation of names on ballots being prepared for primary elections be omitted and that the theory only be stated. ". . . the officer charged with preparing the ballot could best determine the rotation system to be used in each case," the commission stated. On p. 60-61, same report, recommendation is made to include the following in the new codification of statutes "The name of a candidate may not appear on a ballot in any way which gives that candidate an advantage over his opponent except as otherwise provided by law." The commission's comment is of interest in our current research: "The intent of this section is to charge the officer preparing the ballot with the task of designing a ballot of the best possible kind that offers the utmost in fairness to every candidate and question on the ballot. Election officials have experienced con-

INSERT B — *insert on p. 3, after Item 3 & before Item 4*

According the Senator Mel Hansen (in his letter of August 2, 1973),
". .in 1972 59 legislative contests were won by less than five
percent of the total vote, the critical importance of name
rotation on the ballot becomes obvious."

considerable difficulty in preparing an intelligent ballot within the framework of law existing prior to the revision. Because one party's candidates are preferred over the other's on the ballot, and because the rotation of names and in some cases the identification of candidates necessarily works a disadvantage to someone, the "except as otherwise provided by law" is put in the revised section." (MS 303.30 was adopted as recommended by the commission and appears to witness to the special advantages granted some candidates).

2. In Kautenburger v. Jackson on appeal, the Supreme Court of Arizona affirmed that by providing for rotation of candidates names on paper ballots the legislature had recognized that name placement on the ballot had a significant effect in an election contest; the failure of a candidate's name to appear in first place on a machine ballot (as it would on a paper ballot, same election) places a candidate at a disadvantage with respect to other candidates; such a disadvantage amounts to discrimination and creates privileges for other candidates which the plaintiff was denied; such discrimination and privilege violates the Arizona constitution. (1958, 85 Arizona)

3. California Ballot Position Statutes: An Unconstitutional Advantage to Incumbents (45 Southern California Law Review 365) provides statistical analysis demonstrating "that the candidate whose name appears first in the list of candidates is the beneficiary of a substantial positional bias." Included in this study are statistics and cross-references to other studies both in other states and abroad substantiating the position-bias that obtains. These studies further indicate that the lower the visibility of the office, the greater is the position on the ballot advantage. Statistics lead to an estimate that in a low-visibility ~~state~~ legislative race, the position-advantage can exceed 5 % of a candidate's total vote.

Enclosed
B
4. Voters Plump for First on List (National Municipal Review, Feb., 1959, p. 110-1) is enclosed in its entirety for your information. This analysis of the position-bias research is cross-referenced in several papers dealing with the issue.

5. In Minnesota, in the 1962 and 1972 legislative elections, similar patterns were observed by Senator Mel Hansen (1962) and Senator Geo. Pillsbury (1972). In 1962, 2 Republican-endorsed candidates running against incumbents (1 for Senate, 1 for House). Whenever one was in 1st position, he polled larger total than the other did when in 2nd position. Similar observations were made by legislators Pillsbury and Heinritz in 1972--both were incumbents, and both out-polled the other in total votes when in the first position in a precinct in the district.

6. Midwest Journal of Political Science, 10:448-63, N v. '66, reference is made to the Bain-Hecock study in 1956 which "showed conclusively that no matter what ballot form was used, candidates whose names were listed at the top of the ballot gained substantial advantage merely from having that position." This report in Midwest Journal cited that voters do not always complete ballot--voter fatigue or roll-offs occur with less visible races. Voters tend to choose to vote in those races most widely advertised and ignore local and state legislative or other state-wide offices such as attorney general and state treasurer. "Of course we cannot be sure that roll-off results from a sense of frustration or that it tends to increase feelings of political alienation; nor can we be sure that

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by merely changing the form of the ballot we could greatly improve the general understanding and political orientation of the average citizen. But it does seem clear that a system which makes full participation in political decision-making difficult and which eliminates helpful cues to rational choice is not likely to contribute to the development of a mature, responsible, democratic citizenry." (p. 463) "Best informed and most intelligent are least affected by changes in election machinery. Least intelligent and knowledgeable are ones who are presumably least able to make a judicious, rational decision on capabilities of the candidate." (p. 450)

7. Public Opinion Quarterly, 33:619-21, Winter 69-70, notes that about 4% of the voters change any votes when they actually face the ballot (in contrast to what they planned to vote prior to entering booth). However, the number of political decisions not made prior to entering the polling place become marginally significant in comparison with the total number of choices made in the voting. Hence, the 4 % cited above represents about 14% of all the candidates and ballot issues choices facing voters in a given election.

Part III:

So far we have cited evidence supporting the existence of position-bias when voters face the ballot; that this bias increases with the diminution of visibility of the particular office. Let us examine statements in support of the present statutes which do provide non-rotation of names in partisan offices and grant "first place" status to the party polling largest number of votes in previous general election:

1. This kind of "political reward" system was enacted in Minnesota in the 1940's by a then-conservative majority in both houses; it is now opposed by the presently Republican minority in both houses. It would appear to support the concept of "strengthening the political parties" in Minnesota by granting this favored position on the ballot to the party polling most votes in previous elections. Such a "reward" is incorporated within the political parties themselves as they apportion delegate representation to county, district, and state party conventions on basis of the party vote turned out in that given county, district in the previous election--regardless of whether their candidates won or lost in the total election. The greater the party vote turned out, the greater the representation in delegates at the next year's conventions.
2. Mechanical problems in attempting to equalize the number of times a candidate is rotated are cited by the National Municipal League in its Model Election System (1973), p. 76: "Another sensitive question relating to the form of the ballot concerns the rotation of names. This technique is intended to give every candidate an equal chance to benefit from the preferred first position on the ballot. Rotation of names protects the candidates, under ordinary circumstances, from any built-in disadvantage based purely on ballot position. However, the effort to be fair sometimes puts the candidates interest above that of the voters. For example, where rotated ballots are employed, the use of sample ballots may serve to confuse rather than to inform the voter who would ordinarily expect to see in the voting booth what he has seen shown on the sample ballot (note by LWV: In Minnesota, sample ballots must not be same

INSERT A

— Insert on P. 5, before "Part IV"

In comment upon the observations quoted by the National Municipal League on the problems inherent in how name rotation can be made to function in metro areas, our interviews have led us to dispute this conclusion. Capability for increased efficiency in mechanical methods of printing and distributing the rotation equitably is indicated as presently available. The reference to the time and personnel required to administer rotation seems to imply that the end result of a more equitable, non-diluted vote does not justify the preparation required; we do not agree. We feel that methods to protect each vote should be sought and developed as a necessary component of participatory democracy. We are willing to financially support such capability in managing ~~our~~ fair elections in Minnesota.

as actual ballot--even a different color.) ~~*Similarly, the guides~~ 5
~~that election officials or public service groups may wish to provide~~
~~would not help.~~ The report goes on: "Perhaps of greater significance
is the administrative disruption often caused by rotation of names,
particularly if, as in the recent New York primary, the deadline for
resolving challenges to nominating petitions is very close to the
election date. A recent study of administrative difficulties in 7 cities
by the Office of Federal Elections came to the following conclusion
regarding ballot rotation:

In each metropolitan area visited, the ballot rotation, where
required by law posed major difficulties. Printing of the ballot,
preparation of the voting machine and tallying the result,
regardless of the method of voting used, are made much more
complicated and expensive by name rotation requirements. Preparation
of the ballot for the printers becomes a timely
and tedious process. Personnel must lay out the ballot for each
precinct including sometimes several unique ballots per precinct.
Large numbers of printing proofs must be checked and
rechecked and many short and separate printing runs are
required. The margin for error is obviously increased manifold.
Errors result in candidates not appearing on the ballot at all in
some precincts as well as incorrect tabulations of results." (from a 9-15-72 report)

Insert #
Part IV:
We have now identified Minnesota's ballot position procedures, the problems
classically involved in application of the present laws to elections of
varying visibility, and information in support of the present procedures under
current law.

What should be the League of Women Voters of Minnesota concern in this
matter?

1. In our Human Resources/Equality of Opportunity positions we
support the 14th amendment "equal treatment under the law" and
we support under this Item #4 of our 1973-5 state program,
position #1 "Support of the principle that the state is
responsible for all its citizens on an equal basis and should
work to ensure equal treatment for all citizens by all levels of
government." (present laws in elections, by admission of the
commission recommending present codification, do discriminate among
candidates, and hence we could oppose such unfair laws, under this
position?)
2. In our Election Laws positions, state Item #6, current Program,
in addition to our broad statement "support of improvements in
election laws regulating . . . election procedures, voting, and
school district elections," positions 5 (support of centralized
responsibility in the state gov't for achieving uniform election
procedures and for training election officials") and 7 (support of
extension of election laws to cover school district elections)
(Present laws are confusing and contradictory since they deal with
like kinds of groups of candidates differently at different times
and sometimes at the same time--see notes under present laws, above)
3. In our Election Laws position we continue to support party
designation for state legislators. This concept is now under fire

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because of the current focus it brings to the rotation of names and party position preference currently for some partisan offices. We supported PD as an aid to informing voters, helping assure the voter's participation via party caucuses and platform making in state legislative candidate selection-election. However, we cannot support unfair laws in the name of "helping make the political system work" by strengthening parties, etc., because of the several conflicting "rights" that present dealing with partisan office positions of ballot ~~pre-~~ threatens such as:

- a. equal protection (14th amend.)
- b. freedom of expression (1st amend)
- c. Minnesota's privilege and special classes ~~clauses~~ ^{in its} constitution (discriminatory placement of candidates from highest polling party in previous election lacks a rational explanation; is this a valid gauge to determine who should be the beneficiaries of statutory discrimination? For this is what specifying who shall always have first place on ballot amounts to, in contrast to a rotating, random provision--which operates in other elections contests voted by same voter, same election! Confusing?!

4. Analogy to our reapportionment position --both national and state-- in support of "one person, one vote" --as is stated in current Study & Action publication, p. 28 - "Americans are agreed that every vote cast should be counted--and counted only once. Otherwise selection by the majority has no meaning". On p. 30, the action by LWV in Texas to cover under this position all other voting districts is significant. National states "constant watching and prodding are required" (p. 30).

(Non-rotation ballot statutes like ours on the partisan ballot diminish the voting power of certain citizens in a manner analogous to that condemned in the Supreme Court's apportionment decisions.-- indicating a 1.88% ideal deviation among the several districts from the ideal population figures. We have noted that mere ballot position can account for up to 5% deviation in the total vote for a candidate (see above) and this is outside that interpretation of allowable dilution of the one-person, one-vote ideal. Vote depletion attributable to ballot position is difficult to perceive, because the supporters of both parties --whether incumbents or challengers--are entitled to the same single vote. If, however, the vote of each group is viewed in the aggregate, and the "position-bias-influenced voters" (also called the "donkey vote") are isolated from the electorate committed to individual candidates and parties, then the depletion becomes apparent. Citizens voting for an unfavorably positioned candidate will lose to a group of equal strength whose candidate appears first on the ballot, just as the citizen-voters in an under-represented area lost influence in the legislature to a district with the same total population but favored by malapportionment.)

5. Our school elections position (cited above with our total election laws position) deserves a special notation since in the Mnnn VOTER (Nov-Dec, 1971, p. 3, an observation by a local board clerk is quoted: "The current law is not specific on name-rotating on the ballots. Not only should each pad of ballots be rotated (in the case of paper ballots) but each name should be rotated within the pad so that the same name on the top is not given out for fifty ballots (usually the number in a pad). The school . . . (or a dishonest clerk) could advantageously put the favored candidates on the top of all ballots. . . There is no law on this. I

INSERT C

— Insert on P. 7, before "Proposed League Action"

Here is a brief summary of challenges to support contention that the party position on partisan ballot statute can be disputed and and should be repealed:

- preferential treatment accorded to one party is contrary to our state's constitution's equal protection and no-class legislation provisions
- the bonus vote bestowed upon one party dilutes the impacts of ballots cast by those electors who favor the other party and thereby offends the "one person, one vote" requirement of Supreme Court's apportionment decisions.
- voters supporting a candidate in a disadvantaged position on the ballot also suffer an infringement on their right to associate.
- office seekers of the other party are denied the equal ~~pretext~~ access to public office which the 14th amendment guarantees.

The public's trust in elected officials may be at a very low ebb currently--and it may be further shaken if it is shown that present laws lack any rational explanation save the desire etched into statute of a political party to enhance its chances of continuing reelection in public office.

suspect a lot of clerks in a lot of districts are unaware of the fact that names can be rotated if they do not have background on the city election laws." This bit of information and other personal observations by Leguere as they studied school elections, led to the presence in the list of improvements in the 1971-73 Program for Action under this item, "rules governing rotation of names on the ballot" ~~and the handling~~ (p. 16) As stated above, LWV supported establishment of rotation of names for school ~~elections~~ elections along lines of other nonpartisan elections in state--as a desirable part of the Minnesota statutes that LWV felt should be afforded voters in school districts as well as in all other elections.

6. Nationally we have the Voting Rights bylaw authorizing ction to protect the right of every citizen to vote. Now, rotation of names (or lack thereof) may or may not be a threat to a citizen's right to vote; we cite "for your informatio n" that the LWV of Connecticut acting under this VR Bylaw brought to public attention the poor wording and presentation of ballot issues (p. 31, Study and Action). May not our campaign to bring to the public the discrimination built into our present non-rotation of partisan offices somehow be a protection of their vote--of the dissolution of their vote by the "donkey vote--position-bias vote"??

Insert C
Proposed League Action:

The following is a preliminary ~~statement of the League's concern about~~ ^{statement of the League's concern about} position of candidates names on the ballot:

"Position of candidate in order of those for same office is an important factor in total vote cast. This ~~is the~~ conclusion is drawn from examining evidence in national, international, state and local elections results accounting for up to 5% of the total votes cast.

"The LWV of MN recommends that names for candidates for all offices--partisan and nonpartisan--be rotated in the manner prescribed by present laws affecting only certain partisan and all nonpartisan offices.

"The primary problem has to do with how the citizen's vote is protected and not diluted by mechanical arrangements of the ballot and their affect on what amounts to a significant percentage of the total vote. We are further concerned with fairness and uniform procedures. We find the present law inadequate on all three bases.

"Of additional concern is how best to attain this goal. If the present statutes are proved to be unconstitutional, we recommend repealing said statutes, since our research shows the inherent inequity they represent.

"The LWV will seek public and private support for this proposal to rotate all names ~~on the ballot~~ ^{for candidates for all offices}. By appealing to the fundamental position of Minnesota Laws--to give no unfair advantage and to not set up classes of citizens, we hope to implement the concern by support of measures to repeal the present law."

We need your reaction: *is* Is the plan of the Election Laws Committee of the

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state LWV to seek reactions from the members of the Board of Directors to the above position statement and action plan. Please call Liz or Mary Ann for additional information. Your reaction is important. Please come to the Sept. 11, 1973, Board meeting prepared to accept, modify, and/or reject this statement and the action implied. If action at this Board meeting is affirmative, the statement will be submitted to local Leagues for concurrence preferably before the October, 1973, Board meeting.

We direct your attention to the following bibliography and to the enclosed report from the National Municipal Review in support of the committee's recommendation:

BIBLIOGRAPHY:

State League Publications:

Minnesota VoTER, Nov-Dec '71, School elections
LWV Program as adopted 1973-75
August 20, 1973, LWV Minnesota testimony to legislative committee on apportionment
Program for Action, 1971-73

National League Publications:

Study and Action, 1972-74

Other Publications:

Chapter 387- 1973 Session Laws - Party Designation for mayor-council cities of first class
MS 205.17 - sec 1 - rotation of names
Report of the Minnesota Legislature: Legislative Interim Commission on Election Laws, 1959.
MS 203.30 - Sub. 1 - fairness doctrine for ballots
MS 203.35 - Sub. 5 - rotation of names in primary elections
MS 206.07, sub. 2 - ^(also 14) alternation of names on voting machines
MS 203.33, sub. 3 - Ballot, party position--how determined
Southern California Law Review (45: 365) //
Public Opinion Quarterly (Vol 33:619-21), Winter '69-'70
Midwest Journal of Public Political Science (Vol 10:448-63), Nov. '66.
National Municipal Review (p. 110-1, Feb, 1950)
Editorial, Mpls Star, 7-27-73, "Ballot Position".
National Municipal League, Model Election System (July, 1973)

Researcher's Digest

Edited by John F. Behr

Voters Plump for First on List

Study Shows Ballot Place May Determine Elections

in 144 voting machine precincts Mr. Tyrrell's name was first in 12.

The analysis of the votes shows that, even with only two names from which to select, first place is important. Mr. Tyrrell reports: "In the 144

the second line, and eight (2.96 percent) were tied."¹

More data on this aspect of voting behavior should be collected. There may be too many variables to form definite conclusions concerning the proportion of voters who are addicted to this form of blind voting. Conceivably, the proportion will be found to

vania Economy League, Western Division, *Newsletter*, November 1949. 5 pp.

Milwaukee's Local Governments Need Analysis Throughout the Year. Milwaukee, Citizens' Governmental Research Bureau, *Bulletin*, December 3, 1949. 2 pp.

"Performance Budgets" Point the



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DRAFT COPY: Edited 8-31-73

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For action at September 11, 1973 Board meeting.
From Ann Andersen

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Conclusion: Does being first on a list of candidates constitute an advantage to the candidate so listed? From the abundance of statutory provisions determining when and in what circumstances this position may be held and by what kind of candidate, it would appear to be an advantage.

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1. Report of the Minnesota Legislature: Legislative Interim Commission on Election Laws (1959), p. 66, noted in its recodification of the election laws proposals that specific formula for rotation of

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2. In Kautenburger v. Jackson on appeal, the Supreme Court of Arizona affirmed that, by providing for rotation of candidates' names on paper ballots, the legislature had recognized that name placement on the ballot had a significant effect in an election contest; the failure of a candidate's name to appear in first place on a machine ballot (as it would on a paper ballot, same election) places a candidate at a disadvantage with respect to other candidates; such a disadvantage amounts to discrimination and creates privileges for other candidates which the plaintiff was denied; such discrimination and privilege violates the Arizona constitution. (1958, 85 Arizona)
3. California Ballot Position Statutes: An Unconstitutional Advantage to Incumbents (45 Southern California Law Review 365) provides statistical analysis demonstrating "that the candidate whose name appears first in the list of candidates is the beneficiary of a substantial positional bias." Included in this study are statistics and cross-references to other studies both in other states and abroad substantiating the position-bias that obtains. These studies further indicate that the lower the visibility of the office, the greater is the position on the ballot advantage. Statistics lead to an estimate that in a low-visibility legislative race, the position-advantage can exceed 5% of a candidate's total vote. According to Senator Mel Hansen (in his letter of August 2, 1973), ". . . in 1972, 59 legislative contests were won by less than five percent of the total vote; the critical importance of name rotation on the ballot becomes obvious."
4. Voters Plump for First on List (National Municipal Review, Feb., 1950, p. 110-1) is enclosed in its entirety for your information. This analysis of position-bias research is referred to in several papers dealing with the issue.
5. In Minnesota, in the 1962 and 1972 legislative elections, similar

patterns were observed by Senator Mel Hansen (1962) and Senator Geo. Pillsbury (1972). In 1962, two Republican-endorsed candidates ran against incumbents (one for Senate, one for House). Whenever one was in 1st position, he polled a larger total than the other did when in 2nd position. Similar observations were made by legislators Pillsbury and Heinitz in 1972--both were incumbents, and both out-polled the opponent in total votes when in the first position in a precinct in the district.

6. Midwest Journal of Political Science, 10:448-63, Nov. '66, reference is made to the Bain-Hecock study in 1956 which "showed conclusively that no matter what ballot form was used, candidates whose names were listed at the top of the ballot gained substantial advantage merely from having that position." This report in Midwest Journal cited that voters do not always complete ballots--voter fatigue or roll-offs occur with less visible races. Voters tend to choose to vote in those races most widely advertised and ignore local and state legislative or other state-wide offices such as attorney general and state treasurer. "Of course, we cannot be sure that roll-off results from a sense of frustration, or that it tends to increase feelings of political alienation; nor can we be sure that by merely changing the form of the ballot we could greatly improve the general understanding and political orientation of the average citizen. But it does seem clear that a system which makes full participation in political decision-making difficult and which eliminates helpful cues to rational choice is not likely to contribute to the development of a mature, responsible, democratic citizenry. (p. 463) "Best informed and most intelligent are least affected by changes in election machinery. Least intelligent and knowledgeable are ones who are presumably least able to make a judicious, rational decision on capabilities of the candidate." (p. 45)
7. Public Opinion Quarterly, 33:619-21, Winter 69-70, notes that about 4% of the voters change any votes when they actually face the ballot (in contrast to what they planned to vote prior to entering booth). However, the number of political decisions not made prior to entering the polling place become marginally significant in comparison with the total number of choices made in the voting. Hence, the 4% cited above represents about 14% of all the candidates and ballot issues choices facing voters in a given election.

Part III: So far we have cited evidence supporting the existence of position-bias when voters face the ballot; that this bias increases with the diminution of visibility of the particular office. Let us examine statements in support of the present statutes which provide non-rotation of names in partisan offices and grant "first place" status to the party polling largest number of votes in previous general election.

1. This kind of "political reward" system was enacted in Minnesota in the 1940's by a then-conservative majority in both houses; it is now opposed by the present Republican minority in both houses. It would appear to support the concept of "strengthening the political parties" in Minnesota by granting this favored position on the ballot to the party polling most votes in previous elections.

Such a "reward" is incorporated within the political parties themselves as they apportion delegate representation to county, district and state party conventions on basis of the party vote turned out in that given county, district in the previous election--regardless of whether their candidates won or lost in the total election. The greater the party vote turned out, the greater the representation in delegates at the next year's conventions.

2. Mechanical problems in attempting to equalize the number of times a candidate is rotated are cited by the National Municipal League in its Model Election System (1973), p. 76: "Another sensitive question relating to the form of the ballot concerns the rotation of names. This technique is intended to give every candidate an equal chance to benefit from the preferred first position on the ballot. Rotation of names protects the candidates, under ordinary circumstances, from any built-in disadvantage based purely on ballot position. However, the effort to be fair sometimes puts the candidates' interest above that of the voters. For example, where rotated ballots are employed, the use of sample ballots may serve to confuse rather than to inform the voter who would ordinarily expect to see in the voting booth what he has been shown on the sample ballot (note by LWV: In Minnesota, sample ballots must not be same as actual ballot--even a different color.) The report goes on: "Perhaps of greater significance is the administrative disruption often caused by rotation of names, particularly if, as in the recent New York primary, the deadline for resolving challenges to nominating petitions is very close to the election date. A recent study of administrative difficulties in seven cities by the Office of Federal Elections came to the following conclusion regarding ballot rotation:

"In each metropolitan area visited, the ballot rotation, where required by law, posed major difficulties. Printing of the ballot, preparation of the voting machine and tallying the result, regardless of the method of voting used, are made much more complicated and expensive by name rotation requirements. Preparation of the ballot for the printers becomes a timely and tedious process. Personnel must lay out the ballot for each precinct including sometimes several unique ballots per precinct. Large numbers of printing proofs must be checked and rechecked, and many short and separate printing runs are required. The margin for error is obviously increased manyfold. Errors result in candidates not appearing on the ballot at all in some precincts as well as incorrect tabulations of results." (from a 9-15-72 report)

Regarding the observations of administrative disruption quoted by the National Municipal League, our interviews have led us to dispute this conclusion. Capability for increased efficiency in mechanical methods of printing and distributing the rotation equitably as indicated is presently available. The reference to the time and personnel required to administer rotation seems to imply that the end result of a more equitable, non-diluted vote does not justify the preparation required; we do not agree. We feel that methods to protect each vote should be sought and developed as a necessary component of participatory democracy.

We are willing to financially support such capability in managing fair elections in Minnesota.

Part IV: We have now identified Minnesota's ballot position procedures; the problems classically involved in application of the present laws to elections of varying visibility; and information in support of the present procedures under current law.

What should be the League of Women Voters of Minnesota concern in this matter?

1. In our national Human Resources and state Equality of Opportunity positions we support the 14th amendment to the U.S. Constitution "equal protection of the law." Position #1 under Equality of Opportunity in the 1973-75 state program reads, "Support of the principle that the state is responsible for all its citizens on an equal basis and should work to ensure equal treatment for all citizens by all levels of government." (Present election laws, by admission of the commission recommending present codification, do discriminate among candidates, and hence we could oppose such unfair laws, under this position?)
2. Our Election Laws statement gives "support of improvements in election laws regulating . . . election procedures, voting, and school district elections." Position 5 under Election Laws gives "support of centralized responsibility in the state government for achieving uniform election procedures and for training election officials" and 7 gives "support of extension of election laws to cover school district elections." (Present laws are confusing and contradictory since they deal with like kinds of groups of candidates differently at different times and sometimes at the same time--see notes under present laws, above, and hence we could oppose such laws under this position?)
3. In our Election Laws position we continue to support party designation (PD) for state legislators. This concept is now under fire because of the current focus it brings to the rotation of names and party position preference currently for some partisan offices. We supported PD as an aid to informing voters, helping assure the voter's participation via party caucuses and platform making in state legislative candidate selection, election. However, are we now in the position of supporting unfair laws in the name of "helping make the political system work" by strengthening parties?
4. Nationally we have the Voting Rights bylaw authorizing action to protect the right of every citizen to vote. Now, rotation of names (or lack thereof) may or may not be a threat to a citizen's right to vote; we cite for your information that the LWV of Connecticut, acting under this Voting Rights Bylaw, brought to public attention the poor wording and presentation of ballot issues. May not our campaign to bring to public attention the discrimination built into the present non-rotation of partisan offices be a protection of their vote? Of the dissolution of their vote by the "donkey vote--ballot position-bias vote"?

Proposed League Action:

The following is a preliminary statement of the League's concern about position of candidates' names on the ballot:

"Position on the ballot of a candidate in relation to others running for the same office is an important factor in total vote cast for a candidate. This conclusion is drawn from examining evidence in national, state and local election results which show that up to 5% of the total votes cast are affected.

"The LWV of MN recommends that names of candidates for all offices--partisan and nonpartisan--be rotated on the ballot.

"The basic problem has to do with how the citizen's vote is protected and not diluted by mechanical arrangements of the ballot and their affect on what amounts to a significant percentage of the total vote. We are further concerned with fairness and uniform procedures. We find the present law inadequate on all three bases."

We need your reaction: It is the plan of the Election Laws Committee of the League of Women Voters of Minnesota to seek reactions from the members of the Board of Directors to the above position statement and action plan.

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102
September 1973

This Bulletin insert is enclosed for your use -- to inform all of your members of the proposed position, to prepare your Board for its decision or to use should the State Board find concurrence among a majority of Leagues in the state. (Additional copies are available from the state office at 4¢ each + postage and handling.)

Additional copies of the ELECTION LAWS UPDATE: "Rotation of Names of Candidates on Ballots" only are 14¢ each + p & h. Additional copies of the reprint "Voters Plump for First on List" only are 4¢ each + p & h. Additional copies of the ELECTION LAWS UPDATE and reprint are 18¢ each + p & h.

ELECTION LAWS UPDATE:
Rotation of Names of Candidates on Ballots

Pm - P

Part I: What do Minnesota laws provide re: order of names of candidates for same office?

Primary election: Rotation of names is specified for partisan and non-partisan offices.

General election: Nonpartisan offices are rotated as for primary. For partisan office only, the first name listed shall be the candidate from the political party polling the largest number of votes at the last general election.

New groups of partisan offices: The 1973 Legislature named mayor and city councils in cities of the first class as partisan offices. Candidates for these offices must be rotated on ballots. Legislators themselves (since April 1973) are partisan offices. Candidates for the Legislature are not rotated on the ballot.

New group of nonpartisan offices: Candidates for school district boards are now rotated on ballot by new statute (1973).

SUMMARY: Contradictions and confusions now appear in dealing with rotation of names: rotation is specified for some partisan offices in some elections and not in others; rotation is specified for all offices in the primary.

Part II: Is there an advantage being first on a list of candidates?

Kautenberger v. Jackson: Supreme Court of Arizona affirmed that by providing for rotation of candidates' names on paper ballots, the Legislature had recognized that name placement on the ballot had a significant effect in an election contest; the failure of a candidate's name to appear in first place on a machine ballot (in the same election) places such a candidate at a disadvantage with respect to other candidates.

California Ballot Position Statutes: Statistical analysis (45 Southern California Law Review 365) demonstrates "that the candidate whose name appears first in the list of candidates is the beneficiary of a substantial positional bias." These studies further indicate that the lower the visibility of the office, the greater is the position-on-the-ballot advantage.

Bain-Hecock study in 1956 "showed conclusively that no matter what ballot form was used, candidates whose names were listed at the top of the ballot gained substantial advantage merely from having that position."

SUMMARY: Evidence supports existence of position-bias when voters face the ballot; this bias increases with diminution of visibility of the particular office.

Part III: Is there support for present Minnesota laws?

Political reward system: Appears to support concept of "strengthening the political parties" by granting this favored position on the ballot to the party polling most votes in previous election. Enacted in 1940's by a then-conservative majority, it is opposed by present Republican minority in both houses.

Mechanical Problems: Printing of the ballot, preparation of the voting machines and tallying results are made more complicated and expensive by name rotation.

SUMMARY: Our interviews dispute validity of both these points of view; adequate human and mechanical skills are available; any extra care required is justified to protect each vote.

Part IV: What is the concern of the League of Women Voters of Minnesota in this matter?

National Human Resources and state Equality of Opportunity positions support the 14th Amendment to the U.S. Constitution "equal protection of the law." Position #1 under Equality of Opportunity in the 1973-75 state Program reads "Support of the principle that the state is responsible for all its citizens on an equal basis and should work to ensure equal treatment for all citizens by all levels of government." Nonrotation, in giving advantage, appears to be a violation of equal treatment for candidates and of giving equal value to each person's vote. This would also seem contrary to the state Constitution provisions: "No member of this state shall be disenfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers" and "The Legislature shall pass no local or special law . . . granting to any corporation, association or individual any special or exclusive privileges, immunity or franchise whatever. . ." Election Laws statement says "Support of improvements in election laws regulating election procedures, voting and school district elections." Position #5 (listed in Program for Action, 1971-1973) gives "Support of centralized responsibility in the state government for achieving uniform election procedures and for training election officials" and #7 gives "Support of extension of election laws to cover school district elections." League supported party designation for state legislators as an aid to informing voters, helping assure the voter's participation via party caucuses and platform making in state legislative candidate selection and election. This is a continuing League concern. However, we do not support unfair laws in the name of "helping make the political system work."

The national Voting Rights Bylaw authorizes action to protect the right of every citizen to vote. We cite that the LWV of Connecticut, acting under this bylaw, brought to public attention the poor wording and presentation of ballot issues. Our campaign to bring to public attention the discrimination built into present nonrotation of names of candidates for partisan offices can protect a citizen's vote from being "diluted" by the ballot-position bias. Open governmental system (Representative Government position) is the basis (see back cover August-September 1973 national VOTER) for national's assumption that League members wish to "enable candidates to compete more equitably for public office." This same assumption supports the position that there should be rotation of names for all offices on the ballot.

Action by the Board of Directors of LWV of Minnesota at its regular meeting September 11, 1973: On recommendation of the Election Laws Committee, the Board affirmed that the LWV of Minnesota supports rotation of names of candidates for the same office on ballots and seeks repeal of present state laws forbidding rotation of names for partisan office.

Local League Boards are asked to indicate their concurrence or nonconcurrence with this statement by November 1, 1973. (Refer to June-July 1973 National VOTER article on "New ways to handle Program management.")

Reprint of an article from National Municipal Review,
Researcher's Digest, February 1950.

Voters Plump for First on List
Study Shows Ballot Place May Determine Elections

The requirement that names of candidates for each office in a primary election shall be rotated, so as to place each name first on about the same number of ballots, is defended on grounds of fairness and equal opportunity. It is accepted as axiomatic that the first place name will obtain some votes that it would not otherwise receive.

Students of elections seem to accept this fact without investigating to find what proportion of an electorate can be depended upon to vote for the first name they see under each office. One candidate with a scientific bent, however, finding himself involved in a recount, analyzed the votes with this question in mind.

William Tyrrell was a candidate for nomination in the 1948 Republican primary for a seat in the Ohio Senate. He had but one opponent, I. E. Baker, who was declared nominated by a slender margin.

While studying the votes reported from each precinct, with the view to deciding where to ask for a recount, Mr. Tyrrell noted that the person whose name came first usually carried the precinct. This result was obvious only in the precincts where voting machines were used. Elsewhere, the effect of rotation could not be determined without noting the position of the name marked on each ballot. But where machines were used, rotations were made by precincts with the result that Mr. Baker's name was first in 144 voting machine precincts and Mr. Tyrrell's name was first in 128.

The analysis of the votes shows that, even with only two names from which to select, first place is important. Mr. Tyrrell reports: "In the 144 voting machine precincts where Mr. Baker's name appeared on the top line, 7,262 votes were cast.... Out of this vote, Mr. Baker received 4,780 votes, or 61.5 per cent of the total while I received 2,982 votes (38.5 per cent).... In the 128 precincts where my name appeared in the top line, 6,218 votes were cast.... Out of these I received 3,601 votes or 59.5 per cent of the total while Mr. Baker received 2,617 votes or 40.5 per cent.... We found that 8,381 votes, or 59.99 per cent of the total were cast for the name appearing in the top line, while only 5,599 votes, or 40.01 per cent were cast for the name appearing in the second line.

"In observing the number of precincts carried by the two opposing candidates, the importance of the position of the candidate's name is even more apparent. Out of the 144 precincts where Mr. Baker's name appeared in the top line, 128 precincts (88.8 per cent) were carried by Mr. Baker, fourteen precincts (9.72 per cent) were carried by me and two precincts (1.38 per cent) were tied.

"On the other hand, in the 128 precincts where my name appeared in the top line, 103 precincts (80.47 per cent) were carried by me, 19 (14.84 per cent) were carried by Mr. Baker and six (4.69 per cent) were tied. Out of the 272 voting machine precincts 231 (84.92 per cent) were carried by the candidate whose name appeared in the top line; only 33 (12.12 per cent) were carried

by the candidate whose name appeared in the second line, and eight (2.96 per cent) were tied.

More data on this aspect of voting behavior should be collected. There may be too many variables to form definite conclusions concerning the proportion of voters who are addicted to the form of blind voting. Conceivably the proportion will be found to vary inversely with the importance--as viewed by the voters--of the office, or with the amount of publicity given to the contest. The extent of this chance marking of ballots may also vary with the total number of offices for which nominations are to be made. It may be assumed that each participant in a primary election favors the nomination of some candidate for one or more of the offices. But many of the names on our prevalent long ballots elicit no spark of recognition from a large proportion of the voters. They mark an X or pull the lever preceding the first name on the list of candidates for the office. Admittedly, blind voting may take other forms, such as picking names suggesting an approved national origin.

Before we ask for a larger turnout of eligible voters at elections, or urge compulsory voting laws, we need to learn more about the voting habits of those who do cast their ballots.

Howard White

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102

Pm - P

Memo to: Local League Presidents

From: State Board

Re: Statement of Position on Rotation of Candidates' Names on Ballot
September 21, 1973

At its regular meeting (September 11, 1973) the Board of Directors approved support of rotation of names of candidates for the same office on ballots and voted to seek repeal of present laws forbidding rotation of names for partisan office. Concurrence in this interpretation of current League positions is now sought from local Leagues.

Background

1. Please see "Election Laws Update: Rotation of Names of Candidates on Ballots" enclosed with this memo. This report from the state Election Laws Committee includes its research and bibliography on the issue. Also enclosed is a copy of an article in the National Municipal Review (February 1950) supporting the need for rotation of names.

2. See "Program Management" discussed in the June-July 1973 National VOTER as well as Gwen Murphree's article, "Alternatives to Program Management and Development," in the June 1973 National Board Report distributed at State Convention 1973. The State Board felt that the issue was appropriate to application of the concurrence method because of previous Election Laws and Equality of Opportunity positions, among other state and national positions related to the issue.

Implementation

1. Your resource chairmen in the appropriate Program areas should read the material and then report to the rest of your Board.

2. Does your Board concur with the State Board's statement of position? (Poll your Board by telephone, at your next meeting or you may wish to call a special meeting -- you determine the method best suited to your situation.)

Action Needed

After you have determined your League's preference in the matter, complete the tearoff below and mail to the State Office by November 1, 1973.

- - - - -TEAR OFF HERE - - - - -

Please return to League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102, by November 1, 1973.

Our League _____ concurs _____ does not concur with the following interpretation of the League's state Election Laws position:

"The League of Women Voters of Minnesota supports rotation of names of candidates for the same office on ballots and seeks repeal of present state election statutes forbidding rotation of names on partisan ballots."

Name of League _____

Signature _____ Office _____

Date _____



The League of Women Voters of Minnesota

ELECTION LAWS UPDATE:
"Rotation of Names
of Candidates on Ballots"

September 1973

Pm - P

Part I: What do present Minnesota laws provide re: order of names of candidates for same office on primary and general election ballots?

Primary election: (MS 203.35, Sub. 5) Rotation of names in this election is specified for partisan and nonpartisan offices. These must be rotated so that the names of each candidate for the office shall be rotated with names of other candidates for the same office with the provision that the name of each candidate appears substantially an equal number of times at the top, at the bottom and at each intermediate place in the group of candidates for that office. Furthermore (Sub. 6), printers instructions are to be approved by the legal advisor to the public official charged with ordering the ballots, and the printers must be bonded to print them as instructed and to conform with the law.

General election: Nonpartisan offices are handled as above. For partisan office only, the first name printed for each office shall be the candidate from the political party which at the last preceding general election polled the largest number of votes. How is this figure determined? By averaging votes cast for that party's candidates for partisan offices, except representative in Congress. Second, third and other lines go to parties next in number of votes. Compute average vote by determining total votes cast in state for all of the party's candidates on the general election ballot (except representative in Congress), divide this sum by the number of the party's candidates appearing on that ballot (again excepting representative in Congress) to get "average vote."

Note: the above applies to paper ballots; state law on voting machines (MS 206.7) achieves the above alternation on these ballots as well, but allows in legislative districts where voting machines are used exclusively that any legislative candidate may petition the public official in charge of preparing ballots to change rotation of names for the general election. This must be done within 5 days after the primary election. Petition must state: number of votes cast in last general election for office for which he is candidate; number of times he and his opponent will be first according to rotation method on state law; included in petition must be a specific remedy to the inequity that does not disturb rotation except in one precinct or comparable subdivision. If this remedy does not give petitioner first place more than the opponent, the proposal must be executed. If more than one petition comes in, the public official may select the proposal which most nearly equally distributes first place among candidates.

The new groups of partisan offices so named by the 1973 legislature (in addition the legislators themselves) are mayor and city councils in cities of the first class. Their names must be rotated (SF 736, now Chapter 387, 1973 Session Law) on partisan ballots in the manner provided for state nonpartisan ballots (cited above), except so that names of all of the candidates of a party are to be in one column.

A new group of nonpartisan offices brought under rotation of names procedures by action of the 1973 legislature is school district boards. The LWV of Minnesota supported this legislation as part of its concern to bring conformity of procedures in school elections with other elections in Minnesota.

What state constitutional provisions guarantee equal protection and forbid class legislation?

"No member of this state shall be disenfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by law of the land, or the judgment of his peers (Article I, Sec. 2); and

"The legislature shall pass no local or special law . . . granting to any private corporation, association or individual any special or exclusive privilege, immunity or franchise whatever . . ." (Article IV, Sec. 33)

(It would appear that present statute for placement of names on ballot for partisan office represents a basic conflict between these two statements in the state constitution.)

What has been the Minnesota Supreme Court's attitude toward equal protection under election law?

In Foley v. Donovan (an election case involving name confusion) the court states: "Our election laws are bottomed on the theory that no candidate for an office be given an unfair advantage over another . . ."

Summary of present statutes: Contradictions and confusions now appear in dealing with rotation of names: rotation is specified for some partisan offices in some elections and not in others; rotation is specified for all offices in the primary; rotation is specified for only nonpartisan offices in the general election (with the exception of partisan offices for mayor and council in cities of the first class, which must be rotated).

Conclusion: Does being first on a list of candidates constitute an advantage to the candidate so listed? From the abundance of statutory provisions determining when and in what circumstances this position may be held and by what kind of candidate, it would appear to be an advantage.

Part II: Let us look at what basis there may be for the conclusion that it is an advantage to be first on a list of candidates.

1. Report of the Minnesota Legislature: Legislative Interim Commission on Election Laws (1959), p. 66, noted in its recodification of the election laws proposals that specific formula for rotation of names on ballots being prepared for primary elections be omitted and that the theory only be stated. . . "the officer charged with preparing the ballot could best determine the rotation system to be used in each case," the commission stated. On p. 60-61, same report, recommendation is made to include the following in the new codification of statutes, "The name of a candidate may not appear on a ballot in any way which gives that candidate an advantage over his opponent except as otherwise provided by law." The commission's comment is of interest in our current research: "The intent of this section is to charge the officer preparing the ballot with the task of designing a ballot of the best possible kind that offers the utmost in fairness to every candidate and question on the ballot. Election officials have experienced considerable difficulty in preparing an intelligent ballot within the framework of law existing prior to the revision. Because one party's candidates are preferred over the others on the ballot, and because the rotation of names and in some cases the

identification of candidates necessarily works a disadvantage to someone, the 'except as otherwise provided by law' is put in the revised section." (MS 303.30 was adopted as recommended by the commission and appears to witness to the special advantages granted some candidates).

2. In Kautenburger v. Jackson on appeal, the Supreme Court of Arizona affirmed that, by providing for rotation of candidates' names on paper ballots, the legislature had recognized that name placement on the ballot had a significant effect in an election contest; the failure of a candidate's name to appear in first place on a machine ballot (as it would on a paper ballot, same election) places a candidate at a disadvantage with respect to other candidates; such a disadvantage amounts to discrimination and creates privileges for other candidates which the plaintiff was denied; such discrimination and privilege violates the Arizona constitution. (1958, 85 Arizona)
3. California Ballot Position Statutes: "An Unconstitutional Advantage to Incumbents" (45 Southern California Law Review 365) provides statistical analysis demonstrating "that the candidate whose name appears first in the list of candidates is the beneficiary of a substantial positional bias." Included in this study are statistics and cross-references to other studies both in other states and abroad substantiating the position-bias that obtains. These studies further indicate that the lower the visibility of the office, the greater is the position on the ballot advantage. Statistics lead to an estimate that in a low-visibility legislative race, the position-advantage can exceed 5% of a candidate's total vote. According to Senator Mel Hansen (in his letter of August 2, 1973), ". . . in 1972, 59 legislative contests were won by less than five percent of the total vote; the critical importance of name rotation on the ballot becomes obvious."
4. Voters Plump for First on List (National Municipal Review, February 1950, p. 110-1) is enclosed in its entirety for your information. Reference to this analysis of position-bias research appears in several papers dealing with the issue.
5. In Minnesota, in the 1962 and 1972 legislative elections, similar patterns were observed by Senator Mel Hansen (1962) and Senator Geo. Pillsbury (1972). In 1962, two Republican-endorsed candidates ran against incumbents (one for Senate, one for House). Whenever one was in 1st position, he polled a larger total than the other did when in 2nd position. Similar observations were made by legislators Pillsbury and Heinitz in 1972--both were incumbents, and both out-polled the opponent in total votes when in the first position in a precinct in the district.
6. Midwest Journal of Political Science, 10:448-63, November 1966, reference is made to the Bain-Hecock study in 1956 which "showed conclusively that no matter what ballot form was used, candidates whose names were listed at the top of the ballot gained substantial advantage merely from having that position." This report in Midwest Journal cited that voters do not always complete ballots--voter fatigue or roll-offs occur with less visible races. Voters tend to choose to vote in those races most widely advertised and ignore local and state legislative or other state-wide offices such as attorney general and state treasurer. "Of course, we cannot be sure that roll-off results from a sense of frustration, or that it tends to increase feelings of political alienation; nor can we be sure that by merely changing the form of the ballot we could greatly improve the general understanding and political orientation of the average

citizen. But it does seem clear that a system which makes full participation in political decision-making difficult and which eliminates helpful cues to rational choice is not likely to contribute to the development of a mature, responsible, democratic citizenry. (p. 463) "Best informed and most intelligent are least affected by changes in election machinery. Least intelligent and knowledgeable are ones who are presumably least able to make a judicious, rational decision on capabilities of the candidate."

7. Public Opinion Quarterly, 33:619-21, Winter 1969-70, notes that about 4% of the voters change any votes when they actually face the ballot (in contrast to what they planned to vote prior to entering booth). However, the number of political decisions not made prior to entering the polling place become marginally significant in comparison with the total number of choices made in the voting. Hence, the 4% cited above represents about 14% of all the candidates and ballot issues choices facing voters in a given election; therefore: since 14% of decisions are made when voting, that significantly adds to the first position bias. Nonrotation is especially discriminatory to independent-minority candidates who have no opportunity to appear in either first or second place.

Part III: So far we have cited evidence supporting the existence of position-bias when voters face the ballot; that this bias increases with the diminution of visibility of the particular office. Let us examine statements in support of the present statutes which provide nonrotation of names in partisan offices and grant "first place" status to the party polling largest number of votes in previous general election.

1. This kind of "political reward" system was enacted in Minnesota in the 1940's by a then-conservative majority in both houses; it is now opposed by the present Republican minority in both houses. It would appear to support the concept of "strengthening the political parties" in Minnesota by granting this favored position on the ballot to the party polling most votes in previous elections. Such a "reward" is incorporated within the political parties themselves as they apportion delegate representation to county, district and state party conventions on basis of the party vote turned out in that given county, district in the previous election--regardless of whether their candidates won or lost in the total election. The greater the party vote turned out, the greater the representation in delegates at the next year's conventions.
2. Mechanical problems in attempting to equalize the number of times a candidate is rotated are cited by the National Municipal League in its Model Election System (1973), p. 76: "Another sensitive question relating to the form of the ballot concerns the rotation of names. This technique is intended to give every candidate equal chance to benefit from the preferred first position on the ballot. Rotation of names protects the candidates, under ordinary circumstances, from any built-in disadvantage based purely on ballot position. However, the effort to be fair sometimes puts the candidates' interest above that of the voters. For example, where rotated ballots are employed, the use of sample ballots may serve to confuse rather than to inform the voter who would ordinarily expect to see in the voting booth what he has been shown on the sample ballot." (Note by LWV: In Minnesota, sample ballots must not be same as actual ballot--even a different color.) The report goes on: "Perhaps of greater significance is the administrative disruption often caused by rotation of names, particularly if, as in the recent New York primary, the deadline for resolving challenges to nominating petitions is very close to the election date. a recent study of administrative difficulties

in seven cities by the Office of Federal Elections came to the following conclusion regarding ballot rotation:

'In each metropolitan area visited, the ballot rotation, where required by law, posed major difficulties. Printing of the ballot, preparation of the voting machine and tallying the result, regardless of the method of voting used, are made much more complicated and expensive by name rotation requirements. Preparation of the ballot for the printers becomes a timely and tedious process. Personnel must lay out the ballot for each precinct including sometimes several unique ballots per precinct. Large numbers of printing proofs must be checked and rechecked, and many short and separate printing runs are required. The margin for error is obviously increased manyfold. Errors result in candidates not appearing on the ballot at all in some precincts as well as incorrect tabulations of results.'" (from a 9-15-72 report.)

Regarding the observations of administrative disruption quoted by the National Municipal League, our interviews have led us to dispute this conclusion. Capability for increased efficiency in mechanical methods of printing and distributing the rotation equitably as indicated is presently available. The reference to the time and personnel required to administer rotation seems to imply that the end result of a more equitable, non-diluted vote does not justify the preparation required; we do not agree. We feel that methods to protect each vote should be sought and developed as a necessary component of participatory democracy. We are willing to financially support such capability in managing fair elections in Minnesota.

Part IV: We have now identified Minnesota's ballot position procedures; the problems classically involved in application of the present laws to elections of varying visibility; and information in support of the present procedures under current law.

What should be the League of Women Voters of Minnesota concern in this matter?

1. In our national Human Resources and state Equality of Opportunity positions we support the 14th amendment to the U.S. Constitution "equal protection of the law." Position #1 under Equality of Opportunity in the 1973-75 state program reads, "Support of the principle that the state is responsible for all its citizens on an equal basis and should work to ensure equal treatment for all citizens by all levels of government." Nonrotation in giving advantage appears a violation of equal treatment for candidates and equal value to each person's vote. This would also seem contrary to the state constitution provisions (see page 2, this "Update.")
2. Our Election Laws statement gives "support of improvements in election laws regulating . . . election procedures, voting, and school district elections." Position #5 (see Program for Action, 1971-1973) under Election Laws gives "support of centralized responsibility in the state government for achieving uniform election procedures and for training election officials" and #7 (see Program for Action, 1971-1973) gives "support of extension of election laws to cover school district elections." (Present laws are confusing and contradictory since they deal with like kinds of groups of candidates differently at different times and sometimes at the same time--see notes under present laws, above.)

3. In our Election Laws position we continue to support party designation (PD) for state legislators. This concept is now under fire because of the current focus it brings to the rotation of names and party position preference currently for some partisan offices. We supported PD as an aid to informing voters, helping assure the voter participation via party caucuses and platform making in state legislative candidate selection, election. However, we do not support unfair laws in the name of strengthening parties and "helping make the political system work."
4. Diminished Voting Power of Certain Citizens (an analogy to our Apportionment position--see national's current Study and Action, p.-28). Nonrotation statutes like ours on the partisan ballot diminish the voting power of some citizens in a percentage higher than the 1.88% deviation allowed in some Supreme Court apportionment decisions. How does this work? We have noted that mere ballot position can account for up to 5% deviation in the total vote for a candidate (see above). Vote depletion attributable to ballot position is visible when we consider that supporters of all candidates are entitled to a single vote each. Yet the bonus of the position-biased vote cited above--which can be up to 5% of total vote cast--falls always to the top-positioned candidate--no matter how hard the supporters or opponents of that candidate work and the number of voters they produce at the polls. Citizens supporting an unfavorably positioned candidate will lose to a group of equal numbers supporting the favorably positioned candidate because that candidate will also receive the bonus, position-bias vote just by being "first on the list." In a similar way, voters in an under-represented district lose influence in the legislature to a district with the same total population but favored by malapportionment.
5. Nationally we have the Voting Rights bylaw authorizing action to protect the right of every citizen to vote. Now, rotation of names (or lack thereof) may or may not be a threat to a citizen's right to vote; we cite for your information that the LWV of Connecticut, acting under this Voting Rights Bylaw, brought to public attention the poor wording and presentation of ballot issues. Our campaign to bring to public attention the discrimination built into the present non-rotation of partisan offices can be a protection of their vote from dilution by the ballot position-biased vote.
6. The LWV is now trying new ways of seeing if there is consensus and desire to act. The Campaign Financing consensus procedure of LWVUS in an effort to speed up the process makes several assumptions of agreement (see National VOTER August-September 1973) that would follow from our U.S. Congress position of "an open governmental system which is representative and responsive." An assumption that is made is that League members agree that they wish to "enable candidates to compete more equitably for public office."

This same assumption directly supports the position that there should be rotation of names on the ballot.

Action by the Board of Directors of the League of Women Voters of Minnesota at its regular meeting, September 11, 1973:

"Position on the ballot of a candidate in relation to others running for the same office is an important factor in total vote cast for a

candidate. This conclusion is drawn from examining evidence in national, state and local election results which show that up to 5% of the total votes cast are affected.

"The LWV of MN recommends that names of candidates for all offices--partisan and nonpartisan--be rotated on the ballot.

"The basic problem has to do with how the citizen's vote is protected and not diluted by mechanical arrangements of the ballot and their affect on what amounts to a significant percentage of the total vote. We are further concerned with fairness and uniform procedures. We find the present law inadequate on all three bases."

BIBLIOGRAPHY

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August 20, 1973, LWV Minnesota testimony to legislative committee on apportionment
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Study and Action, 1972-74

Other Publications:

"Voters Plump for First on List," Howard White, National Municipal Review, February 1950, p. 110-111. (Enclosed with this Update)
Chapter 387 - 1973 Session Laws - Party Designation for mayor-council cities of first class
MS 205.17 - Sec. 1 - rotation of names
Report of the Minnesota Legislature: Legislative Interim Commission on Election Laws, 1959
MS 203.30 - Sub. 1 - fairness doctrine for ballots
MS 203.35 - Sub. 5 - rotation of names in primary elections (also Sub.2)
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MS 203.33 - Sub. 3 - Ballot, party position--how determined
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A Study of the 1969 and 1964 British General Election," C.R. Bagley, Parliamentary Affairs, 19:162-4, Spring 1966
"The Donkey Vote: A Consequence of Australia's Voting Law resulting from the tendency of uninformed or apathetic voters to vote for candidates according to their position on the ballot," Malcolm Mackerras, Australian Quarterly, 40:89-92, December 1968

Report to Board Members

From Mary Ann Mc Coy

Re: Concurrence Reports from Local Leagues on Rotation of Names
of Candidates for Same Office on Ballots.

11-12-73

Response: ⁵⁰46 of 67 Leagues replied; ⁵⁰47 concurred with state Board's interpretation of state Election Laws position; 1 (Mid*Mesabi) did not concur and stated "The Board members did not feel that your decision was reached in a League-like way."
The following Leagues did not reply (as of 11-10-73, deadline: 11-1-73)

Alexandria	Excelsior	St. Paul
Battle Lake	Mahtomedi	St. Peter
Buffalo	Mankato	West Dakota County
Cass Lake	Maplewood	Westonka
Chaska	Marshall	Willmar
Cloquet	Rock County	Worthington
Crookston	^{concurred}	

Comments by responding Leagues in support of concurrence:

Brooklyn Park - "overwhelmingly"

Golden Valley - "material very good and thorough. Appreciated
bulletin summary."

Minnetonka-Eden Prairie - "strongly"

Moorhead - "overwhelmingly in agreement"

Robbinsdale - "100%"

White Bear Lake - Board vote tied; president cast vote in favor
of concurrence and broke tie.

New Brighton - wrote letter questioning "timeliness of the League
taking a stand. It appears to have many ramifications, and why
are we taking a stand now when the law has been on the books for
so many years? The questions came up at Board about this taking
on a very partisan nature and just how active a role the League
should now take now after having let it lie for so many years."

Winona - "Our Board wishes to emphasize that our concurrence in this
matter should not be taken simply as acceptance of the process
of concurrence for arriving at new positions."

Recommendations: That the Board note this favorable response by a
majority of our Local Leagues (and a ²⁹29-1 majority of those
responding) in the official minutes of our November 13, 1973,
Board meeting and that a copy of this report be attached to the
permanent copy of these minutes on file in the office.

That the Action Chairman plan appropriate means to
implement this interpretation of our state Election Laws position.

That Field Service inform consultants of Leagues
not responding, in order to keep them aware of the participation
of their consultant Leagues in state Program and action; similar
notification to consultants whose Leagues did respond is also
appropriate.

Note

ARLEN ERDAHL
Secretary of State
180 State Office Bldg.
St. Paul, MN 55155
612/296-3266

FOR IMMEDIATE RELEASE

February 7, 1974 FEB 8 1974

St. Paul---Secretary of State Arlen Erdahl reaffirmed today that he is pushing for a "legislative remedy" on the question of ballot position rotation. He also confirmed that his lawsuit on the issue is still pending in the Ramsey County district court.

"I am, hoping the legislature will take the necessary actions as representatives of the people to see that we have fair elections in Minnesota," Erdahl stated. "The present law has a built-in inequity giving the party whose candidates won in the last statewide elections first place position on every ballot and voting machine for every partisan office in the state," Erdahl said. "It just isn't fair -- I agree with those political scientists who claim there is a definite and consistent advantage for a candidate to always be listed first on the ballot," Erdahl emphasized.

Erdahl indicated he is supporting H.F. 2849 authored by Representative Cleary and Senator Mel Hansen's S.F. 1240. "These bills merely extend the rotation provision now required for all primary and non-partisan elections to all statewide and legislative elections. I urge legislators to put equity and fairness ahead of partisan politics," Erdahl stated.

"The Governor and legislative leaders have stressed that the restoration of public confidence and trust in the political process is a major problem facing the state and nation." "I agree," Erdahl said, "and, anything that smacks of unfairness or giving one group advantage over another further erodes the public confidence."

Berg

LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA, ST. PAUL, MINNESOTA 55102

To: Senators Brown, McCutcheon, Berg
Representatives Cleary, Stanton, Nelson, McFarland
From: Janet Yonehiro, Chairperson, State Election
Law Committee
Re: SF 2761 and HF 2849
February 27, 1974

The League of Women Voters of Minnesota supports the concepts that are written in your bills, SF 2761 and HF 2849, concerning rotation of names on the ballot.

Our studies show that the "Position on the ballot of a candidate in relation to others running for the same office is an important factor in total vote cast for a candidate. This conclusion is drawn from examining evidence in national, state and local election results which show that up to 5% of the total votes cast are affected. The League of Women Voters of Minnesota recommends that names of candidates for all offices--partisan and nonpartisan--be rotated on the ballot. The basic problem has to do with how the citizen's vote is protected and not diluted by mechanical arrangements of the ballot and their effect on what amounts to a significant percentage of the total vote. We are further concerned with fairness and uniform procedures. We find the present law inadequate on all three bases."

Passage of SF 2761 and HF 2849 would correct the mentioned inequities. We look forward to working with you in preparation for enactment of these measures.





The League of Women Voters of Minnesota

UPDATE:
ROTATION OF NAMES
OF CANDIDATES ON BALLOTS - II

To: Local League Presidents
From: Shirley Westmoreland, Election Laws Chairman
November 1974

The League of Women Voters of Minnesota supports rotation of names of candidates for the same office on ballots and seeks repeal of present state election statutes forbidding rotation of names on partisan ballots.

In September 1973, this position was adopted by concurrence of the local Leagues. The state Board recommended the position based upon several existing positions, state and national, and upon background information indicating the advantage of the first position on the ballot. This issue, not resolved during the 1974 legislative session, has been designated by the LWVMN as a priority Action item for the 1975 session.

BACKGROUND:

Under Minnesota law, when "ballot rotation" is specified, the names of candidates for the same office are rotated in position on the ballot so that the name of each candidate appears an equal number of times at the top, bottom and each intermediate position on the ballot. Rotation is specified for all offices in the primary election.

In the general election, rotation is specified only for nonpartisan offices. For most partisan offices (statewide and legislative) ballot position is determined by the size of the vote for the candidate's political party excluding the Congressional races in the most recent general election. Mayor and city councils in cities of the first class are now partisan, but are rotated.

Studies of national, state and local elections indicate that the candidate whose name appears first on the ballot has a substantial advantage. These studies further indicate that the lower the visibility of the office, the greater is the position on the ballot advantage. Statistics lead to an estimate that in a low-visibility legislative race, the position-advantage can exceed 5% of a candidate's total vote. According to Senator Mel Hansen, "...in 1972, 59 legislative contests were won by less than five percent of the total vote; the critical importance of name rotation on the ballot becomes obvious."

Nonrotation is especially discriminatory to independent and minority party candidates who have no opportunity to appear in either first or second place.

This issue surfaced after enactment by the Legislature of party designation for legislative candidates, for which League had worked many years. Our present system of not rotating names for partisan offices was enacted in Minnesota in the 1940s by the then-Conservative majority in both houses as a kind of political reward system. (Such a reward system has been incorporated in the political parties' own administration. They apportion delegate representation to county, district and state party conventions on the basis of the party vote turned out in that given county, district in the previous election--regardless of whether their candidates won or lost in the total election. The greater the party vote turned out, the greater the representation in delegates at the next year's conventions.) The present Minnesota law would appear to support the concept of "strengthening the political parties" in Minnesota by granting this favored position on the ballot to the party polling the most votes in previous elections.

The League continues to support party designation for state legislators as an aid to

informing voters, helping assure the voter's participation via party caucuses and platform-making, in state legislative candidate selection and election. However, we do not support partisan laws in the name of strengthening parties and "helping make the political system work."

OPPOSITION ARGUMENTS:

Opponents argue that with party designation, the first position advantage would be minimal -- assuming that undecided voters vote party rather than position. However, according to a California study on ballot position (Calif. Ballot Position Statutes: An Unconstitutional Advantage to Incumbents," 45 Southern California Law Review 365) of candidates for both partisan and nonpartisan office, "the candidate whose name appears first in the list of candidates is the beneficiary of a substantial position bias."

Others have expressed the concern that printing of the ballot, preparation of the voting machines and tallying results are made more complicated and expensive by name rotation.

Our League position was based on information which disputed the validity of this argument. Adequate human and mechanical skills are available; any extra care required is justified to protect each vote to give every candidate equal chance to benefit from the preferred first position on the ballot.

CURRENT STATUS:

Both of the major political parties adopted platform positions in support of rotation, but differed in the proposed methods of attaining the rotation of candidates' names. The 1974 Republican Party platform called for rotation by the same method now used for nonpartisan offices (first, last and all intermediate positions). The 1974 Democratic platform supported rotation for partisan offices by party. This method would mean that each party's candidates would appear in a column and the columns would be rotated.

A bill was introduced last session by Senator Schaaf which provided for such party rotation. Independent and minor party candidates would have appeared on the ballot after the two major parties in the order in which the petitions to place their names on the ballot were filed. The bill passed the subcommittee, but died in full committee when a quorum was not present at the scheduled hearing. The House companion bill had one hearing but was not acted upon.

The secretary of state had a suit pending challenging the validity of our present law of nonrotation, but dropped it fearing that a decision might not be made in time for ballot preparation.

The only other action since adjournment of the Legislature has been solicitation for input on the subject of rotation of names on the ballot by Senator Steve Keefe's subcommittee on elections. This subcommittee is examining the election laws and evaluating the impact of changes on recent elections.

LEAGUE ACTION:

In response to anticipated legislative action, the League will be lobbying for rotation of candidates' names on the ballot to give every candidate equal chance to benefit from the preferred first position on the ballot to protect the citizen's vote from the dilution caused by mechanical arrangements of the ballot. Local Leagues should begin their action campaigns now.

- Bring your members up to date on the issue and the need for action.
- Contact your legislators. Remind them of the League position and find out their position on the issue.
- Inform the public. Use the newspapers, letters to the editor, TV and radio. Explain the issue and what action they can take.

Reference: Election Laws Update: "Rotation of Names of Candidates on Ballots,"
September 1973, LWVMN

AUG 15 1975

Helene Borg
Jean Reeves

MEL HANSEN

Senator 61st District
4505 28th Avenue South
Minneapolis, Minnesota 55406

Senate

State of Minnesota

August 14, 1975

Ms. Mary Ann McCoy, President
League of Women Voters
555 Wabasha
St. Paul, Minnesota 55102

Dear Mary Ann:

It has been my understanding that the League of Women Voters has taken a firm stand in support of ballot rotation. The last edition of the Capitol Letter dated May 27 listed a House File 1497, which provides at least limited ballot rotation, but did not indicate that the League was supporting that particular bill. Will appreciate hearing from you as to whether the League's position is still in full support of total ballot rotation for all candidates, such as is provided in Senate File No. 27 introduced on January 8.

I believe we are in support.

Earlier this year we were working with Shirley Westmoreland on the possibility of a ballot rotation court suit. At that time a number of the public service organizations, including the League, appeared willing to join a court suit challenging the present method of giving all candidates of the majority party the advantageous top spot on the ballot. There will be such a suit filed in the early fall and will appreciate hearing from you as to whether the League is still interested in coming in with an amicus brief if some way can be worked out of their doing this without any significant expenditure of money.

I support LWV mn joining with MCLW to challenge

There has been a substantial amount of additional research done as well as the very recent California Supreme Court decision that declared their practice of giving incumbents the advantageous first position unconstitutional. They are now working out some alternate procedures.

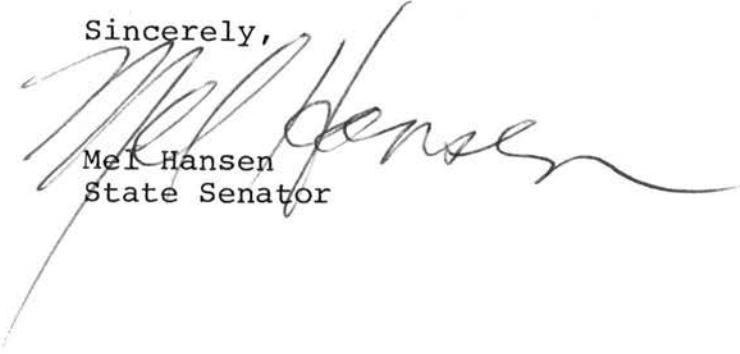
Ms. Mary Ann McCoy

2

August 14, 1975

I am writing you on this because presumably the decision would have to be made by your Executive Board.

Sincerely,


Mel Hansen
State Senator

MH:rh

Office of the Chairman
Republican State Central Committee
555 Wabasha Street
Saint Paul, Minnesota 55102

August 19, 1975

Mrs. Jerry Jenkins,
President
League of Women Voters
2251 Folwell
St. Paul, Minn. 55108

Dear Jerry:

Thank you for dropping by to discuss improving the political process. I want you to know the Republican Party will cooperate in every way that it can to help the League of Women Voters do its job better in Minnesota.

We appreciate your interest in joining us on the Ballot Rotation Court Suit. We will be forwarding you further information on this subject. In fact, I would suggest you have your League Committee people contact Randy Tigue at the Minnesota Civil Liberties Union (Office-333-1989 or Home-331-1658) to discuss what they can do to help us.

We remain interested in cooperating on promotion of precinct caucuses, as you know. The Equal Rights Amendment, one of your great causes, is one which is extremely controversial in the party. To the extent that we can, we would like to see both sides of this issue discussed and communicated. We may well call on the League of Women Voters to help us on this. I want you to know that we would also be calling on opponents of the ratification as well.

Again, thanks for taking the time to meet with me.

Sincerely,



Charles A. Slocum
REPUBLICAN STATE CHAIRMAN

CAS:am

Helene -

Please call

Ask for time on
Agenda - motion
like enclosed?

Information - Hansen's
letter - Slocum's letter?

other?

✓
Ple.
inform
Jeanette

ZIMMERMAN & BIX, LTD.
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1540 DAIN TOWER
MINNEAPOLIS, MINNESOTA 55402

MANLY A. ZIMMERMAN
MILTON H. BIX

TELEPHONE (612) 333-8225

NOV 10 1976

November 9, 1976

Mrs. Jerry Jenkins, President
League of Women Voters of Minnesota
555 Wabasha
St. Paul, Minnesota 55102

Dear Mrs. Jenkins:

Robert Bell indicated that he has just filed a Notice of Appeal in the ballot rotation suit. We are ordering a transcript and will apply to the Supreme Court for the right to file an amicus curiae brief in that case.

Sincerely,

ZIMMERMAN & BIX, LTD.



Roger Clarke

RC/cs

JUN 14 1976

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TELEPHONE (612) 333-8225

June 10, 1976

Mrs. Jerry Jenkins, President
League of Women Voters of Minnesota
555 Wabasha
St. Paul, Minnesota 55102

Re: Ulland, et al vs. Grove, et al

Dear Mrs. Jenkins:

I have talked to Robert Bell regarding the status of the above entitled matter. The case was originally tried under the pre 1976 ballot rotation law. With the passage of the 1976 ballot rotation law, Mr. Bell requested that the testimony that was given regarding the pre 1976 law be considered equally applicable to the 1976 ballot rotation law. He originally had expected a decision to be rendered on the new 1976 ballot rotation law by June 1, 1976. However, the Court has not issued a decision in this matter.

In talking to Mr. Bell, I came to the conclusion that we will need a transcript of the original hearing when we prepare our amicus curiae brief. It will cost approximately \$100.00. I do not need the money until a Notice of Appeal is filed from the Order of the trial court. Consequently, I do not expect to have to pay for the transcript until July 1, 1976. However, as soon as a decision is rendered and a Notice of Appeal is made, we will need the money promptly in order that we can review the transcript in time to prepare a legal brief.

If you should have any questions, please do not hesitate to call me.

Sincerely,

ZIMMERMAN & BIX, LTD.

Roger C. Clarke
Roger C. Clarke

RCC/sp

DEC 20 1976

LAW OFFICES
ROGER CLARKE
1540 DAIN TOWER
MINNEAPOLIS, MINNESOTA 55402
TELEPHONE 612-333-8225

December 16, 1976

Mrs. Jerry Jenkins, President
League of Women Voters of Minnesota
555 Wabasha
St. Paul, Minnesota 55102

Dear Mrs. Jenkins:

The trial conference for the ballot rotation case, properly known as Ulland, et al, vs. Grove, et al, is scheduled for this Friday, December 17, 1976. We will not attend because we do not have standing to be a party. However, I hope to talk to Robert Bell, the attorney for the plaintiffs, in order that I might find out which issue the Supreme Court wants the parties to focus on.

At present we are awaiting a transcript from the Court reporter before we file a Motion to be granted permission to draft an amicus curiae brief. If the Supreme Court granted our request now, we would have to draft a brief within forty-five days without being able to read the transcript first. Consequently, we are going to wait until we receive the transcript before we file a Motion.

If you should have any questions, please do not hesitate to call us.

Sincerely,

ZIMMERMAN & BIX, LTD.



Roger Clarke

RC/dat

Court upholds ballot law on order of names

Mpls. STAR 1/13/78

By GWENYTH JONES
Minneapolis Star Staff Writer

it discriminates against indepen-
dent candidates, whose names nev-

ertheless are not identified by party,
their names are rotated.)

ballot position."

The votes cast for the first-



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