



League of Women Voters of Minnesota Records

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THE LEAGUE
OF WOMEN VOTERS

MINNESOTA

550 RICE STREET ST. PAUL, MN 55103 PHONE (612) 224-5445

December 18, 1989

The Honorable Robert E. Vanasek
MN House of Representatives
463 State Office Bldg.
St. Paul, MN 55155

Dear Mr. Vanasek:

The League of Women Voters of Minnesota commends you for your recommendations for legislative ethics reforms. We believe that state government in Minnesota has a well-deserved reputation for being open, clean and responsible. Nevertheless, pressures on individual public officials often pose ethical dilemmas. Your recommendations will assist legislators in dealing with ethical challenges and will raise the level of public confidence in their representatives in the Minnesota House.

Specifically, we support a ban on fundraisers held during the legislative session. Your proposal would ban individual fundraisers. LWV MN would like to see a ban on those held by legislative caucuses as well. While contributions gained at these events don't necessarily influence votes, their timing gives a negative cast to the public's regard for legislators.

We support your call for an increase in disclosure requirements for outside income of legislators. Because the legislature is "part time," of necessity, most legislators have other employment. The public has an interest in information about this income in case questions of propriety of outside income should arise.

It makes sense for there to be procedures established and a group formed to whom legislators may turn for guidance in solving ethical dilemmas. Periodic programs in ethics and public policy can raise the level of awareness of legislators and provide skill for dealing with inevitable challenges. We support the your recommendations in this area, as well.

Furthermore, we hope that the Minnesota Senate will approve the bill which was passed by the House last spring, and which contains many of the features you have recommended.

The Senate should take that bill up early so that both houses can act on the final version during this session. That way, the ban on fundraisers, as well as the other parts of the bill can become state policy, not just the rules for one chamber of the Legislature.

Sincerely,

Beverly McKinnell
President

BMc/rk



THE LEAGUE OF WOMEN VOTERS

MINNESOTA

550 RICE STREET ST. PAUL, MN 55103 PHONE (612) 224-5445

December 18, 1989

St. Paul Dispatch Pioneer Press
345 Cedar Street
St. Paul, MN 55101

To The Editor:

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December 18, 1989

Minneapolis Star & Tribune
425 Portland Avenue
Minneapolis, MN 55488

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550 RICE STREET ST. PAUL, MN 55103 PHONE (612) 224-5445

Testimony Presented to the
Senate Committee on Elections and Ethics
RE: SF 1606
by Joan Higinbotham, Lobbyist
League of Women Voters of Minnesota
December 15, 1989

My name is Joan Higinbotham and I represent the League of Women Voters of Minnesota.

For many years the League has had a position in support of "responsive legislative processes characterized by accountability, representativeness, decision-making capability and effective performance." This position seems especially appropriate as we look at SF 1606. For legislators to be effective and accountable they must adhere to certain ethical standards.

Most public servants take this responsibility very seriously and conscientiously, and Minnesotans can be justly proud of the high standards maintained by its public servants. At times however, questions do arise over what is acceptable conduct by governmental officials. Although we all think we know what is ethical, questions do arise. We believe that public officials need an established standard for ethical behaviour. Without such a standard how is the individual, the legislature or the public to judge what is acceptable? It is to everyone's advantage to know what the rules of the game are.

A standard of behavior and an unencumbered body to interpret it would provide the individual with a place to come, without fear of reprisal, to seek an advisory opinion or to report behavior that is questionable. Codified standards are a protection for those who follow them.

The League supports the development of standards of conduct for public officials. We support an open and just process to enforce those standards. I am sure we would all agree that no one in public life should use a public position for private advantage; but in the day-to-day dealings between public officials, constituents and lobbyists, there are many grey areas of behavior.

All public officials and employees have a responsibility to the citizens they serve. Many are under great pressure from groups who legitimately are trying to affect public policy. A code of ethics and an enforcement body would assure consistency and fairness throughout all Minnesota government - state and local.

In summary, the League of Women Voters of Minnesota supports a system that enables candidates to compete equitably for public office, and that once in a position of public trust, provides a clear standard of conduct for that office holder, and establishes a process that holds all accountable to that standard.

Thank you.

Senators Marty and Piper introduced--

S. F. No. 1606 Referred to the Committee on Elections
and Ethics.

A bill for an act

relating to ethics in government; prescribing standards of conduct for state and local officials; expanding the financial disclosure requirements for state officials; imposing disclosure requirements on local officials; changing the reporting requirements for lobbyists; amending Minnesota Statutes 1988, sections 10A.01, subdivision 11, and by adding subdivisions; 10A.02, subdivisions 1, 3, and by adding subdivisions; 10A.04, subdivisions 4 and 5; 10A.06; 10A.07; and 10A.09, subdivisions 1, 2, 5, 7, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 10A; repealing Minnesota Statutes 1988, section 10A.02, subdivisions 11, 11a, and 12.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1988, section 10A.01, is amended by adding a subdivision to read:

Subd. 2a. [ANYTHING OF VALUE.] "Anything of value" means money, real or personal property, a favor, a service, a loan, a forbearance or forgiveness of indebtedness, or a promise of future employment, but does not mean compensation and expenses paid to a public or local official or employee for performance of the official's or employee's public duties by the governmental unit to which the official is elected or appointed or by which the employee is employed.

Sec. 2. Minnesota Statutes 1988, section 10A.01, is amended by adding a subdivision to read:

Subd. 2b. [EXTENDED FAMILY.] "Extended family" means a public or local official's or employee's spouse and a child,

1 stepchild, parent, stepparent, brother, sister, half-brother,
2 half-sister, aunt, uncle, or cousin of the official or employee
3 or the official's or employee's spouse.

4 Sec. 3. Minnesota Statutes 1988, section 10A.01, is
5 amended by adding a subdivision to read:

6 Subd. 2c. [GIFT.] "Gift" means the payment or receipt of
7 anything of value unless consideration of greater or equal value
8 is provided in return, but does not mean a contribution defined
9 in subdivision 7.

10 Sec. 4. Minnesota Statutes 1988, section 10A.01,
11 subdivision 11, is amended to read:

12 Subd. 11. (a) "Lobbyist" means ~~any~~ an individual:

13 ~~(a)~~ (1) Engaged for pay or other consideration, or
14 authorized by another individual or association to spend money,
15 who spends more than five hours in any month or more than \$250,
16 not including the individual's own travel expenses and
17 membership dues, in any year, for the purpose of attempting to
18 influence legislative or administrative action by communicating
19 or urging others to communicate with public officials; or

20 ~~(b)~~ (2) Who spends more than \$250, not including the
21 individual's own traveling expenses and membership dues, in any
22 year for the purpose of attempting to influence legislative or
23 administrative action by communicating or urging others to
24 communicate with public officials.

25 (b) "Lobbyist" does not include ~~any~~:

26 ~~(a)~~ (1) an elected public official, or a nonelected public
27 official or an employee of the state or any of its political
28 subdivisions or public bodies acting in an official capacity,
29 unless the nonelected official or employee spends more than 50
30 hours in any month attempting to influence legislative or
31 administrative action by communicating or urging others to
32 communicate with public officials;

33 ~~(b)~~ (2) a party or the party's representative appearing in
34 a proceeding before a state board, commission or agency of the
35 executive branch unless the board, commission or agency is
36 taking administrative action;

1 ~~(c)~~ (3) an individual while engaged in selling goods or
2 services to be paid for by public funds;

3 ~~(d)~~ (4) a news ~~media~~ medium or ~~their~~ its employees or
4 agents while engaged in the publishing or broadcasting of news
5 items, editorial comments or paid advertisements which directly
6 or indirectly urge official action;

7 ~~(e)~~ (5) a paid expert witness whose testimony is requested
8 by the body before which the witness is appearing, but only to
9 the extent of preparing or delivering testimony;

10 ~~(f)~~ (6) a stockholder of a family farm corporation as
11 defined in section 500.24, subdivision 2, who does not spend
12 over \$250, excluding the stockholder's own travel expenses, in
13 any year in communicating with public officials; or

14 ~~(g)~~ (7) a party or the party's representative appearing to
15 present a claim to the legislature and communicating to
16 legislators only by the filing of a claim form and supporting
17 documents and by appearing at public hearings on the claim.

18 Sec. 5. Minnesota Statutes 1988, section 10A.01, is
19 amended by adding a subdivision to read:

20 Subd. 25. [LOCAL OFFICIAL.] "Local official" means a
21 person who holds elective office in a political subdivision or
22 who is appointed to or employed in a public position in a
23 political subdivision in which the person has authority to make,
24 or to vote on as a member of the governing body of the
25 subdivision, final decisions regarding the expenditure,
26 investment, or deposit of public money.

27 Sec. 6. Minnesota Statutes 1988, section 10A.01, is
28 amended by adding a subdivision to read:

29 Subd. 26. [POLITICAL SUBDIVISION.] "Political subdivision"
30 means the metropolitan council, a metropolitan agency defined in
31 section 473.121, subdivision 5a, a municipality as defined in
32 section 471.345, subdivision 1, the Minnesota state high school
33 league, and a public corporation established by law.

34 Sec. 7. Minnesota Statutes 1988, section 10A.02,
35 subdivision 1, is amended to read:

36 Subdivision 1. ~~There-is-hereby-created-a~~ The state ethical

1 practices board ~~composed~~ consists of ~~six~~ seven members.---The
2 ~~members-shall-be~~ appointed by the governor with the advice and
3 consent of three-fifths of both the senate and the house of
4 representatives acting separately. If either house fails to
5 confirm the appointment of a board member within 45 legislative
6 days after appointment, or by adjournment sine die, whichever
7 occurs first, the appointment ~~shall-terminate~~ terminates on the
8 day following the 45th legislative day or on adjournment sine
9 die, whichever occurs first. If either house votes not to
10 confirm an appointment, the appointment terminates on the day
11 following the vote not to confirm. One member ~~shall~~ must be a
12 former member of the legislature from a major political party
13 different from that of the governor; one member ~~shall~~ must be a
14 former member of the legislature from the same political party
15 as the governor; ~~two~~ three members ~~shall~~ must be persons who
16 have not been public officials, held any political party office
17 other than precinct delegate, or been elected to public office
18 for which party designation is required by statute in the three
19 years preceding the date of their appointment; and the other two
20 members ~~shall~~ must not support the same political party. No
21 more than three of the members of the board ~~shall~~ may support
22 the same political party.

23 Sec. 8. Minnesota Statutes 1988, section 10A.02,
24 subdivision 3, is amended to read:

25 Subd. 3. The concurring vote of ~~four~~ five members of the
26 board ~~shall-be~~ is required to decide any matter before the board.

27 Sec. 9. Minnesota Statutes 1988, section 10A.02, is
28 amended by adding a subdivision to read:

29 Subd. 14. [BIENNIAL REPORT.] The board shall report on its
30 activities to the legislature and the governor by January 15 of
31 each odd-numbered year. The report must cover, for the previous
32 calendar year:

33 (1) the number of actions initiated by the board, the
34 number dismissed upon completion of a preliminary inquiry, and
35 the number referred to an adjudicatory hearing;

36 (2) the number of findings of violations upon completion of

1 an adjudicatory hearing and a summary of orders issued to
2 violators;

3 (3) the number of board orders reviewed by the court of
4 appeals and a summary of the court's actions;

5 (4) a summary of matters referred by the board to the
6 appropriate authority for criminal prosecution and the
7 disposition of those matters; and

8 (5) any recommendations the board might have for changes in
9 this chapter.

10 Sec. 10. Minnesota Statutes 1988, section 10A.02, is
11 amended by adding a subdivision to read:

12 Subd. 15. [ADVISORY OPINIONS.] (a) Upon request from a
13 person who is or may be subject to this chapter, or upon request
14 from an agency or political subdivision appointing or employing
15 such a person, or considering doing so, the board within 30 days
16 shall issue an advisory opinion on the requirements and
17 applications of this chapter. If a request is in writing, the
18 board shall issue a written advisory opinion. A written
19 advisory opinion issued by the board is a defense in a criminal
20 action involving the subject matter of the opinion brought
21 against the person making or covered by the request and is
22 binding on the board in any subsequent proceeding concerning the
23 person unless:

24 (1) the board has amended or revoked the opinion before the
25 initiation of the criminal action or board proceeding, has
26 notified the person making or covered by the request of its
27 action, and has allowed at least 30 days for the person to do
28 anything that might be necessary to comply with the amended or
29 revoked opinion;

30 (2) the request has omitted or misstated material facts; or

31 (3) the person making or covered by the request has not
32 acted in good faith in reliance on the opinion.

33 (b) A request for an opinion and the opinion itself are
34 nonpublic data. The board, however, may publish an opinion or a
35 summary of an opinion, but may not include in the publication
36 the name of the requester, the name of a person covered by a

1 request from an agency or political subdivision, or any other
2 information that might identify the person or unit unless the
3 person consents to the inclusion.

4 Sec. 11. [10A.025] [ENFORCEMENT.]

5 Subdivision 1. [INITIATION OF ACTION.] The board shall
6 initiate an action to enforce this chapter upon complaint of an
7 alleged violation from an individual, organization, agency, or
8 political subdivision or upon becoming aware, on its own, of an
9 apparent or potential violation. For purposes of this
10 subdivision, the board is assumed to be aware of an apparent or
11 potential violation if the circumstances of the violation have
12 been reported by a news medium or have been widely enough
13 discussed by the public throughout the state to be considered
14 generally known to a reasonably well-informed citizen.

15 Subd. 2. [PRELIMINARY INQUIRY.] Upon receiving a complaint
16 or becoming aware of an apparent or potential violation, the
17 board shall direct the executive director to make a preliminary
18 inquiry to determine whether sufficient facts have been alleged
19 in the complaint or have otherwise become known to the board to
20 indicate a reasonable cause for belief that a violation of this
21 chapter has occurred. The executive director shall notify the
22 subject of the inquiry and the attorney general of the alleged
23 or potential violation and of the start of the preliminary
24 inquiry, but may not reveal to either the identity of the
25 complainant, if any. If the executive director finds no
26 reasonable cause for belief that a violation has occurred, the
27 executive director shall notify the board, the subject of the
28 inquiry, the attorney general, and the complainant, if any, of
29 that finding. Any action taken or evidence received by the
30 board up to this point in a proceeding is nonpublic data, except
31 that the executive director may issue the notifications required
32 by this subdivision and:

33 (1) the board shall make the result of a preliminary
34 inquiry public at the request of the subject of the inquiry;

35 (2) the board may report the information required by
36 section 9, so long as the report does not contain the name of

1 the subject of a preliminary inquiry or any other information
2 that might identify the subject;

3 (3) the board may turn information received through a
4 preliminary inquiry over to the attorney general, the United
5 States attorney, or a county attorney, who may use it in a
6 criminal proceeding; and

7 (4) the attorney general may initiate a criminal proceeding
8 on the basis of the notification of a preliminary inquiry
9 received from the executive director under this subdivision.

10 Subd. 3. [FINDING OF REASONABLE CAUSE.] If at the
11 conclusion of a preliminary inquiry the executive director finds
12 reasonable cause for belief that a violation of this chapter has
13 occurred, the executive director may negotiate a settlement of
14 the violation in accordance with subdivision 4. If the director
15 chooses not to negotiate a settlement or is unable to do so, the
16 director shall notify the board, the subject of the inquiry, the
17 attorney general, and the complainant, if any, of the finding of
18 reasonable cause.

19 Subd. 4. [SETTLEMENT.] (a) A settlement of a violation of
20 this chapter must include the violator's acknowledgment of the
21 violation and agreement not to repeat the violation. A
22 settlement must be approved by the board before it takes
23 effect. If the board fails to approve a settlement reported by
24 the director, the board may instruct the director to attempt to
25 negotiate a different settlement and to report any new
26 settlement at a subsequent board meeting, or it may proceed to
27 an adjudicatory hearing under subdivision 5. A settlement and
28 its terms are nonpublic data, except that:

29 (1) the board shall notify the attorney general of the
30 settlement and its terms;

31 (2) the board shall make the settlement public at the
32 request of the violator; and

33 (3) the board shall publish a settlement of a violation it
34 deems to be major and deliberate.

35 (b) When a matter is settled under this subdivision and the
36 board has not published the settlement, the board shall notify

1 the complainant, if any, that it has decided not to investigate
2 the matter further or to impose formal sanctions. The
3 notification may describe, in general terms, other ways in which
4 a preliminary investigation might be concluded, but may not
5 disclose the fact or terms of the settlement.

6 Subd. 5. [ADJUDICATORY HEARINGS.] Upon receiving the
7 executive director's finding of reasonable cause to believe that
8 a violation of this chapter has occurred, or upon receiving the
9 director's report of a settlement under subdivision 4 and
10 failing to approve it, the board may refer the matter to an
11 administrative law judge for an adjudicatory hearing. An
12 adjudicatory hearing is a contested case governed by chapter 14.

13 Subd. 6. [DECISIONS AND ORDERS.] The board's decision and
14 order at the conclusion of an adjudicatory hearing may include:

15 (1) a requirement that the violator conform the violator's
16 conduct to this chapter;

17 (2) a requirement that the violator forfeit a civil penalty
18 of no more than \$10,000 for each violation of this chapter;

19 (3) in the case of a violator who is a public or local
20 official or public employee in the classified or unclassified
21 service, a recommendation to the violator's appointing authority
22 that the violator be disciplined or discharged in accordance
23 with any applicable law, collective bargaining agreement, or
24 policy;

25 (4) in the case of a violator who is a public or local
26 official subject to impeachment or removal from office, a
27 recommendation to the appropriate body that it initiate
28 proceedings to remove the violator;

29 (5) in the case of a violator who is a legislator, a
30 recommendation to the appropriate house of the legislature that
31 the violator be censured or removed from office;

32 (6) a requirement that the violator file a report,
33 statement, or other information with the board; or

34 (7) any other necessary or appropriate recommendation or
35 requirement consistent with this chapter.

36 Subd. 7. [REPRISALS PROHIBITED.] The state or a political

1 subdivision may not:

2 (1) discharge, discipline, threaten, or otherwise
3 discriminate against a public official, local official, or
4 public employee regarding the official's or employee's terms,
5 conditions, location, or privileges of employment; or

6 (2) threaten, discriminate against, or otherwise retaliate
7 against a person who is not a public or local official or public
8 employee

9 because the official or employee or other person, in good faith,
10 reported to the board, another state agency, or a political
11 subdivision information the reporting person reasonably believed
12 to be related to a violation of this chapter. For purposes of
13 this subdivision, an official or employee has been subjected to
14 discharge, discipline, or other reprisal for reporting a
15 violation if the report was a factor that contributed to the
16 reprisal. A public or local official or public employee who
17 violates this subdivision is guilty of a misdemeanor. Upon
18 receiving a report of a violation of this subdivision, the board
19 shall report the matter to the appropriate prosecuting authority
20 for the initiation of a criminal proceeding.

21 Subd. 8. [FALSE COMPLAINTS PROHIBITED.] A person who
22 knowingly makes a false or bad-faith complaint or report of an
23 alleged violation of this chapter is guilty of a misdemeanor.

24 Sec. 12. Minnesota Statutes 1988, section 10A.04,
25 subdivision 4, is amended to read:

26 Subd. 4. The report ~~shall~~ must include such any
27 information as required by the board ~~may-require~~ from the
28 registration form and the following information for the
29 reporting period:

30 ~~(a)~~ (1) The lobbyist's total disbursements on lobbying and
31 a breakdown of those disbursements into categories specified by
32 the board, including but not limited to the cost of publication
33 and distribution of each publication used in lobbying; other
34 printing; media, including the cost of production; postage;
35 travel; fees, including allowances; entertainment; telephone and
36 telegraph; and other expenses;

1 ~~(b)~~ (2) The amount and nature of each honorarium, gift,
2 loan, item or benefit, ~~excluding~~ including contributions to a
3 candidate, equal in value to \$50 or more, given or paid to ~~any a~~
4 public official by the lobbyist or ~~any an~~ employer or ~~any~~
5 employee of the lobbyist:--~~The list shall include~~, along with
6 the name and address of each public official to whom the
7 honorarium, gift, loan, contribution, item, or benefit was given
8 or paid and the date it was given or paid; and

9 ~~(c)~~ (3) Each original source and the amount of funds in
10 excess of \$500 in any year used for the purpose of lobbying.
11 The list ~~shall~~ must include the name, address, and employer, or,
12 if self-employed, the occupation and principal place of
13 business, of each payer of funds in excess of \$500; the total
14 expenditures of the source related to the lobbyist's lobbying
15 activities, including salaries, fees, office expenses, supplies,
16 and overhead; and the total amount spent by the source on
17 lobbying in Minnesota, including direct expenditures and
18 administrative support and overhead attributable to lobbying in
19 Minnesota.

20 Sec. 13. Minnesota Statutes 1988, section 10A.04,
21 subdivision 5, is amended to read:

22 Subd. 5. [LATE FILING; PENALTIES.] The board shall notify
23 by certified mail or personal service ~~any a~~ lobbyist who fails
24 after seven days after a filing date imposed by this section to
25 file a report or statement required by this section. If a
26 lobbyist fails to file a report within seven days after
27 receiving this notice, the board may impose a late filing fee
28 of \$5 \$50 per day, not to exceed ~~\$100~~ \$1,000, commencing with
29 the eighth day after receiving notice. The board shall further
30 ~~notify by certified mail or personal service any a lobbyist who~~
31 fails to file a report within 21 days after receiving a first
32 notice that the lobbyist may be subject to a criminal penalty
33 for failure to file the report. A lobbyist who knowingly fails
34 to file ~~such~~ a report or statement within seven days after
35 receiving a second notice from the board is guilty of a
36 misdemeanor.

1 Sec. 14. Minnesota Statutes 1988, section 10A.06, is
2 amended to read:

3 10A.06 [CONTINGENT FEES PROHIBITED.]

4 No person ~~shall~~ may act as or employ a lobbyist for
5 compensation ~~which~~ that is dependent upon the result or outcome
6 of any legislative or administrative action. ~~Any~~ A person who
7 violates the provisions of this section is guilty of a gross
8 misdemeanor.

9 Sec. 15. Minnesota Statutes 1988, section 10A.07, is
10 amended to read:

11 10A.07 [CONFLICTS OF INTEREST.]

12 Subdivision 1. [DISCLOSURE OF POTENTIAL CONFLICTS.] ~~Any~~ A
13 public or local official or public employee who in the discharge
14 of official duties would be required to take an action or make a
15 decision ~~which~~ that would substantially affect the official's or
16 employee's financial interests or those of an associated
17 business, unless the effect on the official or employee is no
18 greater than on other members of the official's or employee's
19 business classification, profession, or occupation, shall take
20 the following actions:

21 ~~(a)~~ (1) prepare a written statement describing the matter
22 requiring action or decision and the nature of the potential
23 conflict of interest;

24 ~~(b)~~ (2) deliver copies of the statement ~~to-the-board-and~~ to
25 the official's or employee's immediate superior, if any; and

26 ~~(c)~~ (3) if a member of the legislature or of the governing
27 body of a political subdivision, deliver a copy of the statement
28 to the presiding officer of the house of service or body.

29 If a potential conflict of interest presents itself and
30 ~~there is insufficient time to comply with the provisions of~~
31 ~~clauses (a) (1) to (c) (3), the public or local official or~~
32 ~~employee shall verbally orally~~ inform the superior or the
33 official body of service, or committee thereof, of the body of
34 the potential conflict. ~~The official shall file a written~~
35 ~~statement with the board within one week after the potential~~
36 ~~conflict presents itself.~~

1 Subd. 2. If the ~~publie~~ official or employee is not a
2 member of the legislature or of the governing body of a
3 political subdivision, the superior shall assign the matter, if
4 possible, to another employee who does not have a potential
5 conflict of interest. If there is no immediate superior,
6 the ~~publie~~ official or employee shall abstain, if possible, in a
7 manner prescribed by the board from influence over the action or
8 decision in question. If the ~~publie~~ official is a member of the
9 legislature, the house of service may, at the member's request,
10 excuse the member from taking part in the action or decision in
11 question. If the official or employee is not permitted or is
12 otherwise unable to abstain from action in connection with the
13 matter, the official or employee shall file with the board a
14 statement describing the potential conflict and the action
15 taken. The statement must be filed within a week of the action
16 taken.

17 Sec. 16. Minnesota Statutes 1988, section 10A.09,
18 subdivision 1, is amended to read:

19 Subdivision 1. [TIME FOR FILING.] Except for a candidate
20 for elective office in the judicial branch, an individual shall
21 file a statement of economic interest with the board:

22 ~~(a)~~ (1) within 60 days of accepting employment as a public
23 official or a local official in a political subdivision with a
24 population of 10,000 or more;

25 ~~(b)~~ (2) within 14 days after filing an affidavit of
26 candidacy or petition to appear on the ballot for an elective
27 public office or an elective local office in a political
28 subdivision with a population of 10,000 or more;

29 ~~(c)~~ (3) in the case of a public official requiring the
30 advice and consent of the senate, within 14 days after
31 undertaking the duties of office; or

32 ~~(d)~~ (4) in the case of members of the Minnesota racing
33 commission, and its executive secretary, chief of security,
34 medical officer, inspector of pari-mutuels, and stewards
35 employed or approved by the commission or persons who fulfill
36 those duties under contract, within 60 days of accepting or

1 assuming duties.

2 Sec. 17. Minnesota Statutes 1988, section 10A.09,
3 subdivision 2, is amended to read:

4 Subd. 2. [NOTIFICATION.] The secretary of state or the
5 appropriate county auditor, upon receiving an affidavit of
6 candidacy or petition to appear on the ballot from an individual
7 required by this section to file a statement of economic
8 interest, and any official who nominates or employs a public or
9 local official required by this section to file a statement of
10 economic interest, shall notify the board of the name of the
11 individual required to file a statement and the date of the
12 affidavit, petition, or nomination.

13 Sec. 18. Minnesota Statutes 1988, section 10A.09,
14 subdivision 5, is amended to read:

15 Subd. 5. [FORM.] A statement of economic interest required
16 by this section ~~shall~~ must be on a form prescribed by the
17 board. The individual filing shall provide the following
18 information:

19 (a) (1) name, address, occupation, and principal place of
20 business;

21 (b) (2) the name of each associated business and the nature
22 of that association;

23 (c) (3) a listing of all real property within the state,
24 excluding homestead property, in which the individual holds:

25 (i) a fee simple interest, a mortgage, a contract for deed as
26 buyer or seller, or an option to buy, whether direct or

27 indirect, ~~and which~~ with respect to an interest is valued in
28 excess of \$2,500; or (ii) an option to buy, ~~which~~ with respect
29 to property that has a fair market value of \$50,000 or more;

30 (d) (4) a listing of all real property within the state in
31 which a partnership of which the individual is a member holds:

32 (i) a fee simple interest, a mortgage, a contract for deed as
33 buyer or seller, or an option to buy, whether direct or

34 indirect, if the individual's share of the partnership interest
35 is valued in excess of \$2,500 or (ii) an option to buy, ~~which~~

36 with respect to property that has a fair market value of \$50,000

1 or more--~~Any listing under clause (c) or (d) shall indicate the~~
2 ~~street address and the municipality or the section, township,~~
3 ~~range and approximate acreage, whichever applies, and the county~~
4 ~~wherein the property is located; and~~

5 ~~(e)~~ (5) a listing of any investments, ownership, or
6 interests in property connected with pari-mutuel horse racing in
7 the United States and Canada, including a race horse, in which
8 the individual directly or indirectly holds a partial or full
9 interest or an immediate family member holds a partial or full
10 interest; and

11 (6) the giver, nature, and approximate value of a gift with
12 a fair market value of \$50 or more received during the period
13 covered by the report from an association, or a person other
14 than a member of the reporting individual's extended family,
15 with a financial interest in a matter with which the individual
16 deals in the course of the individual's official duties.

17 A listing under clause (3) or (4) must include the street
18 address, municipality, and county in which the property is
19 located, if it is located in a municipality, or the section,
20 township, range, and county in which it is located, and its
21 approximate acreage, if it is located outside a municipality.

22 Sec. 19. Minnesota Statutes 1988, section 10A.09, is
23 amended by adding a subdivision to read:

24 Subd. 5a. [LOCAL OFFICIALS IN SMALLER SUBDIVISIONS.] A
25 local official in a political subdivision with a population of
26 less than 10,000 shall file a statement of economic interest and
27 a supplementary statement in accordance with subdivisions 1 and
28 6 disclosing the giver, nature, and approximate value of a gift
29 with a fair market value of \$50 or more received during the
30 period covered by the report from an association, or a person
31 other than a member of the reporting individual's immediate
32 family, with a financial interest in a matter with which the
33 individual deals in the course of the individual's official
34 duties.

35 Sec. 20. Minnesota Statutes 1988, section 10A.09, is
36 amended by adding a subdivision to read:

1 Subd. 6a. [DUPLICATE FILING; LOCAL OFFICIALS.] A local
2 official required to file a statement or a supplementary
3 statement under this section shall file with the governing body
4 of the official's political subdivision a duplicate of the
5 statement filed with the board. The governing body shall
6 maintain statements filed with it under this subdivision and
7 make them available for public inspection.

8 Sec. 21. Minnesota Statutes 1988, section 10A.09,
9 subdivision 7, is amended to read:

10 Subd. 7. The board shall notify by certified mail or
11 personal service ~~any~~ an individual who fails within the
12 prescribed time to file a statement of economic interest
13 required by this section. If an individual fails to file a
14 statement within seven days after receiving this notice, the
15 board may impose a late filing fee of \$5 ~~\$50~~ per day, not to
16 exceed ~~\$100~~ \$1,000, commencing on the eighth day after receiving
17 notice. The board shall further notify by certified mail or
18 personal service ~~any~~ an individual who fails to file a statement
19 within 21 days after receiving a first notice that the
20 individual may be subject to a criminal penalty for failure to
21 file a statement. An individual who fails to file a statement
22 within seven days after a second notice is guilty of a
23 misdemeanor.

24 Sec. 22. [10A.095] [STANDARDS OF CONDUCT.]

25 Subdivision 1. [USE OF PUBLIC POSITION FOR PRIVATE
26 ADVANTAGE.] (a) No public or local official or public employee
27 may use the official's or employee's public position, title, or
28 prestige of office to obtain a preferential advantage, benefit,
29 or privilege not available to others on an equal basis, either
30 for the official or employee or for any other person or
31 association.

32 (b) No public or local official or public employee may use
33 public money, time, personnel, facilities, or equipment for
34 private gain or political campaign activities unless the use is
35 authorized or required by law or results in no significant cost
36 to the public.

1 Subd. 2. [GIFTS TO INFLUENCE PUBLIC ACTIONS.] No public or
2 local official or public employee may solicit or accept, and no
3 person may offer or give to an official or employee, anything of
4 value, whether for the official's or employee's own use or for
5 any other person, if receipt of the thing of value could
6 reasonably be expected to influence the performance of the
7 official's or employee's public duties.

8 Subd. 3. [PRIVATE COMPENSATION FOR PUBLIC DUTIES.] No
9 public or local official or public employee may solicit or
10 accept, and no person may offer or pay to an official,
11 compensation for the performance of the official's or employee's
12 public duties other than the compensation paid to the official
13 or employee by the governmental unit to which the official is
14 elected or appointed or by which the official or employee is
15 employed. This subdivision does not prohibit an official or
16 employee from receiving compensation for outside employment, if
17 the outside employment does not interfere with, influence, or
18 compromise the official's or employee's public position.

19 Subd. 4. [USE OF INFORMATION.] No public or local official
20 or public employee may intentionally use or disclose information
21 gained by reason of the official's or employee's public position
22 in a way that could result in the receipt of anything of value
23 by the official or employee or any other person known to the
24 official or employee if the information is not public data or
25 has not otherwise been communicated to the public.

26 Sec. 23. [REPEALER.]

27 Minnesota Statutes 1988, section 10A.02, subdivisions 11,
28 11a, and 12, are repealed.



THE LEAGUE OF WOMEN VOTERS

MINNESOTA

550 RICE STREET ST. PAUL, MN 55103 PHONE (612) 224-5445

Testimony before the
House Legislation, Veterans Affairs and Gaming Committee
by Jane McWilliams, LWMN Legislative Coordinator
April 25, 1989

Continuing concern over the escalating cost of running for Congress and over the undue influence of special interest groups on elections has spurred the League of Women Voters to work for campaign finance reform here in Minnesota and in Washington for many years. We believe that a system must be designed that assures open and honest elections and that fosters maximum participation in the electoral process. In short, we believe Congressional Campaign Reform is long overdue.

We believe that by limiting the size and type of contributions to congressional campaigns, we can assure the broadest base of support for a candidate.

We support setting a limit on total expenditures at a level that assures full discussion of the issues and adequate exposure of challengers.

We support enforcement by an independent body to assure fairness to the candidate and accountability to the public.

We believe that campaign funds should also be made available to third party and independent candidates to assure that all points of view may be heard by the voters.

Minnesota should take the lead and enact Congressional campaign finance reform this session. As the November election so clearly demonstrated, campaign spending is out of control. The quality of campaigns rather than being improved by high spending has deteriorated so much that voters are turned off and even our own state had the lowest voter turnout in history.

We can't wait for Congress to clean up its own act. The League of Women Voters urges this committee to take the first step and pass a Congressional finance bill.

ELECTION PROCEDURES IN MINNESOTA

A Survey of

Election Officials (1976)

and

Election Judges (1978)

League of Women Voters of Minnesota

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League of Women Voters of Minnesota
555 Wabasha
St. Paul, MN 55102
is pleased to present
this information to you as a
public service.

September, 1979

Printing of this booklet was donated by the Apache Corporation. Distribution was made possible through the League of Women Voters Education Fund.

INTRODUCTION: History

This election survey publication began as a project reflecting the concerns of League of Women Voters (LWV) members throughout Minnesota. At the 1977 State League Convention, members asked that a study guide on election day registration and training of election judges be developed.

It became apparent that the League would have to gather its own information. The state LWV committee decided that the best way to get information regarding election procedures was to go to the sources: the election officials and the election judges. League members gave officials a questionnaire to answer based on the 1976 general election tabulations. The election judges survey was based on tabulations and observations of the 1978 statewide election. Local Leagues throughout the state either interviewed the officials and the election judges or mailed the surveys to the appropriate people.

SURVEY OF ELECTION OFFICIALS: November 2, 1976 Election

Thirty-six local Leagues responded to the first survey, the election officials survey. These 36 Leagues reported on data from 55 cities and townships as well as some counties. In these 55 cities and townships, 156,014 Minnesotans registered to vote on election day (November 2, 1976).

Hours of Work

According to the survey, 25 municipalities had shifts set up for judges. The times varied, and some municipalities had counters who came in after the polls closed. All 25 municipalities that had shifts use paper ballots. In 30 municipalities the judges had to remain at the polls from the time they arrived, approximately one hour prior to opening to the public, until all the ballots had been counted. There were special absentee

ballot precincts in three municipalities. There was an extremely high voter turnout in the 1976 general election in all reporting municipalities.

Wages

Wages paid to judges varied throughout the state. Hourly rates ranged from a low of \$2.00 to a high of \$5.00. Flat rates ranged from \$15.00 to \$45.00 for the day. Payment for attending a training session prior to either the primary or general election day ranged from a low of \$1.00 to a high of \$6.00. The chairman of a precinct received from \$1.00 to \$5.00 extra.

Numbers of Voters

The wide range in number of registered voters per precinct indicated a possible need for redistricting in some areas. In paper precincts the range was 33 to 2,160 voters; in machine precincts the range was 82 to 3,425 voters; and in electronic precincts the range was 13 to 4,200 voters.

Problems

No significant fraud was reported. The most common errors were: voters were in the wrong ward or precinct; voters gave incorrect information; and voters did not fill in all the required information.

SURVEY OF ELECTION JUDGES: November 7, 1978 Election

Thirty-four Leagues sent in responses from their local election judges. These 34 Leagues reported on data from 52 municipalities and townships as well as some counties. The responses were divided into metro and non-metro areas for tabulating most of the questions and separated by method of voting for tabulating the "Comments." There were very few differences in the responses from metro and non-metro areas.

About the Judges

Nine hundred and three judges participated in this survey. Of these, 32% were chief judges. The metro area accounted for 51% of the judges, with 49% from non-metro. The judges were mostly between 30 and 65 years

old (85%) and predominately female (81%). They were also very experienced. Only 4% of judges returning our questionnaire were first-time judges, while 25% had worked in over 20 elections. Political parties are a minor source for election judges; 9% were asked to serve by their party. Emergency appointees account for a very small number of judges. Only 1% were emergency appointees at this election, and 4% had their first experience as an election judge by emergency appointment. The biggest source of election judges is volunteers in the metro area and recommendations from city or town councils in the non-metro area.

Judges usually put in a very long day - from 12 to 23 hours, with 16 to 17 hours being the most common.

Absentee Ballots

Absentee ballots are usually delivered to the polling places on election day, by mail or by municipal courier, and are verified and counted by regular election judges. Three Leagues reported the use of an absentee ballot precinct (see pages 6-8 of this report for a description). State law (Minnesota Statutes, Section 207.08) prohibits delivery of absentee ballots after the polls close; yet nine ballots were reported as having been received at the polls after 8:00 p.m. Sixty-five ballots were received at the wrong polling place, and 60 (92%) were then forwarded to the correct polling place. The rest arrived so late that they could not be forwarded.

Some voters seemed to have considerable trouble filling out absentee ballots properly. Twenty-seven different reasons were given for absentee ballots being voided, and judges reported voiding 187 ballots.

Training

More non-metro judges (67) than metro (8) failed to attend a training session for the November 1978 election. Minnesota Election Laws, 1978, require each county auditor to arrange for training of election judges; previously, this requirement applied only to

cities using voting machines. Judges in five localities, mostly non-metro, reported that they had not been paid for attending training sessions. All other judges were paid for training sessions, which, in general, ran for one to two hours.

Election Day Registration

Election judges apparently are getting used to election day registration. Eighty-six percent agreed that "election judges are more used to election day registration now and accept it as part of their job." While 53% of metro judges and 72% of non-metro judges do not agree that "judges resent election day registration," a large minority of 47% metro judges and 28% of non-metro judges agree that judges resent this procedure. Fifty-six percent of metro and 33% of non-metro judges agreed that "election day registration is so time consuming that it interferes with voting."

Comments

Election judges were prolific in their comments. Many constructive suggestions were received. We list below only the comments that were repeated over and over, from all parts of the state, from paper, electronic and machine precincts:

Training:

- 1) New judges need better training, at a separate session.
- 2) Written material is essential; some places already have this.
- 3) Absentee ballot procedure and election day registration needs to be stressed in training.

Working Conditions:

- 1) Hours are too long; shifts could be considered.
- 2) Pay is too low; judges should be paid at least the minimum hourly wage.
- 3) Polling places are usually too small.
- 4) Judges need breaks for meals. Polls are usually too understaffed for judges to take them.
- 5) Better precinct boundary maps are needed.

Absentee Ballot Procedure:

- 1) The procedure needs revision. It is too complicated.
- 2) Counting takes too long at the precincts.

Election Day Registration:

- 1) There are special problems in college precincts.
- 2) The public needs education on identification requirements.
- 3) Let's all push pre-registration!

POSSIBLE LOCAL RESPONSES TO JUDGES' CONCERNS

Some of the issues of concern expressed by election judges can be addressed only by changes in state law. However, several responses to judges' concerns can be implemented by local communities or individuals in communities with the cooperation of local election officials. Five different areas of possible response were mentioned over and over. These areas are: pre-registration, education of the public regarding election day registration, absentee ballot procedures and precincts, judges' working conditions, and training of election judges.

Pre-registration

Local communities through their own efforts or with the aid of community volunteers could greatly expand pre-registration efforts and thus ease the work load on election day for the judges. Registration booths or teams could be located in shopping malls, colleges, high schools, nursing homes, anywhere where there are people who might otherwise wait until election day to register. Registration cards could also be distributed all during the year to those places where people go when they change addresses: libraries, post offices, banks, real estate offices, etc. The hours for pre-registration could be made more convenient for working people and extended during the week before the twenty-day deadline.

Election Day Registration

Inevitably there will be those people who will wait until election day to register. The most often

mentioned problem in dealing with election day registration is lack of proper identification. Communities may want to embark on a publicity campaign, informing the public of exactly what forms of identification will be accepted. Newspapers, radio and TV spots could be utilized in order to reach the greatest number of people. Other possibilities which might help are: posting of identification requirements; posting map of the precinct; clearly marking two separate lines for election day registration and voting; making available a sample filled-in registration card; maps or information on nearby precincts so judges can properly re-direct people who have come to the wrong polling place.

Absentee Ballot Procedure

Absentee ballot procedures were also a major area of confusion and frustration. Most of the recommended changes involve changes in state law and will be discussed in the section dealing with the judges' suggestions for possible election law changes. The one area that is already a part of the law is that of an absentee ballot precinct. This is Section 207.30 of the Minnesota Statutes. It reads:

"207.30. ABSENTEE BALLOT PRECINCT.

Subdivision 1. Legislative purpose and policy. The Legislature determines that some municipalities in the state have the cumbersome burden of handling absentee ballots. It is the purpose of this section to provide a means through the local option of a municipality to determine whether or not it would be more convenient and more efficient to establish an absentee ballot precinct within the municipality which will handle all absentee ballots of the electorate of the municipality received during any election.

Subdivision 2. Establishing an absentee ballot precinct. Any city or town, charged with the responsibility of elections may by ordinance of the governing body of such municipality establish an absentee ballot precinct.

Subdivision 3. Board duties. An absentee ballot precinct shall be a board set up by

the designated election official of a municipality whose duties shall be as follows:

- (a) Receive all absentee ballots of the electorate of the municipality for any election.
- (b) Check the registration of each absentee ballot.
- (c) Determine the precinct of each absentee ballot voter and report the results of such election to each precinct with such results to be tabulated with that precinct.
- (d) Prepare a list for submission to each precinct within the municipality prior to the close of the election day for the precinct officials to check against the voter registration file to ascertain if any absentee ballot voter voted by person.
- (e) Reject any absentee ballots of persons who had voted at a precinct, making a notation on the envelope of the absentee ballot as to the reason for rejection.
- (f) After the polls have closed in the municipality, the board shall count the absentee ballots by opening them and tabulating the vote of each absentee ballot voter and designate that the vote was received by absentee ballot.

Subdivision 4. Appointment of members. The election official of each municipality shall be charged with the responsibility, after an ordinance has been adopted by the governing body of the municipality, to appoint the number of persons he deems necessary to carry out the duties of the absentee ballot precinct.

Subdivision 5. Compensation of members. The election official of each municipality shall pay a reasonable compensation to each member of the absentee ballot precinct for his services rendered during each election.

Subdivision 6. Applicable laws. Except as otherwise provided by this section, all of the laws applicable to absentee ballots and absentee voters as well as any other applicable

provisions of law as contained within the election laws of this state and specifically chapter 207, shall apply to the ballots handled by the absentee ballot precinct. It is intended by this section that an absentee ballot precinct may be established and that the provisions of this section are to be supplementary to the election laws of this state."

A member of the Owatonna LWV gave an excellent description of how the absentee ballot precinct works in her community:

"All absentee ballots were counted in a separate precinct. Ballots were delivered to precincts early in the day by the Postmaster. Each precinct then checked its ballots against registrations and applications. The accepted ballots were placed in a ballot box and picked up by the absentee ballot judges. (All ballots were accepted with either pre-registration or accompanying election day registrations.) The absentee judges were two from each major party - DFL and Independent-Republican. They spent 6½ hours picking up and counting the 400 (approximately) ballots. No entire ballots were disqualified, but in a very few cases, votes for a particular candidate were disqualified. These same judges had served by twos (one from each party) to go to rest homes, hospitals and homes of individuals who could not come to the polls. This was done from about ten days before the election through the day prior to the election."

Local election officials may want to explore this option. Setting up an absentee ballot precinct could reduce the number of hours spent by election judges after the polls close by eliminating this time-consuming job at each precinct.

Judges' Working Conditions

Local election officials can be most helpful in obtaining better working conditions for election judges. Adequate lighting, space for tables for election day

registration, more voting booths, more judges - all these were mentioned as necessary by at least one-half of all judges surveyed. Judges also reported less than one-half hour for meals and, in some instances, no break time at all. The need for additional judges to handle election day registration in college towns and in larger precincts was also cited.

The need for better - in many cases, larger - precinct boundary maps was mentioned often by judges.

Training of Election Judges

The training of election judges was another subject that received much comment. Sessions vary from a meeting of 300 in a lecture hall to a private interview with the city clerk. These comments ranged from "great" to "a waste of time." The quality of training is where the problems arise. Some questions community officials might ask in evaluating the effectiveness of their training are: Could the instructor be heard? Were there visual aids? Was there an actual demonstration of the balloting method (paper, machine, electronic)? Was the absentee ballot procedure completely covered? Were the judges taught how to properly register new voters? Judges from the larger cities requested smaller groups in the training sessions; experienced judges - those who had worked at over ten elections - requested a refresher course rather than an extended session, starting with "this is a voting machine." A more detailed session would then be offered to new judges and those with less experience.

There was recognition of the fact that all election judges should be knowledgeable in all areas: election day registration, opening the machines, verifying and counting absentee ballots, and so on. This would make it easier to rotate jobs during the course of a long day. Judges should also be made aware of and given a copy of election law changes that directly affect them.

ELECTION LAW CHANGES SUGGESTED BY JUDGES

Many of the comments made by election judges would require election law changes. The suggestions that were included in this comment section were:

- *redistricting;
- *allowing shifts for judges who work in precincts that use paper, machine and electronic systems;
- *minimum wage for all judges, plus extra compensation for the chief judge;
- *requiring printed name as well as signature on absentee ballot envelope;
- *printing absentee ballots sooner;
- *having a central location for election day registration;
- *having enough instruction books for all judges.

When election day registration first began in Minnesota, state funding to the municipalities was provided by the Legislature to help defray the cost. Since then, the state funding has been used up. However, more and more people are making use of election day registration, thus increasing the cost of elections for the municipalities. Additional and ongoing state funding for election day registration might lessen some of the resistance to this law.

Included in the appendix of this booklet is a compilation of survey results from both election officials and election judges.

CONCLUSION

Election officials and judges were very helpful to the LWVMN in sharing their views of election procedures. Over 900 judges responded, writing extensive comments. The consensus of those responding to the League's survey appeared to be that Minnesota's election laws and procedures were working well but that improvements could be made.

QUESTIONS FOR ELECTION OFFICIALS

(Sample)

About the Municipality:

Population

Number of registered voters: _____
 Number of votes cast in 1976 primary: _____
 Number of votes cast in 1976 general election: _____

Ballots used: [Check appropriate one(s)]

Electronic _____

Machine _____

Paper _____

Number of precincts: _____

Number of registered voters in largest precinct: _____

Number of registered voters in smallest precinct: _____

About the Judges:

1. Total number of judges working at 1976 general election: _____
 Total number of judges working at 1976 primary election: _____
2. Number of judges working at last election at the
 largest precinct: _____
 smallest precinct: _____
3. Are judges assigned on the basis of the number of registered voters in a precinct?
 Yes _____ No _____
 On anticipated voters?
 Yes _____ No _____
 If yes, how many judges were used per 150 registered voters at the last election? _____
4. Are judges assigned on the basis of the number of voting machines used in a precinct?
 Yes _____ No _____
 If yes, how many judges were used per machine? _____
 How many machines were used per 150 registered voters? _____

5. Were extra judges assigned on November 2, 1976, because of election day registration?

Yes _____ No _____

If yes, how many extra were assigned to each precinct? _____

6. Salary: What is your compensation schedule for election judges?

Hourly wage _____

Flat wage per election _____

Extra compensation for:

transportation _____

training session attendance _____

being chairman of precinct _____

other _____

7. Do you have a mandatory retirement age of judges?

Yes _____ No _____

If so, what? _____

8. Do election judges in your municipality:

a. work in designated shifts (define)?

b. remain at the polling place from opening through counting completion?

Absentee ballots:

1. How many absentee ballots were received in your municipality for the 1976 election? _____

2. Who delivered the absentee ballots to the polling place? _____

3. What time of day were the absentee ballots delivered?

7:00 a.m. 12:00 noon _____

12:00 noon 8:00 p.m. _____

After 8:00 p.m. _____

Election Day Registration and Followup:

Questions to ask city clerks (or county auditor)

1. How many voters registered on election day at the last Presidential election (November 2, 1976)? _____

2. What percent of your total registration is that number? _____

3. Was there any evidence of fraud, cheating or double voting? Yes _____ No _____ If yes, please explain.

4. Do you agree with any of these statements?

a) Election judges are more used to election day registration now and accept it as part of their job. Yes _____ No _____

b) Election judges resent election day registration.

Yes _____ No _____

c) Election day registration is so time-consuming that it seriously interferes with the real purpose of the day, which is voting. Yes _____ No _____

5. What percent of election day registrations is done incorrectly? _____

Have you done an analysis of reasons? Yes _____ No _____

[Check if applicable]

Wrong precinct or ward _____

Incorrect information on card _____

Not filling in required information _____

6. What follow-up do you do on election day registrations?

a) Pull former registration card if registrant moved within the city?

b) Notify other city if voter moved from out of town?

c) If your city is notified that a voter registered in another location, do you check to be sure s/he didn't also vote in your location?

d) If you are notified that a voter has registered in another location, do you remove that voter's registration card from your files?

ELECTED OFFICIALS SURVEY RESULTS

NOTE: Questions for which there are no answers either were not answered by election officials, answers that were given were not complete or inconclusive, and/or not enough officials responded to give a true picture.

Returns from 55 municipalities and townships:

About the Municipalities:

Number of registered voters: 1,087,101

Number of votes cast in 1976 primary: 243,148

Number of votes cast in 1976 general election: 955,680

	<u>Electronic</u>	<u>Machine</u>	<u>Paper</u>
Ballots used	7	20	25
Number of registered voters in largest precinct	4,200	3,425	2,160
Number of registered voters in smallest precinct	13	82	33

About the Judges:

1. Total # of judges working in 1976 general election:
6,743
Total # of judges working at 1976 primary election:
5,632
6. Salary: compensation schedule for election judges:
Hourly wage - Range \$2.00 - \$5.00
Flat wage per election - Range \$15.00 - \$45.00
Extra compensation for:
transportation -
training session attendance - Range \$1.00 - \$6.00
being chairman of precinct - Range \$1.00 - \$5.00
7. Mandatory retirement age for judges: only in 1st class cities (Minneapolis, St. Paul, Duluth)
8. Election judges work designated shifts only in paper ballot precincts (25) and only for counting

Absentee ballots:

1. # received in reporting municipalities for the 1976 election: 28,517
2. Delivered to polling places by mailman or local election officials
3. Delivered during the course of the day

Election Day registration and follow-up:

(Questions asked of city clerks and/or county auditors)

1. Voters registered on election day at last Presidential election (November 2, 1976): 156,014
2. Percent of total registration: 12.5%
3. Evidence of fraud, cheating or double voting? No
(Three municipalities reported three instances, one in each municipality.)
5. Percent of election day registrations done incorrectly? Range of 1% to 45%

Analysis of reasons:

Wrong precinct or ward: Mentioned most often
Not filling required information: Second reason mentioned

QUESTIONS FOR JUDGES

(Sample)

After the 1978 State Election

About the Judges:

1. Age: 18-30 _____ 30-50 _____ 50-65 _____ over 65 _____
Male _____ Female _____
2. Were you the chairman (chief judge) at your precinct? Yes _____ No _____
3. How many hours did you work (number of hours between time of arrival and time of departure)? _____
4. How often have you served as an election judge? 1st time _____ 2-5 times _____ 6-10 times _____ 10-20 times _____
5. Were you an emergency appointee at this election? Yes _____ No _____ If yes, how many hours' notice were you given? _____
6. How did you first come to be an election judge (check one)? volunteer _____ appointed on an emergency basis _____ asked to serve by your political party _____ asked to serve by city or town council _____ other _____

Absentee ballots:

1. How many absentee ballots were received in your precinct? _____
2. Who delivered the absentee ballots to your polling place? city staff? _____ mailman? _____ other? (who) _____
3. What time of day were absentee ballots delivered? 7:00 a.m.-12:00 noon _____ 12:00 noon-8:00 p.m. _____ after 8:00 p.m. _____
4. Did your precinct receive any absentee ballots that should have been sent elsewhere? Yes _____ No _____ What happened to them? Forwarded to the correct precinct? _____ Thrown out? _____
5. Did your precinct fail to receive ballots you should have? Explain. _____
6. Who counts the absentee ballots: chief judge? _____ any judge? _____ judges at special location? _____
7. Did your precinct void any absentee ballots due to errors? Yes _____ No _____ Reasons: improper verification _____ wrong ballot _____ sent to wrong precinct _____ other _____

Training:

1. Did you attend a training session? Yes _____ No _____
How long? 1 hour _____ 2 hours _____ over 2 hours _____
Were you paid? Yes _____ No _____ If you were, how much? _____ Were you paid mileage? Yes _____ No _____
2. Did you attend a training session before the primary and/or before the general election? Yes _____ No _____
Please specify.
Who was in charge of the training session: city clerk? _____ county auditor? _____ chief election judge? _____ other (who)? _____
3. During the training session, were you instructed in:
Election day registration? Yes _____ No _____
How to use electronic machine? Yes _____ No _____
by demonstration? Yes _____ No _____
by lecture without demonstration? Yes _____ No _____
How to use the voting machine? Yes _____ No _____
by demonstration? Yes _____ No _____
by lecture without demonstration? Yes _____ No _____
How to "use" paper ballot? Yes _____ No _____
by demonstration? Yes _____ No _____
by lecture without demonstration? Yes _____ No _____
Were you taught what to look for in determining the legality of absentee ballots? _____
4. Were you given material to take home to study? Yes _____ No _____
5. If you did not attend a training session, did you have a personal conference with the appointing authority? Yes _____ No _____ How? _____ Phone _____ In person _____
6. How close to the election was the training session held? within one week? _____ within two weeks? _____ over two weeks? _____

Election Day Registration and Follow-up:

Do you agree with any of these statements?

- a) Election judges are more used to election day registration now and accept it as part of their job. Yes _____ No _____
- b) Election judges resent election day registration. Yes _____ No _____

- c) Election day registration is so time consuming that it seriously interferes with the real purpose of the day, which is voting. Yes _____ No _____

Suggestions for Improvement:

Do you have any suggestions for improvement in:

- Training of election judges?
working conditions?
enforcement of election laws?
absentee ballot procedures?
availability of city staff for help?
other?

ELECTION JUDGES SURVEY RESULTS

Returns from 52 Municipalities and Townships:

<u>About the Judges</u>	<u>Metro</u>	<u>Non-Metro</u>	<u>Both</u>
# Leagues	17	17	34
# Judges who were interviewed (or filled out surveys)	459 (51%)	444 (49%)	903
# Chief judges	199 (44%)	93 (21%)	292
Age - 18-30	11	9	20
30-50	172	196	368
50-65	162	178	340
over 65	47	62	109
Male	25 (6%)	126 (30%)	151
Female	360	294	654 (81%)
Frequency -			
1st time	18	19	
2-5 times	114	142	
6-10 times	78	104	
10-20 times	115	69	
over 20	122 (27%)	103 (24%)	

Emergency appointee at this election? Yes

3

9

About the Judges	Metro	Non-Metro	Both
How came to be judge?			
Emergency	13 (3%)	17 (4%)	
Political party	50 (11%)	28 (7%)	
City or town council	121 (27%)	263 (64%)	
Volunteer or "other"	258 (58%)	102 (25%)	

Absentee Ballots:	Metro	Non-Metro
Absentee ballots per precinct - highest reported	280 (Edina)	110 (Austin)

Absentee ballots delivered after 8:00 p.m.	6	3
--	---	---

Precincts which received ballots that should have been sent elsewhere		
Forwarded	39	21
Thrown out or other	5	0

Precincts which failed to receive ballots (i.e., had applications but no ballots; ballots but no applications; empty ballot envelopes).	52*	16
---	-----	----

Who counts absentee ballots?		
Judges at polling place (# of Leagues)	14	16
Absentee ballot judges at polls	1	0
Absentee ballot judges at absentee ballot precinct	2	1

# precincts where absentee ballots are voided	114	53
---	-----	----

*Unclear if this means 52 precincts or 52 ballots; truth is probably somewhere between.

Reasons given for voiding of absentee ballots (# of ballots)	Metro	Non-Metro
Improper verification	67	27
Wrong ballot	10	1
Wrong precinct	7	5
Voted for several candidates for same office	2	2
Not witnessed	3	3
Not signed	3	4
Not registered	4	11
No application	5	4
Deceased before election day	-	3
Other	19	66
(27 different reasons given)		
Total	121	66

<u>Training</u>		
# Judges who did <u>not</u> attend training	8	67
# Areas where judges were <u>not</u> paid for training	1	4

<u>Election Day Registration - Opinion Poll</u>		
Agree with following statements:		
a) Election judges are more used to election day registration now and accept it as part of their job		
YES	312	271
NO	41 (12%)	50 (16%)
b) Election judges resent election day registration		
YES	158	83
NO	176 (53%)	217 (72%)
c) Election day registration is so time consuming that it seriously interferes with voting		
YES	195	100
NO	155 (44%)	206 (67%)

The election survey committee would like to thank all of the local Leagues that participated in the election officials survey and the election judges survey. Without their help this information could not have been gathered.

LWVs of:

Alexandria	Moorhead
Anoka-Coon Rapids Area	Mounds View
Austin	New Brighton
Battle Lake	New Ulm
Bloomington	Northfield
Brooklyn Center	Owatonna
Brooklyn Park	Red Wing
Buffalo-Monticello Area	Richfield
Cass Lake	Robbinsdale
Chaska	Rochester
Detroit Lakes	Roseville
Duluth	St. Cloud Area
Edina	St. Croix Valley
Falcon Heights	St. Louis Park
Freeborn County	St. Paul
Fridley	St. Peter
Golden Valley	Shoreview
Grand Rapids Area	Stevens County
Granite Falls	West Dakota County
Hibbing	Westonka
Marshall	White Bear Lake
Mid-Mesabi	Woodbury
Minneapolis	Worthington
Minnetonka-Eden Prairie-Hopkins	Wilkin County

Committee Members: Joan Newmark (LWV-St. Paul), Ann Wordelman (LWV-St. Louis Park), Carol Bergeson (LWV-White Bear Lake), Mary Schaeppi (LWV-Bloomington), Grace Harkness (LWV-Minneapolis), Betty Sailer (LWV-Edina), Bernie Metzner (LWV-Edina), and Erica Buffington (State Board and LWV-St. Louis Park).

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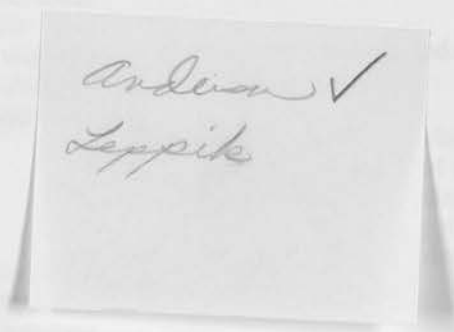
The FEC Journal of Election Administration

Volume No. 12, Summer 1985

AUG 5 1985

Inside:

- 1984 Election Results
- Proposed Federal Legislation
- Ballot Retention Requirements
- Clearinghouse Reports Available



For Information or Research on Election Administration

Call Us Toll Free on
800/424-9530
or Write

**National Clearinghouse on Election
Administration
U.S. Federal Election Commission
Washington, D.C. 20463**

The FEC JOURNAL OF ELECTION ADMINISTRATION is a publication of the U.S. Federal Election Commission's National Clearinghouse on Election Administration.

Commissioners are: John Warren McGarry, Chairman; Joan D. Aikens, Vice-Chairman; Lee Ann Elliott; Thomas E. Harris; Danny L. McDonald; Frank P. Reiche; Jo-Anne L. Coe, Secretary of the Senate, Ex-Officio; and Benjamin J. Guthrie, Clerk of the U.S. House of Representatives, Ex-Officio.

Comments, letters, articles, and suggestions are welcome and should be addressed to Editor, FEC JOURNAL OF ELECTION ADMINISTRATION, Federal Election Commission, Washington, DC 20463.

For additional information, call the FEC National Clearinghouse on Election Administration on 202/523-4183 or toll free on 800/424-9530.

Substantive information regarding the Federal Election Campaign Act or FEC campaign finance activities may also be obtained toll free from the FEC Public Communications Office on 800/424-9530.

Editor's Note

The Journal of Election Administration Resumes

The Federal Election Commission is pleased to resume publication of the *Journal of Election Administration*, suspended after the Summer of 1981 issue due to budget restrictions. We now hope to produce a *Journal* twice annually.

THE JOURNAL

The *FEC Journal on Election Administration* is intended to be a vehicle of communication within the election community. We want it to be a free and open forum for the exchange of thoughts, opinions, and ideas among election officials. To that end, we invite your letters and especially any articles you may wish to contribute. Address such items to: Editor, *FEC Journal on Election Administration*, Clearinghouse, Federal Election Commission, Washington, DC 20463.

THE CLEARINGHOUSE

The National Clearinghouse on Election Administration has been established within the FEC to assist State and local officials. Consistent with the Commission's mandate in the Federal Election Campaign Act, the Clearinghouse serves as a central exchange point for research and information regarding the conduct of federal elections. Our research topics and information files span the range and details of:

■ election legislation and case law

■ the administration of elections including
— planning, managing, and budgeting elections
— applying computers in election administration
— training election officials

— special services to the elderly, handicapped, absentee, non-English-speaking and other special populations

■ providing ballot access to parties and candidates

■ voter registration forms, techniques, and procedures

■ State campaign finance laws

■ voter information and education programs

■ balloting systems including
— the various types of voting equipment on the market
— performance standards for voting systems
— absentee balloting procedures
— ballot layout and design

■ contested election and recount procedures.

In addition to these topics, we maintain basic statistics on voter registration, voter turnout, and election results in federal elections.

Finally, we attempt to facilitate election officials' dealings with the several federal agencies related to elections. We are more than happy to help track down the right office for you, whether it be in the Department of Justice, the Department of Defense, the Bureau of the Census, the Postal Service, or any other federal agency.

To avail yourself of any of these research or information services, do not hesitate to call us toll free on 800/424-9530.

In the Interim . . .

Despite the *Journal's* silence since the Summer of 1981, the Clearinghouse has not been idle. In addition to a round of Regional Conferences on Federal elections, which many of you attended in late 1983 or early 1984, we have also published the following volumes. (Instructions for ordering these are provided in the back pages of this issue.)

■ **Voting Systems Vendors 81** is a compilation of the various types of voting equipment and of those vendors active in the 1981 market. Although this volume is somewhat dated, since it does not reflect recent corporation changes or newer devices in the market, it may still serve as a useful guide. The volume lists the many characteristics of a voting device which prospective buyers might wish to consider. It provides pictures and general descriptions of the various devices as well as technical descriptions in accordance with the list of characteristics. We hope to update this volume next year.

■ **Voting Systems Users 81**, a companion to the vendors volume described above, lists the major local jurisdictions of each State, their voting age population, their registered population, the number of voting precincts, the type of voting equipment used, and the telephone number of the local election official. Although again slightly dated, this volume still serves its purpose in providing prospective buyers an opportunity to contact other jurisdictions of similar size regarding their experience with the equipment under consideration.

■ **Voting System Standards: A Report to the Congress on the Feasibility of Developing Voluntary Standards for Voting Equipment** responds to a Congressional mandate for such a study. This report traces the development of voting equipment, relates certain problems in its general performance, and identifies those aspects of voting

equipment which lend themselves to testable standards. On the basis of this report, the Federal Election Commission has undertaken the development of voluntary standards for the hardware, software, and management aspects of punchcard and marksense voting systems. (See "In the Works" below.) This report to the Congress may nevertheless be useful to State and local election officials in that it identifies the types of equipment performance measures which are useful in accepting or buying voting devices.

■ **Campaign Finance Law 84** is a detailed compendium of State campaign finance laws and regulations which apply to candidates for State and local offices. This volume provides quick reference charts along with detailed legal summaries with citations to the appropriate legal codes. This is an extremely valuable reference tool.

■ **Voter Information and Education Programs 2: Voter Education Programs in the Schools** outlines a variety of ways in which election officials, in cooperation with school authorities, can enhance civic consciousness in students from grammar school through high school and beyond. Appendices offer multiple examples and sources. This volume is designed to be useful to teachers and election officials alike.

■ **Federal Elections 82: Results of the Elections for the U.S. Senate and the U.S. House of Representatives** records, as the title suggests, the results of the Senatorial and U.S. Representative elections in 1982 as reported by the States. The report includes all the candidates listed on the ballots along with their percentages of votes cast. This volume also represents the first of a continuing series to be produced by the Federal Election Commission on the results of Federal elections.

. . . Hot Off the Press . . .

As we go to press with this *Journal*, we are also going to press with four new publications. The timing of these things prevents us from providing you, at this point, the detailed ordering information or prices. Yet the importance and value of these reports is such that we want to advise you of them before our next *Journal* issue six months hence. If you are interested in obtaining any of these volumes, please contact us on 800/424-9530 for ordering information after August 1, 1985.

■ **Computerizing Election Administration I: Current Applications** is the first of a three-volume series. The overall objective of the series is to assist local election officials in automating their day-to-day election activities at a pace suited to their own needs and resources but in a manner calculated to ensure that future needs can be accommodated without having to restructure what was designed before. This first volume of the series focuses on the benefits of computerization and warns of possible pitfalls. It suggests a general approach to the problem of computerizing and offers a step-by-step guide for defining your automation needs. The volume also reports the results of a recent survey of computer applications in a sample of 50 election jurisdictions. Five cross-referenced indices describe which election functions have been computerized by which jurisdictions. The indices are organized by population size, function computerized, equipment type, and detailed attributes of each system. Finally, the volume provides a list of contacts in the sample jurisdictions along with their addresses and telephone numbers so that you may contact them directly for further information.

■ **Election Directory 85** is a new and improved version of our standard directory of election officials. This edition is reduced in physical size for greater desk-top

convenience yet expanded in coverage by the addition of two new sections. The first section of this directory contains our traditional listing of Federal election-related officials, State election officials, and legislative research bureaus complete with names, addresses, and telephone numbers. A new second section identifies Federal and State offices where copies of Federal campaign finance reports may be reviewed and copied. It includes the addresses, telephone numbers, prices per page, and indicates which locations have a computer link to the FEC Disclosure data base. The new third section, intended especially for local voter registration officials, provides the appropriate addresses for forwarding notices cancelling any prior registration of new residents. The objective of this last section is to facilitate communications among local registration offices in an effort to improve the quality and accuracy of registration lists.

■ **Voter Information and Education Programs 1: Designing Effective Voter Information Programs** is the companion to the previously published second volume, **Voter Education Programs in the Schools**. This first volume focuses on various ways in which local election officials can, through simple but effective techniques, improve their communications to eligible voters. The volume examines what voters need to know and provides some practical pointers on choosing the right media, designing the right messages, and planning your own voter information program.

■ **Federal Elections 84** summarizes the election results for the U.S. Senate, for the U.S. House of Representatives and for President by candidate, party, and State. The volume provides the number of votes cast, as reported by the States, as well as percentages for all candidates who appeared on a ballot.

... In the Works ...

The National Clearinghouse on Election Administration is currently engaged in a number of projects and activities which might interest you.

■ **The Voting Accessibility for the Elderly and Handicapped Act (Public Law 98-435)** was recently enacted by the Congress for the purpose of "improving access for handicapped and elderly individuals to registration facilities and polling places for Federal elections." Among other things, this act requires the Federal Election Commission to gather from State election offices and report to the Congress every two years certain information on the accessibility of polling places. Significantly, it does not assign the FEC the role of developing compliance guidelines or of approving or disapproving State implementation strategies. Although our responsibilities under the terms of the law are limited, we hope to be of positive assistance to election officials by serving in our traditional role as a clearinghouse of information. To that end, we are currently collecting and will soon be disseminating materials which might be useful to the State offices in developing their own definitions, criteria, survey instruments or other implementation plans. Voting accessibility will be only one of several important topics on the agenda of the upcoming Clearinghouse Advisory Panel meeting described below.

■ **The FEC Clearinghouse Advisory Panel** is scheduled to have its annual meeting on August 4, 5, and 6 at the Washington Plaza-Hotel in Washington, DC. The purpose of the Panel is to advise the Federal Election Commission on how best to allocate its resources to help improve the administration of elections throughout the Nation. We welcome the attendance and audience participation of all election officials in what promises to be a very busy and important agenda.

Current members of the Advisory Panel are:

Honorable Ray Ortiz
Registrar-Recorder
San Diego County, California

Honorable Jean Marc Hamel
Chief Election Officer
Ottawa, Canada

Honorable Charles Kaniss
Supervisor of Election
Pinellas County, Florida

Honorable Max Cleland
Secretary of State
Atlanta, Georgia

Honorable John Countryman
State Representative
Springfield, Illinois

Honorable Stanley Kusper
Cook County Clerk
Cook County, Illinois

Honorable Carolyn Kenton
State Representative
Lexington, Kentucky

Honorable Marie Garber
Administrator
State Board of Election Law
Annapolis, Maryland

Honorable Lyall Schwarzkopf
City Clerk
Minneapolis, Minnesota

Honorable Roy Blunt
Secretary of State
Jefferson City, Missouri

Honorable Allen Beermann
Secretary of State
Lincoln, Nebraska

Honorable Thomas Wallace
Executive Director
State Board of Elections
Albany, New York

Honorable Ray Phelps
Director of Elections
Salem, Oregon

Honorable Jeffrey Teitz
State Representative
Newport, Rhode Island

Honorable Ray Farabee
State Senator
Austin, Texas

Honorable William Huish
Utah County Clerk
Provo, Utah

■ **Computerizing Election Administration 2: A General Model** is the second volume in our three-stage research effort to assist local election officials in automating their election activities efficiently. The first volume in this series (see "Hot Off the Press" above) brings readers up to the point of clearly defining their information needs. This second volume will enable readers to design a computerized system to meet those needs by selecting appropriate modules from a general model of a computerized election management information system. Within each module are further choices with regard to specific features or activities which the module might perform. The volume is designed in progressive levels of detail for each option the reader selects down to the level of necessary inputs for desired outputs. The purpose of the volume is to provide a menu of coherent design choices for election administrators as well as to serve as a communication bridge between election officials and data processing types. It will be a valuable tool to both communities and should be available for ordering in our next edition of this *Journal*.

■ **Training Election Officials** is a research project which the Clearinghouse sponsored some years ago. The project advisory board made up of election officials unanimously agreed, however, that the products of the effort were far too long and far too complicated. The products did serve as the basis for Clearinghouse training workshops which, though useful, may have erred in the other direction by oversimplifying the matter. Designing an effective training program requires, after all, a more professional and thorough effort than a three-hour workshop can usually describe. In order to reach a happy medium, the Clearinghouse is now distilling the original products into a concise, step-by-step approach which will enable local election officials to design a practical, inexpensive training program to satisfy their needs. Look for the availability of this publication in our next issue.

■ **Developing Voluntary Standards for Voting Equipment** is a long-term commitment of the Clearinghouse stemming from our Congressionally mandated study on the subject described in "In the Interim" above. Our current phase consists of three closely interrelated projects focused on punchcard and marksense voting systems. The first project, nearing completion, is the development of standards for the hardware elements of punchcard and marksense systems. The second project, just initiated, is the development of standards for the software of these systems. Yet the truly successful performance of a voting system depends just as greatly on how well it is managed. For that reason, we are also developing a set of management guidelines with the cooperation of our Project Advisory Committee which will be meeting on August 6 (in conjunction with the Advisory Panel) to examine all these projects. Members of that Committee include:

Honorable Don Siegleman
Secretary of State
Montgomery, Alabama

Honorable Deborah Seiler
Assistant to the Secretary of
State for Elections &
Political Reform
Sacramento, California

Honorable Ernest Hawkins
Registrar of Voters
Sacramento County,
California

Honorable Ray Ortiz
Registrar-Recorder
San Diego County, California

Honorable Shirley Baccus
Supervisor of Elections
Brevard County, Florida

Honorable Enid Earle
Supervisor of Elections
Lee County, Florida

Honorable Charles Kaniss
Supervisor of Elections
Pinellas County, Florida

Honorable Max Cleland
Secretary of State
Atlanta, Georgia

Michael Hamblet
Chairman
Illinois State Board of
Elections
Springfield, Illinois

Honorable Stanley Kusper
Cook County Clerk
Cook County, Illinois

Honorable Michael Lavelle
Chairman, Chicago Board of
Election Commissioners
Chicago, Illinois

Honorable Daniel Nelson
Executive Director
Du Page County Board of
Election Commissioners
Du Page County, Illinois

Honorable Laurie Christie
Executive Director
State Board of Elections
Indianapolis, Indiana

Honorable Bremer Ehrler
Administrative Judge
Jefferson County
Jefferson County, Kentucky

Honorable Jerry Fowler
Commissioner of Elections
Baton Rouge, Louisiana

Honorable Marie Garber
Administrator
State Board of Election Law
Annapolis, Maryland

Honorable Lyall Schwarzkopf
City Clerk
Minneapolis, Minnesota

Honorable Roy Blunt
Secretary of State
Jefferson City, Missouri

Honorable Clara Jones
Secretary of State
Santa Fe, New Mexico

Honorable Thomas Wilkey
Public Information Officer
State Board of Elections
Albany, New York

Honorable Ed Mahoney
Commissioner of Elections
Erie County
Erie County, New York

Honorable Stuart Cohen
Assistant Commissioner
Legal Affairs & Policy
City of New York
New York, New York

Honorable Ray Phelps
Director of Elections
Salem, Oregon

Honorable Susan Farmer
Secretary of State
Providence, Rhode Island

Honorable Joseph DiStefano
Chairman
State Board of Elections
Providence, Rhode Island

Honorable P. Michael Cinnamon
Director of Elections
Columbia, South Carolina

Honorable Anita Rodeheaver
Harris County Clerk
Harris County, Texas

Honorable Donald F. Whiting
Elections Supervisor
Olympia, Washington

Honorable Sam Reed
Thurston County Auditor
Thurston County,
Washington

... And On the Drawing Boards

The coming months will be very active ones in the Clearinghouse; for not only will we be completing projects that are in the works, but we will also be undertaking several new ones.

■ **Computerizing Election Administration 3, Implementation Strategies** will be the third and final volume in our computerization series. This volume will address the very practical problems of implementing a computerized election management information system under different environmental circumstances such as shared versus in-house equipment, shared versus solely held data bases, shared versus sole election responsibilities, computerized statewide registration systems of various types, and the like. We anticipate beginning this project in the autumn of this year for completion late next year.

■ **Campaign Finance Law 86** will be an update of our very popular report on State campaign finance laws which apply to State and sometimes local offices. The '86 edition will follow our now traditional format of providing quick reference charts as well as State-by-State summaries with appropriate code citations. Research for the volume will begin soon so that the finished product, accurate up to December 31, 1985, will be available prior to the 1986 primary election season.

■ **Voting Systems Vendors 86** will be an update of our series on voting equipment manufacturers and vendors active in the market. This new edition will try to take account of the many changes in the supply end of the market since our '81 volume. These include the recent appearance of direct electronic voting systems, recent corporate changes, and cross-licensing agreements which enable vendors to sell various lines of equipment from different manufacturers or suppliers. We anticipate beginning the project in the new fiscal year for publication in mid to late 1986.

■ **Election Case Law**, a series which the Clearinghouse published until a budget crunch in 1981, summarized the principal elements and decisions of major Federal and State election-related court cases. The series categorized cases by jurisdiction as well as by election topic as a service to both the election and the legal communities. We plan in 1986 to restore this series retroactive to where we left off in 1981 and then to continue it annually thereafter.

■ **Absentee Voting and Registration** we last addressed in a 1975 report which summarized the relevant State absentee voting laws and procedures and the various categories of voters to whom they applied. The picture has changed considerably over the past decade although, we are pleased to report, consistently in the direction of the recommendations made in that study. We hope to launch in the not-too-distant future a new study of absentee voting procedures—one which will be equally useful to election officials and to potential absentee voters.

■ **Ballot Access** is another outdated report which summarized in 1977 the State laws, rules, and procedures whereby political parties and candidates for Federal offices obtain the right to appear on the ballot. We hope within the next two years to update this report in order to take account of the many changes in the interim.

These projects are only some of the items which, along with our continued efforts on Voting Accessibility for the Elderly and Handicapped and the development of Voting System Standards, will be occupying our time. If you have ideas for other projects or topics we should undertake in the future, we would very much welcome hearing from you either by letter or toll free on 800/424-9530.

Federal Law on Retention of Voting Documentation

The United States Constitution assigns primary responsibility for overseeing the administration of elections to the states. The role of the Federal Government in election matters has generally been confined to assuring that elections to fill positions within the federal government are conducted free from fraud and corruption, and that federally guaranteed voting rights are protected.

In fulfilling their considerable responsibilities in this area, most of the states have enacted laws which provide in considerable detail precisely what sorts of documentation are to be generated in connection with the voting process, and how long that documentation must be retained after an election is over. In most instances, state laws allow voting information to be disposed of after the expiration of 60 days following the election in question, unless it has been impounded by a local court in connection with legal proceedings or an election contest.

The relatively brief document retention periods imposed by these state laws are not usually long enough to assure that necessary voting records will be preserved until more subtle forms of federal civil rights abuses and election crimes have been detected. It normally takes longer than 60 days for evidence to surface that fraudulent voting practices took place in connection with a given election, or that federally secured voting rights were not sufficiently protected. Accordingly, in 1960 the Congress passed a series of statutes to assure that voting documentation is preserved for a sufficient period of time to permit the federal government to discharge its limited but important responsibilities in the election area. These laws are presently codified at Title 42, United States Code, Sections 1974 through 1974e, inclusive. Their requirements, and the penalties potentially applicable for violations, are matters of substantial importance to election administrators charged with the responsibility for assuring the safekeeping of voting documentation.

Section 1974 states that election administrators are required to preserve for 22 months "all records and papers which came into (their) possession relating to an application, registration, payment of poll tax, or other act requisite to voting."

This retention requirement applies only to those elections where candidates for federal offices (e.g., Member of Congress, United States Senator, and/or Presidential Elector) were voted upon. It does not apply to local or state elections, unless those elections take place simultaneously with balloting for federal offices.

Since the purpose of this law is to assist the federal government in discharging its law enforcement responsibilities in connection with civil rights and election crimes, its scope must be interpreted in keeping with that objective. As such, all documentation that may be relevant to the detection and/or prosecution of federal civil rights or election crimes are required to be maintained intact for the 22-month federal retention period, as long as it was generated in connection with an election which was held in whole or part to select federal candidates.

Specifically, the Department of Justice considers this law to cover all voting registration records, all poll lists and similar documents reflecting the identity of voters casting ballots at the polls, all applications for absentee ballots, all envelopes in which absentee ballots are returned for tabulation, all documents containing oaths of voters, all documents relating to challenges to voters or to absentee ballots, all tally sheets and canvass reports, all records reflecting the appointment of persons entitled to act as poll officials or poll watchers, and all computer programs utilized to tabulate votes electronically. In addition, it is the Department of Justice's view that the phrase "other act requisite to voting" as it is used in Section 1974 requires the retention of the ballots themselves, at least in those jurisdictions where a voter's electoral preference is manifested by marking a piece of paper or punching holes in a computer card.

Failure to comply with these federal retention requirements can involve federal criminal penalties. Section 1974 provides that any election administrator or document custodian who willfully destroys federal election ballot documentation prematurely can be subjected to a fine of up to \$1,000 and/or imprisonment for up to one year. Under Section 1974a, persons who are not election administrators who willfully steal, destroy, conceal, mutilate or alter federal voting documentation are subject to similar criminal penalties.

All of us who play a role in the administration of federal elections are committed to assuring that the elective process is fairly and properly conducted. This objective sometimes requires that federal criminal inquiries be conducted, either to prove or to disprove allegations of aggravated electoral abuse. This task, in turn, requires that all election administrators be aware of, and comply with the federal voting document retention laws. Your active cooperation in this endeavor is appreciated.

1984 Presidential Election Results

Because of the decentralized nature of the U.S. election system, it takes a good deal longer than one might imagine to compile and analyze the results of a Federal election. Even the simplest analysis is, moreover, unexpectedly tricky because of the variety of figures issued by different or even sometimes by the same source.

The Clearinghouse enters the field of reporting election statistics in the hope of clarifying rather than further confusing matters. To that end, we will soon be issuing a Technical Report on the subject. We offer in the meantime a frame of reference as a preface to the table which follow.

■ **Voting Age Population (VAP)** refers to the total number of persons residing in the States who are over the age of 18 regardless of their citizenship, criminal status, or mental condition. The standard and most reliable source of VAP figure is, of course, the Bureau of Census. There are, however a number of subtleties and nuances to using VAP figures as a basis for measuring voter participation. Note, for example, that the figure includes aliens, felons, and others not eligible to vote. One consequence of this is that U.S. participation figures are artificially lower than European nations who calculate on the basis of only the eligible electorate. Another noteworthy nuance is that the Bureau of Census reports different VAP figures for the same election at different times depending on the information available to them. There is, for example, a projected voting age population followed in time by slightly different estimated voting age population figures. Because different VAP figures will yield percentages, it is important to recognize that the Federal Election Commission for several reasons bases its calculations on the *projected voting age population* as reported by the Bureau of Census.

■ **Eligible Electorate** refers, as the words suggest, to the number of persons residing in the States who are of voting age and who are also eligible to vote. Unfortu-

nately, it is extremely difficult to do anything but approximate these figures. And it is for this reason that the more reliable VAP figures are traditionally employed as the basis for calculating participation. Yet for those interested in approximating, the Bureau of Census reported in their population projection for the 1984 election (Series P-25, No. 948 of April 1984) that the VAP included approximately 6 million legal aliens, 2 million illegal aliens, and a half million persons ineligible to vote because they were in prisons, mental hospitals, or other institutions.

■ **Registered Population** refers, of course, to the number of persons in the United States registered to vote in the election. Yet registration figures are for several reasons extremely unreliable and are seldom used in any serious analysis of voter participation. Although the Bureau of Census does report registration figures in its P-20 series, it must be said that the accuracy of those figures suffers from the limitations true of any survey. It is equally difficult to obtain accurate registration figures from the States since different purge laws and cycles seriously affect the accuracy and comparability of the numbers. Either way you go about it, then, registration figures are undependable.

■ **Voter Turnout**, despite its apparent simplicity, may be derived in a least two different ways. The most exacting technique, which is employed in only some of the States, is to count all those who cast a ballot. The more common technique, and the one employed by the Federal Election Commission, is to total the number of votes in the Presidential race despite the fact that some voters (as many as 2%) may skip that race when voting.

What follows, then, are participation figures based on votes cast for President of the United States as measured against the Bureau of Census projected voting age population for the November 1984 election.

Table 1: Participation in the 1980 and 1984 Presidential Elections by State

State	1980 Election		1984 Election	
	PVAP	Percent Voting for President	PVAP	Percent Voting for President
Alabama	2,702,000	49.7	2,875,000	50.1
Alaska	257,000	61.3	345,000	60.2
Arizona	1,779,000	49.1	2,200,000	46.6
Arkansas	1,562,000	53.6	1,694,000	52.2
California	16,956,000	50.6	19,063,000	49.9
Colorado	2,050,000	57.8	2,365,000	54.8
Connecticut	2,321,000	60.6	2,404,000	61.0
Delaware	420,000	56.1	457,000	55.7
District of Columbia	475,000	36.6	482,000	43.8
Florida	6,876,000	53.6	8,529,000	49.0
Georgia	3,629,000	43.6	4,204,000	42.2
Hawaii	657,000	46.2	755,000	44.5
Idaho	634,000	69.0	681,000	60.4
Illinois	8,046,000	59.0	8,410,000	57.3
Indiana	3,849,000	58.2	3,969,000	56.3
Iowa	2,093,000	63.0	2,119,000	62.3
Kansas	1,759,000	55.7	1,794,000	57.0
Kentucky	2,532,000	51.2	2,700,000	50.7
Louisiana	2,780,000	55.7	3,147,000	54.2
Maine	790,000	66.2	848,000	65.2
Maryland	3,039,000	50.7	3,259,000	51.4
Massachusetts	4,298,000	58.7	4,422,000	57.9
Michigan	6,557,000	59.6	6,530,000	58.2
Minnesota	2,957,000	69.2	3,044,000	68.5
Mississippi	1,650,000	54.1	1,810,000	52.0
Missouri	3,569,000	58.8	3,682,000	57.7
Montana	560,000	65.0	591,000	65.0
Nebraska	1,138,000	56.2	1,163,000	56.1
Nevada	533,000	45.7	689,000	41.6
New Hampshire	657,000	58.4	722,000	53.9
New Jersey	5,398,000	55.1	5,659,000	56.9
New Mexico	869,000	52.5	997,000	51.6
New York	12,900,000	48.1	13,326,000	51.1
North Carolina	4,055,000	45.8	4,559,000	47.7
North Dakota	469,000	64.3	491,000	62.9
Ohio	7,701,000	55.6	7,846,000	58.0
Oklahoma	2,131,000	54.0	2,452,000	51.2
Oregon	1,909,000	61.9	1,961,000	62.5
Pennsylvania	8,652,000	52.7	8,989,000	53.9
Rhode Island	687,000	60.5	733,000	56.0
South Carolina	2,069,000	42.9	2,386,000	40.6
South Dakota	485,000	67.6	498,000	63.8
Tennessee	3,205,000	50.5	3,476,000	49.3
Texas	9,648,000	47.1	11,487,000	47.0
Utah	901,000	67.1	1,040,000	60.5
Vermont	359,000	59.4	391,000	60.0
Virginia	3,817,000	48.9	4,203,000	51.1
Washington	2,798,000	62.3	3,202,000	58.8
West Virginia	1,357,000	54.4	1,433,000	51.3
Wisconsin	3,446,000	66.0	3,490,000	63.4
Wyoming	335,000	52.8	365,000	51.8

Table 2: Votes Cast for Major 1984 Presidential Candidates by State

State	Reagan	Mondale	Other	Total	Electoral Vote
Alabama	872,849	551,899	16,965	1,441,713	9
Alaska	138,377	62,007	7,221	207,605	3
Arizona	681,416	333,854	10,627	1,025,897	7
Arkansas	534,774	338,646	10,986	884,406	6
California	5,467,009	3,922,519	115,895	9,505,423	47
Colorado	821,817	454,975	18,588	1,295,380	8
Connecticut	890,877	569,597	6,426	1,466,900	8
Delaware	152,190	101,656	726	254,572	3
District Of Columbia	29,009	180,408	1,871	211,288	3
Florida	2,730,350	1,448,816	885	4,180,051	21
Georgia	1,068,722	706,628	770	1,776,120	12
Hawaii	185,050	147,154	3,642	335,846	4
Idaho	297,523	108,510	5,111	411,144	4
Illinois	2,707,103	2,086,499	25,486	4,819,088	24
Indiana	1,377,230	841,481	14,358	2,233,069	12
Iowa	703,088	605,620	11,097	1,319,805	8
Kansas	677,296	333,149	11,546	1,021,991	7
Kentucky	821,702	539,539	8,104	1,369,345	9
Louisiana	1,037,299	651,586	17,937	1,706,822	10
Maine	336,500	214,515	2,129	553,144	4
Maryland	879,918	787,935	8,020	1,675,873	10
Massachusetts	1,310,936	1,239,606	8,911	2,559,453	13
Michigan	2,251,571	1,529,638	20,449	3,801,658	20
Minnesota	1,032,603	1,036,364	15,482	2,084,449	10
Mississippi	582,377	352,192	6,535	941,104	7
Missouri	1,274,188	848,583	12	2,122,783	11
Montana	232,450	146,742	5,185	384,377	4
Nebraska	460,054	187,866	4,170	652,090	5
Nevada	188,770	91,655	6,242	286,667	4
New Hampshire	267,051	120,395	1,620	389,066	4
New Jersey	1,933,630	1,261,323	22,909	3,217,862	16
New Mexico	307,101	201,769	5,500	514,370	5
New York	3,664,763	3,119,609	22,438	6,809,810	36
North Carolina	1,346,481	824,287	4,593	2,175,361	13
North Dakota	200,336	104,429	4,206	308,971	3
Ohio	2,678,560	1,825,440	43,619	4,547,619	23
Oklahoma	861,530	385,080	9,066	1,255,676	8
Oregon	685,700	536,479	4,348	1,266,527	7
Pennsylvania	2,584,323	2,228,131	32,449	4,844,903	25
Rhode Island	212,080	197,106	1,306	410,492	4
South Carolina	615,539	344,459	8,531	968,529	8
South Dakota	200,267	116,113	1,487	317,867	3
Tennessee	990,212	711,714	10,068	1,711,994	11
Texas	3,433,428	1,949,276	14,867	5,397,571	29
Utah	469,105	155,369	5,182	629,656	5
Vermont	135,865	95,730	2,966	234,561	3
Virginia	1,337,078	796,250	13,307	2,146,635	12
Washington	1,051,670	807,352	24,888	1,883,910	10
West Virginia	405,483	328,125	2,134	735,742	6
Wisconsin	1,198,584	995,740	17,365	2,211,689	11
Wyoming	133,241	53,370	2,357	188,968	3

Table 3: Total Votes Cast for All 1984 Presidential Candidates

Candidate	Party*	Official Popular Vote Total	Percent of Total Vote
Ronald Reagan	Republican	54,455,075	58.77
Walter F. Mondale	Democratic	37,577,185	40.56
John B. Anderson	National Unity Party of KY	1,479	0.00
Gerald Baker	Big Deal	892	0.00
David Bergland	Libertarian	227,204	0.25
Delmar Dennis	American	13,149	0.01
Earl F. Dodge	Prohibition	4,235	0.00
Gus Hall	Communist	36,225	0.04
Gavrielle Holmes	Workers World	2,656	0.00
Larry Holmes	Workers World	15,327	0.02
Sonia Johnson	Citizens	71,976	0.08
Lyndon H. Larouche, Jr.	Independent	78,773	0.09
Arthur J. Lowery	United Sovereign Citizens	822	0.00
Mel Mason	Socialist Workers	24,681	0.03
Bob Richards	Populist	66,241	0.07
Dennis L. Serrette	Independent Alliance	46,809	0.05
Ed Winn	Workers League	10,798	0.01
Write-Ins		19,315	0.02
Total Votes		92,652,842	

Voting Age Population** : 173,936,000

Voter Turnout*** : 53.27%

Electoral Vote : Reagan-525 Mondale-13

*Party designations may vary from one state to another.

**Projections of the *Population of Voting Age for States: November 1984*, Bureau of Census, Series P-25, No. 948, April 1984.

***Percent of voting age population casting a vote.

Federal Perspective 3

Compiled by Mark Davis
Congressional Affairs Office
Federal Election Commission

Election Legislation Introduced in the 99th Congress

The following is a list of election-related legislation introduced in the 99th Congress as of April 4, 1985. Those wishing to obtain copies of any of these bills should request them either from the sponsor(s); from the Documents Room, U.S. Senate, Washington, DC 20510; or from the Documents Room, U.S. House of Representatives, Washington, DC 20515 as appropriate.

In the U.S. Senate

S. 337 (Burdick; 1/31/85) Would terminate the effect of the provisions of the Voting Rights Act of 1965 which require bilingual ballots and election materials.

S.J. Res. 100 (Wallop, 3/28/85) Proposes an amendment to the Constitution limiting the number of terms of Members of the Senate and House.

In the U.S. House of Representatives

H.R. 251 (Bennett; 1/7/85) Would establish a series of six regional primaries (in March, April and May) at which the public may express its preference for the nomination of an individual for President. The Attorney General, in consultation with the FEC, could prescribe procedures not covered by state law. Dates would be assigned by the Commission by lot. Primary matching payment requirements would be modified to accommodate the new schedule.

H.R. 507 (Gekas; 1/7/85) Would establish a five-member commission to study the electoral college and report with recommendations within 2 years.

H.R. 568 (Campbell; 1/22/85) Would provide that should a Presidential candidate die or be disqualified between inconclusive voting of the Electoral College and balloting by the House and Senate, the Vice Presidential candidate of the same party would be considered for President.

H.R. 622 (Wyden; 1/22/85) The "Fair Voting Hours Act" would provide all polling places to open at 8 a.m. and close at 11 p.m. (e.s.t.). [See H.R. 639.]

- H.R. 639** (Biaggi; 1/24/85) Would change election day to Sunday and require that all polling places would open at 12 p.m. and close at 9 p.m. (e.s.t.).
- H.R. 640** (Biaggi; 1/24/85) Would provide for 24-hour voting on Tuesday and would provide for mailing absentee ballots free of postage. The FEC would analyze the effect of the law after 4 elections.
- H.R. 767** (Thomas of Calif.; 1/28/85) Would terminate the effect of the provisions of the Voting Rights Act which require bilingual ballots and election materials. [Same as S. 337.]
- H.R. 949** (Badham; 2/6/85) Would terminate the effect of the provisions of the Voting Rights Act which require bilingual ballots and election materials. States could provide such items if local conditions require. [See H.R. 767.]
- H.R. 1107** (Boxer; 2/19/85) Would require the FEC to specify the time for the opening and closing of the polls in the 1988 general election. [See H.R. 639.]
- H.R. 1380** (Udall, Frenzel, Conte, Swift; 2/28/85) Would require that Presidential primaries and caucuses be held only during the period beginning on the second Tuesday in March and ending on the second Tuesday in June of the year of the Presidential election. [See H.R. 251.]
- H.R. 1453** (Conyers; 3/7/85) Would require each state to provide for voter registration by mail with respect to elections for Federal office. Registration would be carried out by use of a post card application form approved by the FEC.
- H.R. 1454** (Conyers; 3/7/85) Would amend the Federal Election Campaign Act of 1971 to provide for voter registration for Federal elections on all regular work days and at the polls on election day.
- H.R. 1668** (Levine, 7 others; 3/21/85) Any State so desiring and agreeing to pay the costs could receive duplicate of change-of-address form filed with Post Office for intrastate movers. Could only be used for cancellation of registration, new registration purposes. FEC would report to Congress every 5 years on the impact of law on voter registration.
- H.R. 1675** (Owens; 3/21/85) Would require that registrars, voting judges election board members and others who have responsibility for Federal elections or registrations be selected solely on the basis of merit.
- H.R. 1759** (Bates, 5 others) Would provide that all polls in the continental U.S. would close at 10:30 p.m. (e.s.t.) for Presidential general elections. [See H.R. 639.]
- H.R. 1761** (Boxer; 3/27/85) Would permit people who will be 18 years old on the date of a Federal general or special election to vote in the related primary election.
- H.R. 1785** (Conyers; 3/28/85) "Runoff Primary Elimination Act" would amend the Voting Rights Act of 1965 to prohibit the requirement that a majority, rather than a plurality, of votes cast in a primary election for Federal office be obtained in order to achieve a nomination.
- H.J. Res. 5** (Brooks; 1/3/85) Proposes an amendment to the Constitution to provide for direct popular election of the President and Vice President.
- H.J. Res. 6** (Brooks; 1/3/85) Would repeal 22nd Amendment to Constitution and limit the President to one, six-year term.
- H.J. Res. 13** (Bedell; 1/3/85) Would amend the Constitution to provide for 4-year terms for members of the House of Representatives.
- H.J. Res. 26** (Guarini; 1/3/85) Would amend the Constitution to provide for a single six-year term for the President and Vice President. [See H.J. Res. 6.]
- H.J. Res. 34** (McCollum, 8 others; 1/3/85) Would amend the Constitution to provide for 4-year terms for members of the House and limit the number of terms that Congressmen and Senators could serve. [See H.J. Res. 13.]
- H.J. Res. 35** (McCollum, 13 others; 1/3/85) Would amend the Constitution to limit the number of terms that members of the House and Senate could serve. [See H.J. Res. 13, 34.]
- H.J. Res. 44** (Shumway, McCollum; 1/3/85) Would amend the Constitution to provide for staggered, 4-year terms for House members and limit the number of terms that Congressmen and Senators could serve. [See H.J. Res. 13, 34, 35.]
- H.J. Res. 45** (Smith of Iowa; 1/3/85) Would amend the Constitution to require the nomination of individuals for elections to President and Vice President by direct popular vote on one Saturday in July. One percent of the voters in at least 17 states would have to sign petitions for potential party nominees to get on the ballot.

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January 21, 1985

Dorothy Ridings, President
League of Women Voters of the United States
1730 M Street, N.W.
Washington, D.C. 20036

Dear President Ridings:

During the January 8, 1985 meeting of the state board of the League of Women Voters of Minnesota, the enclosed resolution was passed. The Minnesota League concurs with the resolution from the LWV-Florida that action should be taken to encourage the establishment of uniform voting hours in the continental United States.

There was little exercise of restraint by the media during the recent November elections. We, as League board members, feel that the League should take a leading role in encouraging voting. Our ability to control the technology of the networks is very limited and our best chance is through the election laws themselves.

We, in Minnesota, hope that the national League will take the initiative and pursue this type of election law reform.

Sincerely,

Karen Knighton

Karen Knighton
Government Chair

Jean Tews

Jean Tews
President

K:T/rk
enc.

cc: LWV-Florida
Harriette Burkhalter

RESOLUTION

WHEREAS, the League of Women Voters of the United States is convinced that individual rights protected by the Constitution should not be weakened; and,

WHEREAS, the League of Women Voters of the United States supports uniform procedures for presidential elections to insure equity for voters from all states and facilitate the electoral process; and,

WHEREAS, the League of Women Voters believes that each elector could be encouraged to vote in each election; and,

WHEREAS, in the presidential election just completed polls closed at varying times across the United States on November 6, 1984; and,

WHEREAS, news media delayed actual projections of winners in each state until after the polls had closed in that state (with the exception of states having split time zones); and,

WHEREAS, the winner of the presidential election in states in the eastern time zone was projected by media at least one hour before closing of polls in the central time zone; two hours before closing of polls in the mountain time zone; and three hours before closing of polls in the western time zone; and,

WHEREAS, supervisors of elections were tallying actual votes and announcing results in some areas of the country while polls were still open in other parts of the country; and,

WHEREAS, early reporting of projected winners may discourage potential voters,

NOW THEREFORE, BE IT RESOLVED THAT THE LEAGUE OF WOMEN VOTERS OF MINNESOTA CONCURS WITH THE LEAGUE OF WOMEN VOTERS OF FLORIDA THAT

THE LEAGUE OF WOMEN VOTERS OF FLORIDA AND MINNESOTA URGE THE LEAGUE OF WOMEN VOTERS OF THE UNITED STATES TO ENCOURAGE ESTABLISHMENT OF UNIFORM HOURS FOR POLLING PLACES ACROSS THE CONTINENTAL UNITED STATES FOR THE 1988 PRESIDENTIAL ELECTION.



JOAN ANDERSON GROWE
Secretary of State

ELAINE V. VOSS
Deputy Secretary of State

State of Minnesota

OFFICE OF THE SECRETARY OF STATE

St. Paul 55155

JAN 2 1985 January, 1985

180 STATE OFFICE BUILDING
Corporation Division: 612/296-2803
UCC Division: 612/296-2434
Election Division: 612/296-2805
Office of the Secretary: 612/296-3266
Office of Deputy Secy.: 612/296-2309

*Lepp's
Files*

TO: Minnesota Legislature
Minnesota County Auditors
Minnesota League of Cities
✓ League of Women Voters
Major Political Parties
Interested Persons

FROM: Joan Anderson Growe
Secretary of State

SUBJECT: PUNCH-CARD VOTING PROBLEMS

During the 1984 primary and general elections we became aware of numerous instances where election results were in error due to problems in the programming and/or operation of punch-card voting equipment. We have begun an investigation of the circumstances surrounding the problems which we are aware of in an effort to determine what, if any, changes are necessary to minimize the recurrence of such problems.

In approaching this problem, I have determined that a comprehensive review of punch-card voting is in order and, consequently, I intend to form a task force to study the punch-card system in its entirety. The task force would be charged with looking at all aspects of the use of the system and, in particular, to address some of the concerns that have been expressed to this office:

1. Ease and accuracy of voter use.
2. Impact on voter turn-out.
3. Impact on voter fall-off.
4. Impact on defective ballots at the primary.
5. Accuracy in counting.
6. Safeguards against fraud and error.
7. Timeliness of results.
8. Cost effectiveness.
9. Use in absentee voting.
10. Vendor certification.

- MORE - SEE OVER -

We are soliciting comments related to the make-up and subject matter of this committee and would appreciate your input on the problems you are aware of, your possible participation, and/or your recommendation of interested persons. Please contact Elaine Voss, Deputy Secretary of State (296-2309) if you have questions or recommendations.

We anticipate the following make-up of the task force and we anticipate that they will need to meet for six - twelve months to complete their work:

<u>Representing</u>	<u>Number of Persons</u>
Secretary of State	1
I-R Party	1
D-F-L Party	1
Voters	3
I-R Representatives and Senators	2
D-F-L Representatives and Senators	2
County Auditors	2
City Clerks	3



LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

January 26, 1983

Joan Parker
League of Women Voters of Illinois
110 Peoria Street
Lincoln, IL 62656

Dear Joan:

In response to your recent telephone call, enclosed is a Minnesota mail registration form. Note that only the five items marked with a red (x) are required. All the other information is optional. These cards can be picked up in person at city or county election offices, can be distributed by any person or group or can be requested by telephone to be mailed to a person's home. LWV's routinely distribute these cards at candidate's meetings, fairs, and other gatherings. Usually, the Leaguers also return the filled-out cards to the proper offices, but they can also be mailed in by the voter. Since use of mail-in cards was instituted, there has been no need for swearing deputy registrars.

I spoke to Grace Haukoos, head of the Election Division in the Secretary of State's office. She said there was a negligible incidence of fraud since mail and election day registration had been instituted. So far, there have been three convictions in registration fraud, all in connection with election day registration. But she knows of no studies showing an increase in voter registration because of the new registration laws. Professor Charles Backstrom, political scientist at the University of Minnesota, studies elections and may have some of the information you need. Perhaps you could write to him directly. Grace did say that she had been contacted recently by the Illinois legislature in connection with Minnesota's experience with mail registration. She said she gave them a glowing report.

Good luck in your efforts.

Sincerely,

Joan Newmark

Joan Newmark
Voter Service Chair

JN/rk
enc.

P.S. Also enclosed is a memo from LWV-Iowa.



File

LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

November 24, 1982

Ann Stults, Chair
Elections Task Force
LWV - District of Columbia
Room 718 Dupont Circle Bldg.
1346 Connecticut Avenue N.W.
Washington, D.C. 20036

Dear Ann,

Minnesota has had election-day registration since 1976 and, with some reservations, it has worked extremely well. In fact, one of our major election activities has been to provide a phone-in service on election day and a few days before, to give out locations of polling places for those who want to register at the polls.

I am enclosing a brochure with information concerning election-day registration. As you can see, the requirements concerning proof of residence (which are not required for pre-registration) are quite stringent.

Election-day registration is not liked by election officials. It slows down the voting, because judges are required to register voters and must take a fair amount of verbal abuse when people discover that their driver's license doesn't have their current address or that they can't use a Social Security Card or apartment house lease to prove their residence. When election-day registration first started, there was no limit on people vouching for the residence of others and there were cases of abuse (one person vouching for the whole college dorm, for instance). Now the rule is that a person who registers on election day by being vouched for, may not in turn, vouch for another person. But a person who registers with a driver's license may vouch for the residence of another.

Checking up on election-day registrants has also been tightened up since inception. Now, each county auditor has to send confirming postcards to 3% of their election-day registrants right away after the election. All election-day registrants get postcards after the election, but this process usually takes several weeks, if not months. Mailmen are instructed to return postcards if the addressee is not living at that address. Several people have been convicted of fraud in this way, but the number is very small. Election-day registration has definitely had a positive effect on voter turnout in Minnesota, although many people probably would have pre-registered (at least 20 days before an election) if there were no election-day registration.

Ann Stults

-2-

November 24, 1982

If you have any other questions, please feel free to write or call.

Yours truly,

Joan Newmark
Voter Service Chair
(612) 735-4541

JN/rk
enc.

LEAGUE OF WOMEN VOTERS OF THE DISTRICT OF COLUMBIA

Room 718 Dupont Circle Building | 1346 Connecticut Avenue, N.W. | Washington, D.C. 20036

phone



785-2616

NOV - 4 1982

November 1, 1982

Ms. Harriette Burkhalter, Pres.
League of Women Voters of Minnesota
555 Wabasha
St. Paul, Minn. 55102

Dear Harriette:

The D.C. League of Women Voters is studying the election and registration system in the District of Columbia. One possibility that has been suggested for the District of Columbia is same day registration. It is our understanding that your state has, or has had, same-day registration

Will you please let us know if

- a) you have same-day registration now?
is it considered successful?
If not, why not? (please elaborate)
- b) your state once had same-day registration
and no longer has it, why it was discontinued

information
Any ~~experience~~ you can share with us on the
experience in your state will be invaluable.

Thank you so much for your assistance and
cooperation.

Sincerely,

Ann Stults

Ann Stults, Ch.
Elections Task Force

Testimony presented at the
Public Hearing
Regarding Proposed Changes in Election Laws
by
Erica Buffington, Lobbyist
League of Women Voters of Minnesota
October 30, 1979

My name is Erica Buffington. I am the Government Chair for the League of Women Voters of Minnesota (LWVMN). The League has had a position since 1961 regarding improvements in elections laws that regulate election procedures. Based on a survey conducted by us in 1977 and 1978, election officials and election judges statewide made many recommendations for changes in election rules and laws. We were pleased to learn that many of the proposed rule changes appear to follow the recommended changes put forth by these election officials and election judges in our survey.

The LWVMN supports the proposed changes in judges' training, in particular the training program, training requirements, and basic training course (1 MCAR 3.5109), which sets forth the length of the training sessions, material used and course contents, as well as providing for the utilization of either a voting machine, electronic systems, or paper ballots at the training session.

The LWVMN also supports the proposed rule changes in the absentee voting procedures. Specifically, the League is in favor of adding the absentee voter's printed name as well as signature to the ballot envelope. All the proposed rule changes would improve the election procedures, in some cases aiding the election judges, and in other cases, simplifying procedures for the voter. The LWVMN urges adoption of all proposed rule changes.

Thank you.

Testimony by Joyce Lake, Action Chair
League of Women Voters of Minnesota
for
Elections Committee
Regarding S.F. 1634
"Local Government Election Day"
February 14, 1980

The League of Women Voters of Minnesota has had positions in the election law area since 1961. Briefly, these positions are: support of improvement in election laws regulating election procedures, voting, and school district elections, and support of centralized responsibility in state government for achieving uniform election procedures. One of the Principles of the League of Women Voters also states: Every citizen should have the right to vote.

The League supports S.F. 1634, the establishment of a local government election day for election of county, city and school district officers, county and municipal judges and officers of all other political subdivisions except towns.

We believe this legislation will help solve several concerns we have about elections. First, school board elections traditionally have the lowest voter turnout, and candidates are frequently single issue oriented (i.e., school closings) instead of considering all school district issues. Statements made in the past that larger voter turnouts are not necessarily good, imply that not all people should vote in all elections. This is in opposition to one of our basic constitutional rights. Every taxpayer funds our school system and therefore should be encouraged to take an interest in school district elections and vote. This bill will make it easier for all citizens to vote in all local elections.

Second, it is difficult to understand how the various levels of local government impact on each other. These relationships would be more visible if candidates for different offices were discussing the issues at the same time.

(continued)

Third, media interest in local elections is minimal at best. Having all the elections at one time would make them a major news item and could improve coverage. Thus voters would be better informed about who the candidates are and what the issues are.

Elections would cost less per unit of government because they would all be sharing the expenses of the one election. Election judges would be needed only once a year for all local elections, and municipalities would have an easier time finding judges, and the cost would be less. The fact that all local candidates would have the same filing date deadline could lower administrative costs. During the transition period of one year, the state would aid local governments by paying the municipality \$1.00 for each vote.

The League of Women Voters of Minnesota urges this committee to react favorably to S.F. 1634 and to recommend passage of this bill.

Thank you.

Testimony Before Senate Committee on Elections
Regarding Senate File 722 Authorizing
The Use of Electronic Voting Systems for Absentee Voting
by
Joyce Lake, Lobbyist

March 15, 1979

The League of Women Voters of Minnesota has been studying election laws since 1957. We strongly support improvements in election laws regulating election procedures and voting.

Senate File 722, authorizing the use of electronic voting systems for absentee voting, will improve election procedures in all municipalities that have electronic voting systems. Election judges will not have to transfer absentee votes from paper ballots to punch cards, thus eliminating the possibility of errors. The final vote count will most likely be more accurate under this new system, and much time will be saved in tabulating the final vote. The current method of handling absentee voting in municipalities that use electronic voting systems is cumbersome and time consuming. The opportunity for error is great, especially if the judges sit until the early hours of the morning transferring votes from paper ballots to punch cards.

The League of Women Voters of Minnesota supports Senate File 722 and urges this committee to recommend passage of this bill.

Thank you.

Testimony Before the House Elections and
Campaign Practices Subcommittee of the
General Legislation and Veterans' Affairs Committee
Regarding
House File 670
Authorizing The Use of Electronic Voting Systems
for Absentee Voting
by
Joyce Lake, Lobbyist

March 20, 1979

The League of Women Voters of Minnesota has been studying election laws since 1957. We strongly support improvements in election laws regulating election procedures and voting.

House File 670, authorizing the use of electronic voting systems for absentee voting, will improve election procedures in all municipalities that have electronic voting systems. Election judges will not have to transfer absentee votes from paper ballots to punch cards, thus eliminating the possibility of errors. The final vote count will most likely be more accurate under this new system, and much time will be saved in tabulating the final vote. The current method of handling absentee voting in municipalities that use electronic voting systems is cumbersome and time consuming. The opportunity for error is great, especially if the judges sit until the early hours of the morning transferring votes from paper ballots to punch cards.

The League of Women Voters of Minnesota supports House File 670 and urges this subcommittee to recommend passage of this bill.

Thank you.



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 non-partisan 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.

X 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

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

concurrency ^{bds} local 426-8522

The League of Women Voters of Minnesota

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. [X] 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:

Probs '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 re-checked, 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.)

X 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's 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."

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the project's immediate impact, we expect that this careful scrutiny of the law in action will help us determine future state reform issues. If you want to help with the campaign monitoring project, contact the State Office Executive Director or your Congressional District Coordinator, listed below.

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REPORT FROM WASHINGTON

Volume 4, Number 9 September 1974

Minnesota CC Program

From autumn of 1972 through the waning days of the 1974 legislative session, Common Cause in Minnesota lobbied vigorously and successfully for passage of the new Government Ethics Bill. Briefly, the bill: (1) regulates campaign financing for legislative and statewide elections; (2) provides for tax credits for political contributions and for partial public financing of statewide candidates in general elections; (3) regulates lobbyists, requiring financial disclosure for both executive and legislative branch lobbyists; (4) regulates conflict of interest for public officials; (5) provides for financial disclosure by state officials and candidates; and (6) creates a strong, six-member Ethics Commission to ensure compliance with the law.

Overall we can be extremely proud of this bill. It is encouraging to note the reaction of one Senate sponsor: "For the first time in history, public interest lobbying has provided not only citizen input and expertise, but real political clout. This is a great tribute to Common Cause..."

During the 1975 legislative session, we will direct our efforts toward further work on the law, guided by practical experience and observation of the bill during this campaign year.

"Open Up The System" in Minnesota

The momentum for political reform is building, and we must grasp every opportunity to carry the issues to the candidates in this election year. The CC Minnesota Open Up The System (OUTS) program aims at generating visibility during election campaigns for CC state reform issues and securing commitments from state legislative candidates for Common Cause proposals, thereby laying the groundwork for our 1975 lobbying efforts.

What You Can Do

CC members will be taking the issues to the candidates repeatedly and publicly -- at meetings, during interviews, at coffees, on radio and TV, in newspaper columns and editorials -- to obtain solid commitments from them.

We hope that all Minnesota CC members will question candidates closely on the issues. Speak to them. Write to them. Tell them your views and ask for theirs. When a candidate has responded, send his or her answer to the state office in St. Paul and inform your local coordinator (see last page). If you need more information or if you would like to work with other members, contact your local coordinator.

JOHN GARDNER WILL BE IN MINNEAPOLIS-ST. PAUL ON DECEMBER 4TH. SAVE THE DATE!

And remember that Common Cause supports issues not candidates. We would be happy if we could announce that all candidates had endorsed our program.

The following questionnaire with CC Minnesota issues and position statements is for you to use in questioning legislative candidates.

Minnesota OUTS Issues

1974 Government Ethics Bill

The 1974 Minnesota Government Ethics Bill was the work of years of effort. While it can and should be improved, it would be tragic if the legislature were to weaken it.

1. *Will you work to maintain the strong requirements of the 1974 Government Ethics Bill?*

Campaign Reform

A most notable Ethics Bill amendment which failed passage required that campaign contributions by special interest groups be financed solely by voluntary donations rather than taken from dues. Presently, a dues paying association, such as a union, can transfer regularly-collected dues to a fund for political contributions. Such contributions from dues are prohibited in federal elections.

Common Cause supports further campaign reform legislation forbidding the transfer of dues to political committees which contribute to candidates or political funds. We strongly support the right of any group to solicit and to collect from its members voluntary contributions designated for political campaigns.

2. *Would you favor legislation forbidding the transfer of association, including union, dues to political campaign funds?*

Recent claims before the State Ethics Commission have illustrated the need to widen its jurisdiction. The Commission's attorney has stated that it is authorized to receive and investigate only those complaints alleging violations of the 1974 law that established the Commission. Under present Minnesota statute, complaints of violations occurring under other campaign practices statutes are directed to and investigated by the county attorney.

Common Cause supports legislation extending the Ethics Commission's jurisdiction to all areas of campaign ethics, including the 1959 Fair Campaign Practices Act.

3. *Would you support expanding the authority of the state Ethics Commission to cover violations of the 1959 Fair Campaign Practices Act?*

Open Meetings

Information is power, and secrecy is the most convenient means of keeping that power from the citizens. The public and press should be allowed to witness the decision-making process of those officials, both elected and appointed, who conduct the business of government.

The 1974 Minnesota Open Meeting Law provides that the meetings of virtually all government bodies, at all levels, shall be open to the public when transacting public business. Exceptions are specified in the law: the board of pardons, the adult corrections commission, and the youth commission, as well as "quasi-judicial functions involving disciplinary proceedings." Certain exceptions not included are being proposed by various groups in the state. Clarifying questions have been raised regarding precisely what conditions constitute obstacles to open meetings (e.g., lack of proper notice, disadvantageous location and layout of the meeting place, failure to provide agendas, etc.).

Common Cause supports in principle the Open Meeting Law as presently written. We oppose weakening amendments but will work to clarify the present statute.

4. *Will you oppose efforts to weaken the Open Meeting Law?*
5. *What clarifications of the law, if any, are needed?*

The Minnesota Open Meeting Law does not apply to party legislative caucuses, which continue to meet in closed sessions.

Common Cause supports extending the principle of the Open Meeting Law to party legislative caucuses. The present caucus system serves to resolve legislative issues behind closed doors, out of reach of public scrutiny.

6. *Should party legislative caucuses be open to the public?*

Ballot Rotation

Under Minnesota law, when "ballot rotation" is specified the names of candidates for the same office are rotated in position on the ballot so 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 non-partisan offices. For most partisan offices ballot position is determined by the size of the vote for the candidate's political party in the most recent general election.

Studies of national, state, and local elections indicate that the candidate whose name appears first on the ballot has a substantial advantage. Further, the lower the office's visibility, the greater the advantage to the first name.

Common Cause Minnesota supports legislation requiring ballot rotation for all partisan offices to nullify any possible advantage to a political party by the location of its candidate on the ballot or voting machine.

7. *Would you support ballot rotation for partisan offices?*

Campaign Monitoring — a Top Priority

Through a statewide campaign monitoring effort, Common Cause volunteers will be keeping a watchful eye on candidates for state office this election year. We will be observing how well they comply with the new law. Further, we will be encouraging each candidate to comply with the law's spirit and intent by making meaningful public disclosure of information concerning his or her campaign finances. In addition to

September 1973

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ELECTION LAWS UPDATE:
Rotation of Names of Candidates on Ballots

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).

② { 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.")

LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA, ST. PAUL, MINNESOTA 55102

To: Senators Brown, McCutcheon, Berg
Representatives Cleary, Stanton, Nelson, McFarlane
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.



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

copy

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 - March 1975

Testimony Submitted to the Subcommittee on Elections
of the House Committee on General Legislation and Veterans Affairs
by Karlynn Fronek, Election Laws Committee,
League of Women Voters of Minnesota
March 25, 1975, 3 p.m., State Office Building
St. Paul, Minnesota

The League of Women Voters of Minnesota, to insure equal protection of the law, supports the concept of rotating names on the ballot by office for all races, including partisan races. Our concern to eliminate a possible first position advantage to candidates extends to legislative races following restoration of party designation for these offices. Present law awards a first position to all candidates of a party polling the greatest number of votes at the last election. This could possibly cause some discrimination. The League favors strengthening political parties, but cannot support a law that may not grant equality of opportunity to all candidates, including minorities who, under present law, have no opportunity to be in first or second position 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 has been reached after reviewing studies of local and national significance. A positional advantage to first place has been borne out by several studies. Although other studies may be less conclusive in their data, it would be preferable to rotate names if only some advantage were erased. The first position bias appears to increase with the lower visibility of the candidate and/or race. We feel that a citizen's vote must be protected and not affected by mechanical placement.

The League is aware of the added printing costs, possibilities for mechanical and human errors, and computer quirks. Nonetheless, a capability does exist to increase operational efficiency and correct errors. Furthermore, names for nonpartisan office in Minnesota are now rotated, and it would seem possible to add the partisan offices without great inconvenience. We acknowledge that it may cost more for a totally rotated ballot, and we are willing to invest these costs to insure fairness and equal treatment for all citizens.

We encourage the Legislature in its search to enact fair laws affecting ballot rotation. We invite your consideration of our proposal for rotation of names of all candidates for each office.

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
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Re: SF 2761 and HF 2849
February 27, 1974

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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.



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

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

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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 statewide 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's 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."

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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



memorandum

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TO: State League Presidents and Government Chairmen

FROM: Ruth Clusen, President
Judith Heimann, Government Chairman
Ruth Hinerfeld, Action Chairman

DATE: March 24, 1977

RE: Action by the national board on federal election reform

On March 22, 1977, the national board of the LWVUS decided to support a bill calling for election-day registration in federal elections. The bill, proposed by the Carter administration and introduced with bipartisan sponsorship, would establish a system of universal voter registration by mandating that voters in federal elections be able to register at the polls on election day, and then vote. States would be given financial assistance to implement the law, and be given additional funds if they adopt election-day registration for state and local elections. A third type of financial incentive would be available to those states that adopt voter outreach programs designed to encourage early registration and increased participation in elections.

The national board's support of the general principle of election-day registration does not mean that we endorse every aspect of the bill as drafted. We have specific improvements in the bill to suggest, because we want to see the strongest bill possible emerge--one that will minimize administrative difficulties in implementing it. Attached is a section-by-section summary of the bill so you'll know exactly what is in it at this point. We are in the process of putting together a package of recommendations that will strengthen the bill, and you'll be kept informed.

Quite frankly we acknowledge that there will be opposition to the bill. But when did we ever say everything should be easy? We have decided to support this bill in the belief that it will make voting easier and thus protect the right to vote, especially for those citizens who now suffer under the present system: the young, the low income, the less motivated, all those for whom a separate trip to a registration office is an obstacle to voting.

We think we have to be very candid and say we know you are going to get flak about this from some of your state and local election officials--those same people that the League of Women Voters Education Fund's Election Systems Project (1971-73) identified as being reluctant to expand the electorate. But we have an historic commitment to protecting the right to vote, and on this one we know you will stand up and be counted. We are going to provide you with the best possible information as background and answers to the arguments which we expect some of the county clerks or others fearful of the unknown will make. Implementing this legislation will place great demands on election officials, but we know Leagues can be relied on to assist them with voter education and precinct worker training or anything else that will help make the program a success if it passes.

One further bit of reality--everyone knows that voter turnout rates have been declining since the 1960 election. This bill alone will not change that, but it will help, and it will put the United States on record that it, like other western democracies with better voter turnout records, wants its people to vote and has made it as easy as possible for the voter. The other factors that impinge on voter turnout--education level, degree of disenchantment with the "system," race, income, political party competition and many others--will not be changed by this bill, but at least election-day registration will open the doors to easy voting participation, and perhaps the other factors can then be addressed.

Election-day registration is not an untried procedure. Minnesota, Wisconsin, and other states have already had success with it--Minnesota since 1974. In the 1976 election in Minnesota, 22.9% of those who voted registered on election day--almost a half-million people. We will certainly use the experience in these states for our suggested changes in the bill.

Look for details in the forthcoming short report on the March 1977 national board meeting, and other communications to Leagues.

We also want to tell you that this registration bill was part of an election reform package that the President sent to the Hill. Other parts of the package relate to League positions. Note that the President's package endorses direct election of the president and extension of campaign financing to congressional elections, including primaries. The presidential endorsement of direct election, in particular, should give a real boost to League efforts to push for passage of S J Res 1.

**UNIVERSAL VOTER REGISTRATION ACT—
ELECTION DAY REGISTRATION
SECTION-BY-SECTION SUMMARY**

Section 1. Universal Voter Registration Act of 1977.

Section 2. Findings and Purpose:

This section refers to Congress' power to regulate Federal elections and the need for a national standard for voter registration in Federal elections.

Section 3. Definitions:

This section defines the following terms: administrator, commission, Federal office, Federal election, state, state or local election, and state or local official and unit of general local government.

Section 4. Administrator of Voter Registration:

This section establishes the offices of Administrator of Voter Registration and Associate Administrator to be appointed by and be accountable to the Federal Election Commission, with the responsibility of administering this Act.

The Administrator (level V) and the Associate Administrator may not be members of the same political party.

Section 5. Duties and Powers:

This section gives the Administrator, under the direction of the Commission, authority to establish and administer a voter registration program for Federal elections; collect, analyze, and publish information on voter registration; and provide information and technical assistance to state and local officials.

Publications or reports of the Administrator may not disclose any information relating to the identity of any individual voter (Sec. 5(b)).

Section 6. Voter Registration:

Rule—Every state and unit of general local government shall permit every individual eligible under state law to register to vote, to also register and vote in Federal elections at the polling place on election day (Sec. 6(a)).

Procedure—Every individual who registers at the polling place shall, if required by the state, establish his identity and place of residence by:

(1) executing an affidavit, provided by the state or local unit of local government, which (a) attests state or Federal qualifications are met, (b) lists such qualifications, and (c) includes on its face a summary of criminal penalties for false registration, and

(2) submitting (a) an appropriate form of identification establishing identity and place of residence, approved by the Commission (no more than one such form may be required (Sec. 6(b)(3)), or (b) an affidavit regarding identity and place of residence executed by a person registered to vote at that polling place and who is present at the polls with such individual. (Sec. 6(b)(1))

If a state allows an individual to vote in a Federal election if present at polls before closing date, he or she must be allowed to register to vote if also present before closing time. (Sec. 6(b)(2))

Once registered at the polling place, an individual remains registered for the same period of time as under other state registration procedures. (Sec. 6(b)(4)).

Section 6(c) affirms that nothing in the Act is intended to limit state power to prescribe qualifications for voting in Federal elections.

Section 7. Financial Assistance (Up to 3 Possible Payments):

The Commission is given authority to make grants to states to assist in establishing voter registration programs and in a manner to facilitate their establishment for use in the first general election after enactment of this Act and thereafter.

Payments—For each general election for Federal office, each state shall be entitled to receive an amount equal to:

(1) 20¢ times number of voters who cast ballots in the most recent quadrennial elections in such state if the Commissioner determines that the state will be in compliance with section 6(a) (permitting election day registration in Federal elections) at the time of the election for which the grant is made (Sec. 7(b)(1)(A)); and

(2) 20¢ times number of voters who cast ballots in the Federal election for which funds are payable if such state has submitted a Voter Outreach Program which the Commission has approved and determined will be in effect prior to such Federal election (Sec. 7(b)(1)(B)); and

(3) 20¢ times number of voters who cast ballots in the Federal election funds are payable if the Commissioner determines that such state has adopted election day registration for state and local elections. (Sec. 7(b)(1)(C)).

(NOTE.—A State must be entitled to funds under (1) before it can receive funds under (2) and (3).)

Payments under (1) shall be before the Federal election for which the state is entitled to funds. Payments under (2) or (3) may be in installments and in advance with adjustments for overpayments or underpayments. (Sec. 7(g))

Use of Funds—Outreach Funds: Section 7(c) establishes the procedure for submitting a plan for voter registration Outreach Programs to the Commission. Commission approval and limits the use of money received for adopting such a plan to the voter registration proposals in the plan.

Election Day Registration Funds—Funds received for establishing election day registration for Federal election or for state elections may be used for a broad number of purposes set forth in section 7(d).

All Funds—Section 7(f) requires all funds received to be used to supplement state funds that would be available, absent Federal money, for use in voter registration. (This can be waived if a state has a registration rate in excess of 90%) States must establish fiscal control and accounting procedures to assure proper disbursement of and accounting for Federal funds received by the State, including funds paid by state to its local subdivisions. States must also make reports and keep records and afford access to such records as the Commission may reasonably require.

No state is precluded from receiving grants if it does not require the registration of voters. (Sec. 7(i))

State and Local Elections: Section 7(e) gives the Commission power to waive the Section 6(a) requirements with respect to any local election in any jurisdiction or district which is not a general purpose political subdivision of such state.

Inadequate Funds: Section 7(h) provides for a ratable reduction of grants if money appropriated is insufficient.

Congressional Review: Section 7(j) expresses intent of Congress to review the effectiveness and necessity of the grant program after the first general election for which it is effective.

Section 8. Judicial Relief:

The Commission is given authority to institute civil actions to obtain declaratory, injunctive or other relief to prevent violations of the Act, including fraudulent registration and failure to comply with Section 6.

Section 9. Expedition of Actions:

Actions brought under Section 8 or any action involving constitutionality of this Act shall be expedited by the judges of the court hearing the matter.

Section 10. Referrals to Attorney General:

Knowing and willful violations of Section 11 shall be referred to the Attorney General who shall report back within 60 days of action taken.

Section 11. Penalties:

This section provides a fine of not more than \$10,000 or imprisonment for not more than 5 years, or both, for any person who knowingly and willfully:

(1) Registers or attempts to register to vote under this Act for the purpose of voting more than once in any Federal election;

(2) Conspires with any person to enable such person to make a false registration or to enable or encourage any individual to make a false registration; or

(3) Falsifies any information with respect to the name, residence, age or any other information to establish eligibility to register to vote under the Act.

(NOTE.—Second or subsequent convictions under this Act have a penalty of \$25,000 or 10 years in prison, or both.)

Section 12. Voter Lists:

Voter registration lists for Federal elections may not be used for any commercial activity; penalty for violation of \$1,000 or 6 months, or both.

Section 13. Reports:

Commission annual reports to the President and the Congress by March 1 on activities under the Act.

Section 14. Effect on Other Laws:

The Act shall not prevent states from granting less restrictive registration or voting practices or more expanded registration or voting opportunities.

The Act shall not limit or repeal any provision of the Voting Rights Act of 1965;

Federal Voting Assistance Act of 1955, or the Overseas Citizens Voting Rights Act of 1975.

Section 15. Severability Clause.

Section 16. Authorization of Appropriations:

Authorized for Fiscal Year 1978 and 1979 such sums as necessary for grants to states and a specific amount for costs of the Commission to administer the Act in Fiscal Year 1978 and 1979.

David S. Broder

Ending election reform's incumbent 'tilt'

Washington
It may be the greatest testimony to the honesty of the members of Congress ever provided. That's

last year. Most of the answers came directly from the candidates; the rest, from campaign managers.

OVERALL, THE survey tells us, the candidates were evenly split on the question whether the new campaign law, on balance,

The question is how to get it to them. One answer might be to relax the curbs on private contributions. But in this survey, chal-



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FILE COPY *Prepared by Pat - for 2 helpers.*

Hayes

L V W HISTORY ELECTION LAWS ITEM

(Does not include party designation)

May 5, 1957- Agenda chosen: "The L W V of Minnesota will evaluate election laws and procedures of the State of Minnesota and will work for changes if needed."

March, 1958 Publication: "Minnesota Election Laws" and questions about elections in local municipalities.

August, 1958-Supplement to Publication: Discussion questions (081658ccc) and " Ways of Voting in the Past."

Nov. 1958- Consensus Questionnaire: to be returned by Jan. 26, 1959

Feb. 1959- Consensus on Election Laws: based on replies from 34 of 55 local Leagues.

ADMINISTRATION:

1. A clear majority favors centralized responsibility in the State Government for achieving uniform election procedures and for training officials, but reservations on adding to bureaucracy and increasing costs were expressed. It was felt there should not be a separate office. 27 Leagues favored centralization, 3 Leagues favored a director, 3 opposed centralization, 2 uncertain.

RESIDENCE

2. A clear majority favors changing 30 day residence requirements. The most frequent suggestion was to allow voter to vote in his former precinct. An interesting suggestion from two Leagues was to provide a waiver card or notarized certificate to allow voter to vote in his new precinct.
3. Leagues almost unanimously agreed that some provision should be made to allow an otherwise qualified voter to vote for president and vice-president before he meets residence requirements. Four Leagues showed preference for the Connecticut Plan. Several Leagues felt there should be federal legislation to achieve uniformity from State to State.
4. A majority opposed lowering voting age to 18, but the minority for lowering the age felt very strongly about it.

REGISTRATION

5. A majority of League members favor extending registration to more municipalities, counties or state. However, 11 1/2 Leagues (not a majority) favored statewide registration. The trend seemed to be that improvement could be achieved by extending registration to smaller municipalities perhaps with statewide registration as an ultimate goal.

ELECTION JUDGES

6. A majority favor giving more latitude to councils in determining qualifications and number of judges. There was interest expressed in qualifications being set at the state level. This might be possible if we had more centralized responsibility in the State.

PRIMARY

7. Overwhelming majority in favor of open Primary.
8. No decision on the question, "Do you believe that incumbents in non-partisan offices or candidates endorsed by their parties before the Primary should be designated as such on the ballot?" Perhaps it was due to the confusing way the question was worded.
9. A majority of Leagues were opposed to raising filing fees. A small minority specifically favored the British Canadian System. Above issues are among those included in the Report of the Interim Commission on Election Laws (1957 Legislature created I.C.) Therefore State Board votes to support report.

March 21, 1959 I. Commission Bill (SF 682) Passes Senate with a few minor amendments.
Revises 7 of 1957 Ch., Minnesota Election Laws.)

April, 1959 I. Commission Bill Passed by House, re-passed by Senate.

Major changes are: 1. All municipalities 10,000 or over must provide for voter registration. 2. Filing fees are increased for some candidates. 3. Local councils are given greater authority over some election procedures. 4. The Secretary of State is allowed to distribute instructive literature to voters and election officials.

April, 1958 Constitutional Amendment Supported by (inspired by) the LWV permits legislature to specify where a person may vote if he moves within 30 days of an election. Removes obsolete provisions re Indian blood. As amendment no. 4 in 1960 general election, it passed.

May, 1959- Agenda chosen: "The LwV of Minnesota will support improvements in Minnesota election laws and in the related area of ethics in government, and will promote party designation."

Nov. 1959 Publication: "Minnesota School Election Laws," to be used with Ext. Pamphlet 200, "Public Schools are Your Schools."

Fall, 1959

Spring, 1960 Activity on Ethics and Party Designation summarized elsewhere.

Oct., 1960 Publication: "Money in Elections," on Corrupt Practices Legislation and consensus questions to be answered by Jan. 27, 1961

Nov. 8, 196- Election on Amendments:

Amend. No. 1- re extension of legislative session, introduction of bills, legislators and elective offices. LwV no stand. Amend. lost

Amend. No. 2- re change of apportionment provisions in Constitution. LwV opposed, amend. lost.

Amend. No. 3 re continuity of government in case of vacancy. LwV supported, amend. passed.

Amend. No. 4, re voting rights of citizens. LwV supported. Amend. passed.

Voted on Amend. 4	1,295,403
Did not vote on " " "	282,100
Yes votes " "	993,186
No votes " "	302,217

Feb. 2, 1961 Statement on our stand on election laws to be sent to all legislators on Election Committees, Copy to press.

Feb. 2, 1961 Consensus on Corrupt Practices (replies from 45 LL's)

1. Does public have right to know where political money comes from? Yes.
2. Should public know how campaign money is spent? Yes.
3. Are public reports the best way to get this information? Yes.
4. Should candidate responsibility be increased? Yes. Also wanted accountability of volunteer committee increased.
5. Should there be dollar limitations? 18 yes, 12 no, 14 split. Many qualifications noted.

6 and 7. Should there be a ban on corporation and labor union contributions? 25 yes, 10 no, 85 splits.

8. Should candidates for public office be required to sign a code of Fair Campaign Practices? No 11 Split 10, 17 permissive, but not required., 22 yes.

In summary, the feeling of the Leagues seemed to be in favor of shorter campaigns, less money spent; in favor of reports of how money was obtained and spent to give tighter control on candidates, volunteer committees. Feel that candidates should be requested but not required to sign Code, should be dollar limitation on campaign expenses that are more realistic, flexible, enforceable.

Mar.2, 1961 - Proposed program by State Board included Election Laws as one C.R. together with party designation and corrupt practices.

Mar.2, 1961 - Board voted to oppose an Election Law Bill which would permit registration by mail.

May 11, 1962 - State Council Meeting Report, also included in Legislative Report. "What about Corrupt Practices? Here we have been following a double track -- the bill from the Governor's Committee and that from the Interim Commission on Election Laws. May I remind you that in our League consensus our members were primarily concerned with the problem of getting full reporting somehow of all the money actually spent in elections (partly because they feel too much is being spent) and were concerned with bringing the volunteer committee under closer control, plugging the loopholes as we say when there aren't any legislators listening.

"The bill from the Governor's Committee was amended (See Capitol Letter) to do just that. It would not have done anything about the legal limitations on campaign expenditures, but would have required the volunteer committee to register and be subject to the same reporting requirements as the candidate and his personal campaign committee. This would have made possible, for the first time, some accurate accounting of what is actually spent for each office. What happened to the bill? Same refrain -- passed by the House, killed by the Senate committee, Elections, this time.

"The Senate appears to take a very dim view of disclosure of anything about the money spent in elections or the legislative process.

"The Corrupt Practices bill from the Interim Commission has not been acted upon finally. This bill, as you may recall, raises the allowable expenditure limit by 5¢ for each vote cast for the office in the last election -- plus still the base allowance. In the case of governor for example the limit would be raised from \$7,000 to approximately \$85,000! The bill does not deal with the problem of the volunteer committee. Sen. Chris Erickson, chairman of the Elections Committee, said "If you bring up the volunteer committee on the Senate floor, Senator Wright will have more answers than you can think up questions." There is a possibility of something significant concerning the volunteer committee coming out of this bill still. It was amended in the House (and we think it will be in the final version) to change the place of filing of volunteer committee's of candidates for statewide offices to the Secretary of State's office, and if the parties are astute enough to report the existence of opposition volunteer committee's to that office it would be possible to assemble some real data on what the volunteer committee had done.

"Many other election law bills were in this session. The other bills from the Interim Commission define the procedure for election contests (see report of commission) and change time of filing for candidates filing by petition.

"The important implementing legislation for amendment # 3 which we helped to pass last fall has passed. That amendment allowed the legislature to ease the 30 day residence requirement. The bill (as drafted by Louise Kaderling) provides that if a voter moves within his municipality he votes in his old precinct. If he moves to a new municipality, he gets a certificate of eligibility from his former residence which enables him to vote in his new precinct that election only."

May 11, 1962 - ~~Interim Commission~~ State Board voted approval of CR 1 and 2, for proposed program.
1. Ethics in government (conflict of interest and lobby regulation)
2. Election laws, party designation, and corrupt practices.

May 10, 1962. Mr. Farr invites LWV to submit recommendations for Party Platform.
LWV requested whole program be included.

May 16, 1962 - STATE COUNCIL MEETING - Announced we will initiate P.D. legislation.
CR 1 and 2 accepted by Convention. Decided on other CRs, will play the role of watcher.

Sept. 20, 1962 - State Board will consider and decide if new bills fall under our present support positions in addition to the summary presented in "Recent Developmentson CRs"
Revised Lobby by Letter Kit updates on CRs and CAs.

RESPONSE SHEET ON ELECTIONS

YOUR NAME LEAGUE OF WOMEN VOTERS OF MINNESOTA

RETURN TO: STATE SENATOR STEVE KEEFE, Room 328--State Capitol,
St. Paul, Minnesota 55155

Filing for Office

1. Should the period during which a candidate can file be shortened?
If so, how long do you think the time for filing should be--one
week, two weeks, etc.? _____

2. Should there be more time between the time of filing and the
actual election? No. The time now allotted between filing and the election
is adequate to allow candidates to organize a campaign and make known their
positions on the issues.

3. Other comments you may wish to make about filing for public office:

Petition Candidates

1. Do you think the number of signatures which petition candidates
must obtain is adequate? The number of signatures required does not seem
to be an obstacle to those candidates who wish to run for office and provides some
indication that the person is a viable candidate, with at least some base of support.
We would not wish to have the number of signatures required too high.

2. Do you object to filing for legislative offices by petition? Would
you prefer to just let the candidates file and do away with peti-
tions? _____

3. Do you think that independent candidates should be required to file
petitions prior to the primary since they currently do not appear
on the primary ballot? _____

4. Other comments you may wish to make about petition candidates:

Primaries

1. Some people have suggested that election campaigns should be shortened by changing the dates of the filings and the primary election so that they will be closer to the general election. Others have suggested lengthening the time period to permit candidates more time to campaign. What is your opinion on this?

The League of Women Voters believes that the period of time between the filing and the primary and the general election should not be any longer than is presently provided for. The length of time for campaigning appears to be adequate to allow for discussion of the issues and adequate visibility to all candidates. Any legislation for shortening the campaign period should not severely restrict the time so that challengers would not have adequate time to become known.

2. Minnesota does not now require voter registration by party, and the voter may vote in either the DFL or Republican primary. Do you think the law should be changed to require voter registration by party to prevent primary crossovers?

3. Should there be a requirement that a party's candidate get a certain percentage of the total vote at a primary--for example, 15 percent--to win a place on the general election ballot?

4. Should independent candidates be included on the primary election ballot?

5. Other comments you may wish to make regarding primaries:

Ethics Law

1. Do you feel that the spending limits for state candidates were too high or too low? Please give specific suggestions for changes in the limits if you were dissatisfied with them. The spending limits for candidates for this election appeared to be realistic and reasonable: high enough to be enforceable and to allow both for discussion of the issues and for visibility of the candidates. Possibly, some inflation-factor provision should be made for increasing the limits in future elections.

2. Do you feel that the financial disclosure requirements for candidates and their committees are comprehensive enough and do you think that these requirements should be extended to candidates for local office? The financial disclosure requirements for candidates were, in most respects, comprehensive enough. We believe they should be extended to candidates for local office, along with provisions for a principle campaign committee and enforcement. Since elections for these offices are not presently centrally administered, candidates do not always comply with those disclosure requirements currently in force.

3. Did you have trouble understanding the new State Ethics Law requiring disclosure of financing or were you dissatisfied with the forms available for making financial disclosures? If so, do you have any suggestions for changes in the law or for ways to clarify the law to candidates and their committees? An office needs to be designated where the public as well as the candidates can seek information on campaign practices laws. There is much confusion about whom to call about interpretations of the laws since the Fair Campaign Practices Act enforcement is not under the Ethics Commission.

4. Other comments you may wish to make about the new State Ethics Law:

Disclosure dates were too close to elections to allow for media publication in most races other than statewide. Public interest groups, such as the League of Women Voters, had trouble getting the information together and to the press in time for publication before elections - especially where weekly papers are the only news source. Some restrictions appear to be needed on the transfer of funds from one candidate to another.

More pressure is needed to assure that candidates comply with all filing deadlines (including final reports after primary and general election). —

Copies of reports should be required to be at the county auditor's office at the same time as they are required to be at the Ethics Commission.

Recodify Fair Campaign Practices Act - clarify roles of Secretary of State, Ethics Commission and Attorney General.

Election Judges, Vote Counts

1. Are you aware of any problems in trying to maintain party balance among election judges? Yes - parties don't submit lists in many places.
The clerk doesn't always use the lists which are submitted. In most cases, it seems that just finding enough persons to serve as judges is a real problem, and party balance becomes a secondary issue.

2. Do you have any suggestions or comments on the training of election judges? Adequate training in standardized procedures for election judges appears to be one of the most needed election law changes. Training varies from totally inadequate to excellent and complete. The result is varying degrees of compliance with election procedures. Pay in some areas of the state is inadequate.

3. Are you aware of any instances where an election judge's conduct was reproachable (i.e., advising voter to vote for a particular candidate or for candidates of a particular party; the judge went into the voting booth with the voter while voting occurred; not all voters were treated equally and fairly when they tried to register to vote, etc)? A few of the things observed by the League:

- no provisions for write-in candidates and judges refused to make paper available
- violations of EL 203.22, sec. 2 - judges related to local officials
- tallying done under semisecret circumstances
- persons allowed to vote outside of booth - lack of adequate number of voting booths - seemed to be a problem in many places-not the judges fault, of course
- students were sometimes asked for both college ID and a driver's license
- did not put ballots in box until after voter had been asked to leave the polling place.

Other less serious-sounding occurrences were reported - just sloppy or careless administration - but in the interest of protecting every vote, ramifications could be serious.

4. Do you think the votes were counted accurately and fairly? Several Leagues reported that, because election judges in many instances were poorly trained in tallying, results in a close count could have been questionable. Uniform vote count procedures with training is needed. A guide for those counting paper ballots as to what constitutes a spoiled ballot is needed.

5. Are you satisfied with the provisions for automatic re-counts in legislative races where the winning margin is 100 votes or less?

Election Day Registration

1. Were you in favor of election day registration? The League of Women Voters neither supported nor opposed election day registration. We did support the 1973 Omnibus Registration Bill because of its provisions for statewide registration procedures.

2. Are you aware of any problems caused by election-day registration?

Staffing was inadequate in most cases to handle the numbers who turned out and registered, even in this low voter turn-out election. Lines of people (10 or more) waiting to register were a problem in a few areas during evening rush hours - possibly another judge for registering during these hours at a separate table would have helped.

The only real problem was that, in some cases, it is hard for an election judge to determine precisely whether or not the address is in the precinct.

In one case reported, a fake address verified by another voter was not discovered until after the voters had left the polling place.

3. Do you think that the voter identification procedures/requirements for election-day registration are adequate, too tough or too easy? If so, would you give specific suggestions on improving these procedures. Adequate - More publicity is needed about what the requirements are, however. There were some instances where judges did not strictly adhere to the required identification--possibly from lack of training and knowledge in this area.

4. Other comments you may wish to make about election-day registration or voter registration in general: Leagues throughout the state reported widespread use of election day registration by voters. If these people would not have registered ahead, and therefore not voted, then the law appears to be a good one in terms of making the voting process easier and more accessible. Several Leagues reported that large numbers of registration cards were not received at the polling place from the county auditor's office for some reason. Those persons had to re-register before voting.

Party Designation and Ballot Rotation

1. Do you think that the form of the partisan ballot which listed all DFL candidates first affected the results of the election? Please be specific. We believe it would be difficult to draw such conclusions from this election because of the peculiar circumstances--poor voter turn-out, voter apathy, lack-luster campaigns.

2. Do you think there should be full party designation of all candidates for municipal office--not just for those in cities of the first class? No. Party designation at those levels does not appear to add any to identifying a candidate's position on the issues. The possible exception might be the county races in Hennepin and Ramsey where party identification is closely tied to the candidates presently.
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3. Other comments you may wish to make about party designation and/or ballot rotation: The League of Women Voters is concerned with fairness and uniform procedures in our election laws. Therefore, we believe that candidates' names for partisan offices should be rotated in the same manner as those for nonpartisan.
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Information Sources

1. Should the State sponsor public debates on issues by candidates? If so, for what offices? Possibly, for statewide offices. Problems might be encountered because of federal legislation requiring equal time to all candidates - media is very frightened of making time available. Because we believe that political campaigns should be characterized by full discussion of issues, we favor changes in this law which would give bona fide candidates more opportunity to discuss substantive questions. Other ways of aiding the public would be through reduced mailing charges and reduced cost of air time.
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2. Should the State provide voter information, in printed form, which includes information on registering and voting and allows candidates to briefly state their qualifications and positions on major issues? Yes. Such a publication with universal distribution would give each candidate an opportunity for minimal coverage.
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-
3. Should there be a toll free number available to election judges on election day whereby they can call the Secretary of State's Office to obtain uniform, expert explanations of the election laws? Yes. Quickly obtained, uniform interpretations are needed both during the election day voting period and during the tallying period.
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-

4. Do you have any suggestions for improving the dissemination of information regarding election laws among candidates, election officials and voters? More emphasis could be put on getting the materials which are published out to the voters, possibly through newspapers.

Miscellaneous Topics

1. Do you know of any problems regarding absentee ballots? _____

In some instances the wrong ballots were mailed (for example, wrong ballot for county commissioner); in others, parts of the ballot were missing.

2. Have you heard of any problems with respect to transporting voters to the polls? No. However, see attached copy of newspaper ad.

St. Paul Herald 10/31/74

Hagedorn Voters

**NEED A RIDE TO
THE POLLS?**

Call 931-1242

Pol. ad. Prepared, paid for and inserted
by Nicollet County Volunteers for
Hagedorn. Pat Johnson, Chrw.

3. Are you aware of any election-related problems which involve defamatory statements or unfair campaign practices? Please be specific.

4. Do you think there is adequate prosecution of violators of election laws? _____

5. Are you satisfied with current laws governing school board elections? If not, what changes would you propose? _____

We support uniform election procedures through extension of the election laws to cover school district elections, including mandatory voter registration.

6. Should there be mandatory uniform election dates for county, city and school board elections? If so, should these be in off-numbered years or should they coincide with statewide elections in even-numbered years? Yes. Off-numbered years. Possibly a shorter, but uniform time period could be allowed between filing and the general election on those years.
- _____
- _____
- _____

7. This space is available for your comments on any election-related problem area not previously mentioned or for any additional suggestions or criticisms you may have for improving the election laws. If you would rather discuss an election matter in person or over the phone, please leave your phone number (area code _____ - _____).
- _____
- _____
- _____
- _____
- _____

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 non-partisan 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

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3300 University Ave. S.E.
Minneapolis, Minn. 55414
Ph. 373-9992 Area 612

information

FOR MUNICIPAL OFFICIALS
LEAGUE OF MINNESOTA MUNICIPALITIES

180a. 3

Revised, October, 1973

NOVEMBER CITY ELECTIONS-

ODD OR EVEN YEARS?

Contents

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In all statutory cities (i. e., all former villages and non-home rule cities), the city election after 1973 will be held biennially on the first Tuesday after the first Monday in November. Each city may choose between odd-year and even-year elections, but it will be on the even-year schedule if it takes no action. Minnesota's home rule cities long have had the opportunity to make the same choice (and many more choices since they may hold local elections on any secular day of the year and with whatever frequency they prefer.)

As with most issues the advantages are not all on one side. Here are some of the important arguments councils should consider in choosing between the odd-year and even-year election schedule.

For Even-Year Elections

(1) The vote at city elections will be greatly increased. Ballots cast at state elections have been two to ten times as numerous as those cast in comparable city elections, and this disparity may be even greater between a city election with few contests and a presidential election. The result is that city elections held in the odd year are decided by a small minority of the eligible voters. As one newspaper editorialized in commending the council for a shift to consolidated elections, "the greater percentage of people who take part in the function of representative government, the greater is the chance that their government will function more effectively."

(2) In a larger city, the city's total election expense will be substantially reduced. By holding the two elections on one day, almost all the special personnel costs attributable to city elections can be eliminated, though the cost of preparing city ballots and publishing notices will be unchanged. Election board expense, already an obligation of the city for the general election, would be increased over the general election expense only by the amount needed to pay for the extra time of counting city ballots. Thus in a larger city with a number of precincts, the total cost of elections will be reduced considerably when the city holds a consolidated election.

For Odd-Year Elections

(1) Voters at the odd-year election are likely to be better informed on city candidates and issues. While a larger vote on municipal candidates and issues seems assured under consolidated elections, voters are likely to become confused over the multiplicity of names and questions on the ballot. Many who go to the polls will be interested in casting ballots only for state and federal offices, particularly in a presidential year; yet even if uninformed on local candidates and issues, they are not likely to leave the city ballot blank as long as they have come to the polls. When the city election is held in odd-years, on the other hand, only those who are interested in and somewhat informed on city problems are likely to participate. (Opponents counter that voters who might otherwise participate only in state and general elections will acquire an interest in municipal elections under a combined election plan.)

(2) Focusing attention on municipal problems is much easier when the city election is held separately. Because the attention of the electorate will be largely drawn to candidates and issues at state and national levels, a greater burden will be placed upon the local candidates for office as well as those interested for or against special city issues on the ballot if the election is held in even years. Consolidated elections will mean that the local candidates for office will be conducting their campaigns at essentially the same time as state and national party organizations are flooding the mass media with an abundance of political propaganda. Interest in local issues will, therefore, be subordinated to state and national issues if it is not made almost non-existent.

(3) Consolidated elections may encourage partisanship at the local level. Minnesota local elections for many years have been non-partisan, presumably in recognition of the fact that the issues in local elections usually have little or no relationship to national and state party platforms. To hold elections contemporaneously may tend to encourage the injection of political partisanship into city election campaigns. (Opponents point out, however, that the election of county and judicial officers has not been made noticeably more partisan by occurring at the same time as the election to partisan offices.) Note also that this argument has no relevance in first class cities, which now have partisan elections.

(4) Except in cities having voting machines, ballot counting errors are minimized when a separate city election is held. Judges already are subjected to a severe physical strain in counting ballots at the state general election and usually work through much of the night to complete their task. The longer the counting continues, the greater the possibility for errors; thus the added burden of counting the city ballots (which would probably be counted last) would appreciably increase the chances for error. At a separate city election, counting can be completed in a relatively short time after the polls close and before judges become excessively fatigued. (Opponents point out, however, that the appointment of a special counting board to count the ballots when the polls close will minimize this problem. Furthermore, where the number of voters is small, as in many statutory cities, the task of counting is not so time-consuming.)

(5) Administration of the permanent registration system may be somewhat easier when a separate city election is held. Under the statewide permanent registration system, voters are permitted to register at the polls when they are not already registered. To the extent that this registration is accomplished at the odd-year city election, the task is lightened at the state general election, when a much larger turnout makes registration at the polls more time-consuming and difficult. Furthermore, under the registration law, a voter does not lose his registration unless he fails to vote at any election in four successive years. At any city election in the odd year there may be a few -- though never very many -- who have failed to vote at the previous state and presidential elections; thus there is avoided for both them and the registration officials the need for new registrations at county or municipal offices or the polls. (Opponents argue that this is trivial since the number of voters who go to the polls for municipal elections and not for state and national elections is very small.)

(6) Going to the polls once a year is likely to stimulate voter interest in public affairs more than a consolidated election plan under which the voter may cast his vote for general government candidates only once every two years. A yearly reminder of the privilege and responsibilities of the vote may be healthy in a democracy. On the other hand, the absence of any general election in the odd-numbered years may encourage apathy. (There is a separate school election in most election districts, but education is a special function.)

Procedure to Change Election Date in Statutory Cities

If, after weighing all the arguments, the council of a statutory city decides to change its city election to the odd year (or go back to the even year, if it has previously changed to the odd-year plan), its decision must be made at a regular meeting held prior to September 1.* The change must be made by ordinance rather than by mere resolution. No vote is necessary and no petition can force one.

It is not necessary to adopt a new ordinance each year; the year chosen in the ordinance continues in effect until changed by another ordinance. If the election date is changed, the city clerk must give written notice of the change to the county auditor and secretary of state; presumably the change is not effective until this notice is given.

A change in the year of election from even to odd (or vice versa) will result in the expiration of most incumbents' terms just following a November in which no election is held. While the law does not cover this point, the general statute on elective officers in statutory cities provides for continuance of an incumbent in office until his successor is elected and qualified. Presumably this means that in effect incumbents' terms expiring when there has been no election to choose successors will be extended for a year and successors will be chosen at the next election for the usual term - four years for councilmen, two years for the mayor (except for four-year terms for mayor in statutory cities which have previously adopted a biennial election plan under Sec. 412.221).

After a shift in election years is made during the initial years of transition to the biennial election schedule (e.g., where the council shifts to the odd-year schedule during 1974*), there will be one election where three councilmen are to be chosen. While the law does not specifically provide for this except with reference to the 1974 election, it would seem that the council could provide for it in the ordinance changing the election date. Preferably this might be in the same way as the law

* Any council contemplating this action in 1974 might be wise to wait until results of the 1974 legislative session are known. Under the existing law there is doubt as to the possibility of avoiding the 1974 election if the odd-year schedule is adopted that year. See Sec. 205.07 as amended and Sec. 412.023, Subd. 1 (Laws 1973, Ch.123, Art. III, Sec. 4 and Art. II, Sec. 3). Clarifying legislation is expected to be proposed.

provides for 1974 election: at the election when there are three councilmen to be elected, the two receiving the highest votes serve for four-year terms, the other winning candidate for a two-year term.

Suggested Ordinance Changing Statutory City Election Date

THE CITY COUNCIL OF _____, MINNESOTA, ORDAINS:

Section 1. Pursuant to Minn. Stats. Sec. 205.07, commencing with the 19__ city election, the regular city election of _____ shall be held annually on the first Tuesday after the first Monday in November of each odd-numbered (even-numbered) year.

Section 2. Whenever this change in the election year results in the expiration of any current term of office at a time when no city election is held in the months immediately prior thereto, each term is extended until the date for taking office following the next scheduled city election. At the 197__ election at which three councilmen are to be elected, the two persons receiving the highest vote shall serve for terms of four years and the person receiving the third highest number of votes shall serve for a term of two years.

Section 3. This ordinance shall take effect upon its passage and publication.¹

Adopted by the council this _____ day of _____, 19__.

Mayor

ATTEST:

Clerk

¹ Since a statutory city ordinance goes into effect on the date of publication unless a later date is inserted in the ordinance, this provision may be omitted if desired.

Statutory Cities Unseparated From Towns

Some statutory cities which were formerly villages, have not been separated for election and assessment purposes from the towns in which they lie. In each such case the town is responsible for the conduct of state elections, but the city must conduct the city election. Thus, any such city will find only limited cost advantages in shifting to the odd-year election date since the city council would still have to provide for the judges for the city election and compensate them.

Costs to the city may actually increase under the combined plan if the city has previously exercised its option of shortening the hours for city elections. It is doubtful that there could be any substantial consolidation in the conduct of the two elections in these instances although the voters' task could be simplified and a larger vote secured at the city election if the two elections were held in adjoining rooms or buildings. What consolidation could be effected in the election administration under the inter-municipal cooperation act (M. S. 471.59) permitting two or more local units to do together what they have the power to do separately is somewhat conjectural in view of the explicit statutory provisions regarding the conduct of elections. At any rate, the difficulties of holding the city election in the even year in such a city are so much greater than in the case of a city completely separated from the town in which it lies that few are likely to find the even-year schedule advantageous.

Home Rule Charter Cities

Any home rule charter city may choose any election day it wishes by charter amendment. The simplest way is to amend the charter by ordinance, which requires a recommendation of the charter commission and adoption of the ordinance by a unanimous vote of the council after a public hearing on two weeks published notice. No election is required unless a petition requesting one is filed within 60 days after publication of the ordinance after being signed by voters equal to two per cent of the number of voters at the last state election, or 2,000 at the highest. In that case, 51% of those voting on the amendment must approve it if it is to go into effect. The amendment may, of course, provide for whatever terms of office and transitional requirements are deemed necessary. If this method is not feasible in a particular city, an amendment may be proposed by the charter commission and approved by the people by the same 51% majority.

If the council of a home rule city wishes to change to the first Tuesday after the first Monday in November of odd-numbered years, it may use the alternative method of adoption by ordinance under the uniform election day law, Minn. Stats. Sec. 205.20. The ordinance may fix terms at an even number of years (adding or subtracting one year to existing terms, plus the requisite number of additional months if the election is shifted from spring to fall) and for staggering terms on the council or other multi-member elective body. The ordinance may not go into effect for 90 days (or later if it so provides) and is subject to referendum if a petition signed by voters equal to five per cent of those voting at the last state general election is filed within 60 days after publication of the ordinance. If a referendum is held, approval of 55 per cent of those voting on the ordinance is required to make it effective.

FILE COPY

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: 48 of 67 Leagues replied; 47 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		

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 47-1 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.

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 re-checked, 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's 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."

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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)
MS 206.07 - Sub. 2 - 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 1969-70
Midwest Journal of Political Science (Vol. 10:448-63), November 1966
National Municipal Review (p. 110-1, February 1950) (Enclosed)
Editorial, Minneapolis Star, 7-27-73, "Ballot Position"
National Municipal League, Model Election System (July 1973)
"Does Candidates' Position on the Ballot Paper Influence Voters' Choice" 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

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

ELECTION LAWS UPDATE:

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Rotation of Names of Candidates on Ballots

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.")

Project Update

LEAGUE OF WOMEN VOTERS OF MINNESOTA

Election Laws

The election process could be called the blood stream of representative government. Without a free vote and a fair count the system breaks down, but voting is only a part of the process. What goes before (the selection and public exposure of candidates) and what comes after (accountability of the men and women elected) are equally important. The entire process is regulated by election laws; how it works depends in large measure on how good the laws are. It is not surprising, then, that the League of Women Voters has a long history of study and action in this field. After all, the organization was founded primarily to instruct voters in the use of the ballot after the 19th Amendment gave women the franchise.

Minnesota League Background

The League of Women Voters of Minnesota (LWV) supports party designation for legislators and improvement in the laws governing campaign practices, election procedures, and voting. Its positions evolved from a comprehensive study of existing laws and practices,¹ begun after the 1957 State Convention adopted the item as part of the program. Since that time the LWV has helped materially to bring about important changes and additions to state election laws. Most of the revisions were recommended by legislative interim committees. No such committee was set up by the 1965 Legislature, perhaps because many major changes have been accomplished, so there will not be a strong impetus for action in the 1967 session. This Update publication will review and evaluate the League's positions in the light of present political reality.

Central Authority For Uniform Procedures And Training

There is no centralized responsibility for the administration of election procedures in our state government. The Secretary of State's office performs duties, largely in connection with statewide elections, as prescribed by law but does not have any administrative control or supervision over county or municipal election officials.

The LWV favors centralized responsibility in the state government for achieving uniform election procedures and for training officials, a position adopted in February 1959. The only step taken in this direction occurred a few years before that when the Secretary of State was authorized to hire an Elections Procedures Analyst. Some research in election practices and some assembling of data on procedures throughout the state have been accomplished. Also, aid has been given county

auditors, when requested, in conducting schools for municipal clerks and election judges. The holding of such training sessions before each state primary election was made mandatory in 1963. A 1965 law now requires municipal clerks to notify the Secretary of State when a municipality adopts a permanent registration system or purchases voting machines.

The legislature is unlikely to provide for state control of election procedures in the foreseeable future, largely because of the long-standing philosophy that elections are a local responsibility. Steps have been taken, however, to strengthen the county auditor's authority. Any future changes may take this direction.

Voter Registration Extension

The LWV's 1958 election laws study included the question of permanent voter registration. A majority of members favored extending registration to cover more voters through (1) including more municipalities in the coverage; (2) requiring countywide registration; or (3) making statewide registration mandatory.

In each legislative session since 1959 the LWV has lobbied for bills requiring mandatory registration in communities smaller than 10,000, but with no success. Our lobbyists have encountered opposition from small, outstate communities whose officials feel they do not need such a law. It may be needed in the metropolitan area, they say, but not in their own. Opponents to extension of registration contend that their judges know all local voters, and that unnecessary expense and records would be incurred if they had to set up a registration system.

In the 1965 session attempts were made to draw up a bill making registration mandatory in municipalities under 10,000 only in the metropolitan area, but because of the local consent provision requiring unanimous approval of all affected units, such special legislation had little chance of going into effect. A bill was introduced as a general law (no local approval needed) to require registration in areas surrounding the three first class cities. The bill failed, due mostly to opposition from the Duluth area.

With the possibility that the local consent provision may be modified in the 1967 session so that local approval will not be needed for some or all special laws, a bill requiring registration in the metropolitan area might have a chance to pass. LWV efforts will then concentrate primarily on this approach.

Other alternatives to requiring registration in communities of a certain size or in those located within a certain distance of a metropolitan area include countywide registration when the population of the county

LEAGUE OF WOMEN VOTERS OF MINNESOTA
State Organization Service

University of Minnesota — Minneapolis, Minnesota 55455

¹Minnesota Election Laws, League of Women Voters of Minnesota, 1958. (Out of print.)

reaches a specified figure, or mandatory statewide registration. The League could support any of these alternatives.

Requirements For Election Judges And Filing Fees

Other League positions reached after the 1958 election laws study were (1) to give municipalities more latitude in determining qualifications and numbers of election judges and (2) to oppose raising filing fees for candidates. Although filing fees were raised in the 1959 revision of election laws, that revision did accomplish the flexibility the League had supported in the choosing of election judges.

Following the 1960 gubernatorial recount, laws were passed to strengthen political party participation in the selection of judges and to require a second board of judges to count votes in some municipalities.

Since legislative activity in this area is unlikely in 1967, these positions probably will not be lobbying considerations.

Voting Age

Although a majority of League members opposed lowering the voting age to 18 in the 1959 consensus, that opinion was not considered conclusive because there had not been a thorough study at that time. Calendar commitments do not allow time for a League study and consensus on this item now. Although the League will not lobby on this question, it is of interest, and we do plan to observe and report attempts of the 1967 Legislature to change the voting age requirement. Both the DFL and the Republican state platforms advocate lowering Minnesota's voting age to 18.

Party Designation

The election law on which the League has labored mightily, constantly, and longest, will still be a lobbying effort in 1967. For nearly 16 years the League has believed we must "put the label on the man" by having party designation for legislators. When it becomes a political asset for many legislators to have party endorsement, we will get party designation. When the political parties, who now pour time, effort and money into legislative candidate races, demand that those they support support the party, we will have party designation. It is interesting to note that this year — in several districts — long-time legislators from both the Conservative and the Liberal caucus were successfully opposed by party-endorsed candidates.

The policy-making arms of state government are the governor and the legislature. The governor runs on a party platform; he is committed to trying to enact this platform into law. Legislators on the other hand are committed only to their own program. They may have campaigned on a single issue of local interest and taken no public stand on more significant ones. Even the best-informed constituents would have to make a great deal more effort than most now do to determine how their legislators voted on a broad array of questions. Without a tie to a party platform and without the tabs kept on votes by a party organization, control of policy-making in the legislature is concentrated heavily in the hands of senior Senate members who feel little responsibility to party platforms.

State government can no longer function if we keep electing people whose attitude is that "no new laws are good laws." Too much is happening in Minnesota that demands state action. Without effective, up-to-date state

government, necessary plans and programs to ensure our state's future cannot be made.

Reapportionment will help. The additional compensation for legislators, going into effect this session, will help. New focus on governmental reorganization and on providing necessary research and legal assistance, adequate length of sessions, more office space and clerical service, will help. The LWV knows that party designation will provide another of those key aids to make our legislature the effective body it must become.

The Primary

At the time of the original study in 1958, League members favored retaining the open primary system we now have in Minnesota. In view of extensive League work urging caucus attendance and stressing the role of the parties in Minnesota politics, the state Board has decided that our stand on open primary and our members' awareness are not current enough to permit the League to lobby on this question in the 1967 session.

Voting Machine Ballot Improvements

LWV delegates at the 1966 State Council last spring discussed several of the suggestions for improving voting procedures — especially as they apply to voting machines — that came out of a 1965-66 Citizens League (CL) study of election laws. CL suggestions included:

1. Giving more thought and effort to avoidance of crowding of names on voting machines so that voters can make a free choice, and candidates will not be given an unfair advantage because of their name placement on the ballot.
2. Standardizing constitutional amendments in size and color on the horizontal type voting machines. In the 1960 election, Duluth, for \$4.00 a machine, changed its horizontal type machine so that much more space was available for the amendments. Past experience had proved that on this type of machine, amendments are easy to overlook. Duluth also used salmon pink for background paper instead of the much more usual pale pink. Both of these factors seemed to improve voter awareness of the amendments. The CL recommended uniformity statewide.
3. Reminding voters using machines of the amendments. Paper ballot precincts, where each voter has a separate ballot for constitutional amendments in his hand, have high percentages of voters voting on amendments; precincts using vertical type machines with the amendments at the end of the ballot have high percentages voting; those using horizontal type machines with the amendments on the top of the ballot have lower percentages voting on the amendments. Some counties note at the end of the ballot that there are amendments to be voted on; many do not. In order to be uniform and not to penalize those using horizontal machines, the CL recommends the ballot should contain a reminder that there are amendments.
4. Making sample ballots conform to what the voter sees on the machine. While the ballot has the names of the non-partisan candidates rotated from precinct to precinct, the sample ballot posted on the precinct wall to aid the voter shows these names arranged alphabetically. The CL believes the sample ballot names should be arranged just as those on the machine are. (Ballots on each machine within a precinct are arranged the same way.) Also, state law

requires different colors for different races — pink for amendments, yellow for county and district, white for state offices. However, the sample ballot is always blue. The CL believes the sample ballot would better aid the voters if it were identical in color to what the voters will vote on.

With our strong interest in working for uniform election procedures, we can support efforts at the legislature to make the size of the amendment on similar voting machines uniform throughout the state, to use the same color of pink on all amendments, and to place a reminder on the same place in horizontal type machines to alert voters to the amendments.

Campaign Practices

As a result of the 1958 election law study, the LWV in 1960 turned its attention to campaign practices. Its publication, *Money in Elections, A Study of Corrupt Practices*, furnished basic information. Consensus results from that study are still valid today. The League believes the public has the right to know where political campaign money comes from and how it is spent. This can best be accomplished by requiring the candidate to take more responsibility for making public reports of how much money was spent in his campaign, including the spending of his volunteer committees. In addition, we believe unions and corporations should be treated identically in campaign practice laws.

However, there is little evidence that legislators are willing to tighten up reporting of campaign expenses. Barring some major push to arouse and inform the public about the general ignoring of the present law requiring reporting and the "escape hatch" volunteer committee provision, no action in the 1967 session seems probable. League members active in candidates' campaigns can encourage winners and losers alike to file the statements required by law.

On the subject of campaign financing, many political scientists believe that instead of restrictive dollar limits and ineffective enforcement procedures, more would be accomplished by stressing the positive aspect of political contributions. If political parties are an essential part of the democratic process, then public participation in party affairs, including contributions, should be encouraged. The more small contributions received, the less need there is for large ones which are more likely to

influence a politician. The Minnesota legislature has set an excellent example by allowing a state income tax deduction for political contributions and gifts to candidates for campaign expenses. Perhaps because the legislature runs without party designation, it has not enacted general legislation to ensure long-range planning for political party financing.

In an excellent article by two political scientists in the May 1966 issue of *State Legislatures Progress Reporter*,² it is noted that: "The electoral process generally was not reshaped to cope with the growth of political parties, nor the expansion of the electorate, nor the high cost of campaigning, nor the development of new campaign techniques."

A solution to the problem seems to lie not in enacting more restrictions on campaign spending but in broadening the base of those making political contributions and in considering new methods of giving candidates exposure — for example, presenting more TV candidates' meetings on a public service basis.

Quoting again from the article mentioned above, "Unless new approaches are found, public officials will continue to be subjected to pressures from special interests, from lobbyists, from large contributors. In our society, such pressures manifest themselves frequently; large contributions tend to reinforce special interest representations, a combination which public officials often find compelling. The challenge to improve the quality of American political life ultimately rests with the people, but state leadership can initiate and must share in the response."³

As a state organization interested in campaign practices and financing, the LWV has an excellent basis both for encouraging legislation to improve realistic reporting of campaign expenses and for encouraging the search for new methods of broadening the base of candidate support.

²"Regulation of Political Finance" by Herbert E. Alexander and Laura L. Denny, *State Legislatures Progress Reporter*, May 1966. The *Reporter* is a timely, fact-filled newsletter issued nearly monthly by the National Municipal League, 47 E. 68th St., New York, N.Y. 10021. It summarizes what state legislatures are doing to improve their effectiveness and also contains resumés of meetings held by good government groups to define and help solve problems of state government.

³Ibid.

QUESTIONS AND ANSWERS CONCERNING PROVISION TO ALLOW NEW
STATE RESIDENTS TO VOTE FOR PRESIDENT AND VICE PRESIDENT

1. What precipitated the need for such a law?

After the 1960 election it was estimated that approximately 8 million people were disenfranchised by moving from one state to another. Figures from the Bureau of the Census over the past fifteen years show that 19 - 21.2% of our population moves annually involving change in precinct, county or state residence. It is estimated that 16% of this number moved from one state to another. Another study shows that of the five regions of the country (northeast, north, central, south and west) the south showed the highest rate of mobility with two million persons moving in or out from April, 1961-April, 1962. This problem has been a matter of concern to state officials and some attempts have been made to correct the situation in a few states prior to 1960. Our neighboring state of Wisconsin adopted legislation as early as 1953. California adopted this reform as a constitutional amendment in 1958 and in 1960 presidential election, 11,635 of the 6,506,578 votes cast in California were those of new residents voting under this new law. In Ohio, 8,648 new resident votes were cast in the 1960 election.

2. Should this involve a change in Federal or State law?

While the Federal Constitution does leave to the states the right to establish qualifications for voting there are those who feel that the adoption of the 13th, 14th, 15th and 19th amendments brought the Federal government more clearly into the electoral picture. Congress is given, not only the power to enforce amendments, but the duty to enforce them. Senator Keating and the late Senator Kefauver introduced a proposed Senate Resolution (#37) to the Judiciary Committee on Feb. 5, 1963 that would amend the Federal Constitution if ratified by 3/4 of the states within 7 years of the date of its submission to Congress. It would provide that a new resident who has resided 90 days in any state be qualified to vote before meeting that state's residence requirement, if he was eligible to vote previous to his change in residence or would have become eligible if he had continued to reside there until the election. The Constitutional Amendment Committee is currently concerned with the question of an amendment to outline presidential succession and it is doubtful that this subject will come up soon. Members of the President's Commission on Registration and Voting held varying views on this question. Commissioner Brendan Byrne, Executive Director of the American Heritage Foundation, suggested that an amendment be made to the Federal Constitution. Commissioner Robert Forsythe, State Chairman of the Minnesota Republican Party, disagreed, stating that, "Presidential elections are primarily under state control because the composition of the electoral college is a matter for state determination."

3. If this is a state problem, have other states solved it, and in what ways?

Practices followed by other states in this election law reform are pertinent to Minnesota as some uniformity among the states is necessary to ensure equal treatment of all voters. In 1958, an amendment to the state constitution in California passed by a small vote to permit voting for presidential electors by newcomers to the state who meet all but the residence requirements. In November, 1962, an amendment to the state constitution passed in Colorado with bi-partisan support. In Kansas in that same year a constitutional amendment was also passed. In 1957, the Ohio legislature passed a joint resolution proposing to amend the constitution to allow a new resident to vote for presidential electors without fulfilling Ohio's one year residence requirement; this

ballot amendment was approved by the voters in 1959. Missouri first passed a special election law in 1959 to provide for the new resident. In all of these states this item was on the State Program of the League of Women Voters and they were involved in publicizing the amendments or laws. Oregon, Connecticut, Idaho, Nebraska, Maine, Massachusetts and Illinois have passed statutes that will be in effect for the first time in the 1964 elections. New Jersey has passed a constitutional amendment but enabling legislation has not been enacted. The Wisconsin constitution contains a provision allowing the legislature to extend suffrage to persons not mentioned in it if the question is submitted to the people. On this basis a statute allowing new residents to vote was ratified by popular referendum in November of 1954. Arizona amended its constitution in 1962 with accompanying enabling legislation provided for. In Louisiana, a bill was introduced in the House in 1963 but failed to pass. Constitutional amendments to shorten these residence requirements were voted on in North Carolina and Washington in 1962 but did not pass. In summary, the following states have adopted legislation allowing new residents to vote: California, Colorado, Kansas, Ohio, Missouri, Oregon, Connecticut, Idaho, Nebraska, Maine, Massachusetts, Illinois, and Arizona. Arizona, Connecticut, Maryland, New Jersey, Vermont, Wisconsin, and Wyoming permit absentee voting by former residents who have not yet met the residence requirements in their new states.

4. What constitutes a good law to provide new residents with voting privileges? Are there set standards?

The National Conference of Commissioners on Uniform State Laws was organized in 1892. It is composed of one to five commissioners from each state, usually appointed by the governor. These commissioners meet to promote uniformity in state laws in cases where this seems desirable and to draft model laws. The Uniform Act for Voting by New Residents in Presidential Elections would eliminate residence requirements so that new resident voters would be allowed to vote if they were otherwise qualified by filing an application to vote in ample time to enable election officials to process the application and to take safeguards against fraudulent and double voting. This act consists of seventeen sections which describe such things as eligibility, how applicant should make application, disposal of the special ballot on which he votes, and other administrative details important to the election officials. This Uniform Act has been studied and approved by the American Bar Association (as of Oct. 11, 1962). Copies of this model law and others are sent to the states for their study and consideration. The Uniform Law was the one used as a model for the provisions adopted in Connecticut, Idaho, Kansas, Maine and Nebraska.

5. What residence requirements are specified by states having these laws providing voting privileges?

Alabama has the most rigid residence requirements for voting with a two year residence requirement in the state; this is reduced for new residents voting in presidential elections to one year in state, 6 months in county and 3 months in district. Other states have one year or less requirement. Arizona, Maine, Nebraska, Ohio, Oregon and Wisconsin do not have a residence requirement for new residents voting in presidential election; California set 54 days; Colorado, 6 months; Connecticut, 60 days in state and town; Idaho, Illinois, and Missouri, 60 days; Kansas, 45 days in ward or township; New Jersey, 40 days in state and county. To compare this to Minnesota regulations, we have no provision for new residents but any resident who has lived in the state 6 months may vote in state and presidential elections. In drafting the Uniform Act, the National Conference of Commissioners of Uniform Election Laws, recommended that the time limit be specified by the individual states, taking into consideration the time required by election officials to process the application. This would vary from state to state depending on the type of affidavit required of the applicant and other regulations. While the several states mentioned above do not state a length of

5. Continued

residence required in the state, several of those do require a certificate of qualification from former state which would require some time to obtain under their provisions.

6. Is a certificate of eligibility to vote in former state required of new residents in those states having special voting requirements for these residents voting in presidential elections?

In several of the states (Mass., Wisconsin, Arizona, and Illinois) a new resident makes application for a ballot in the presidential election; the county auditor then forwards to the applicant's former election clerk a request for proof of the applicant's eligibility to vote in the former state. When this proof is received, applicant is notified of eligibility to vote in the new state. California and Ohio follow the same procedure with the applicant taking care of the request for proof of eligibility with former state using form provided by the county auditor and returning it to him. In other states, the applicant signs an affidavit stating that he has not and will not vote except on the special ballot for which he has applied and that he meets all other voting qualifications of the new state except those of residence. The states having this type of requirement are: Kansas, New Jersey, Nebraska, Idaho, Connecticut, Colorado, Missouri, Maine and Oregon.

7. Does this election law reform require an amendment to state constitutions or may it be accomplished by statute?

A Special Committee of the National Conference of Commissioners on Uniform State Laws has stated that, "under Section 1 of Article 2 of the Federal Constitution, the appointment of presidential electors can be exercised by state legislatures without regard to state constitutional provisions specifying requirements for voting." Some states specifically mention presidential elections and requirements in their constitutions. Minnesota does not, but does specify the residence requirements in general terms. There has been some concern in states having general constitutional residence requirements for voting that a constitutional amendment would be required to liberalize these provisions in presidential elections. According to a Memorandum on the subject prepared by Judge Harry Lugg of Connecticut, member of the Special Committee, court rulings on this subject through the years would indicate that changes in residence requirements for Federal elections held in the states can be made by statute without amending state constitutions.

8. What provisions are included in these laws as safeguards against fraudulent voting by new residents?

The Uniform Act would require the applicant to apply to the appropriate election official in person and at that time to sign an affidavit stating how long he has been in the state, that he is a citizen of the United States, and that he will not vote otherwise than by the ballot he is applying for. The election official then sends a copy to former state indicating that resident will be voting in the new state. The special ballot, when marked by the voter, is sealed in an envelope and delivered to the appropriate election official, in a procedure similar to that used for absentee ballots in Minnesota. There is a provision for a challenge of new resident votes and penalties for illegal voting are described. Provisions to prevent fraud in voting under this election law in those states where it is in effect are very similar to the uniform law with minor deviations.

9. Has legislation dealing with this subject been proposed previously in the Minnesota legislature?

9. Continued

In the 1963 session HF 483 was introduced by Douglas Head, D. W. Wozniak, H. J. Anderson, Gordon Wright and J. P. Graw. This bill would allow new residents to vote before meeting the state residence requirements in presidential elections by making application for a ballot to the county auditor not less than 20 days prior to the election. The county auditor then requests proof of the applicant's eligibility to vote in former state from the election official of that state. This bill also outlined penalties prescribed for fraudulent voting under the act. The same session, with Representative Head as chief author, two other measures were introduced. HF 484 would have amended the constitution to provide constitutional authority for HF 483. HF 596 was introduced, but did not have committee hearing. This bill would provide for absentee voting in a presidential election for those moving from the state who would not meet the necessary residence requirements in the new state. Both HF 483 and HF 484 were heard in the House Elections and Reapportionment Committee but were not reported out.

10. Is there any opposition to this type of legislation in Minnesota?

Opposition to these measures seemed to center primarily around the requirement of certification from former state which could disenfranchise voters who would be subject to the reply of former election officials. The Minnesota-Dakota Conference of the N.A.A.C.P. formally objected to this legislation as it would not allow, in many cases, Negroes from the south, moving here, to become qualified voters under this provision. The Governor's Human Rights Commission also opposed legislation requiring former eligibility to vote.

11. What was the recommendation of the President's Commission on Registration and Voting with regard to voting privileges for new residents?

The Commission stated in their report under Standard V, that "No American should be deprived of the right to vote for President and Vice President because he changed his address before the election and did not have time to meet State residence requirements." They further suggested that if all states allowed presidential voting by new residents it would be unnecessary to allow absentee voting of former residents as is done in seven states now. A further suggestion was that states could help by agreeing to a reciprocal basis to eliminate the fee connected with certification of former voters thereby imposing a simulated poll tax on these new residents. The requirements of nine states having a new resident voting law do not require this certification from former state, but it is required in six states.

A DIGEST OF MINNESOTA ELECTION LAWS

(This is not intended to be a detailed account but only a general survey of major provisions.)

ELECTIONS

A. State Elections

1. A general election is held in even-numbered years on the first Tuesday after the first Monday in November; offices to be filled as terms expire are: president of United States, (four years); two senators, (six years); eight representatives in Congress, (two years); governor and other state executive officers (four years); judges of Supreme and District Courts, (six years); and county officers.
2. A primary election is held on the second Tuesday in September preceding each general election for the purpose of nominating candidates for all elective offices, partisan and nonpartisan.
3. Constitutional amendments may be submitted to the voters at a general election provided a majority of the legislature so authorizes.

B. Municipal Elections

1. Cities and villages with charters set times for local elections and designate which offices are elective.
2. Primary elections are governed by local laws.
3. Village elections are held annually:
 - a. On the first Tuesday after first Monday in December.
 - b. By option of village council, on the first Tuesday after first Monday in November (in even-numbered years, consolidated with state general election).
4. Town elections are held annually on second Tuesday in March.

C. State Special Elections

1. To fill vacancy in office of representative in congress, state elected officer, member of state legislature. (Note: vacancy in office of United States senator is filled by governor's appointment until next general election.)
 - a. If congress or the legislature is in session, governor issues writ calling a special election not more than five days after official notification.
 - b. Date is set not more than 28 days after issuance of writ.
 - c. Primary is held 14 days before election.

D. Municipal Special Elections

Called by governing body of any municipality for special purpose.

ELECTION OFFICIALS

A. Secretary of State

1. Accepts filings of candidates for offices covering more than one county in the state.
2. Certifies these candidates after nomination or election.
3. Prints manuals of election laws.
4. May prepare and distribute ~~guides~~ for election officials in pamphlet form.
5. May prepare and distribute instructions to voters through election officials.
6. Supervises printing of ballots.
7. Sends any blank forms and instructions for voters to county auditors as may be needed to conduct election..
8. Organizes canvassing board for official tabulation of returns.
 - a. Board consists of Secretary of State, two Supreme Court judges and two disinterested District Court judges.
 - b. Board meets on the second Tuesday after any election and at special times after special elections.
 - c. Board certifies the returns.

B. County Auditor

1. Accepts filings of candidates for offices within a county (except municipal offices).
2. Certifies these candidates after nomination or election.
3. Supervises printing of primary election ballots.
4. Supervises printing of ballots for county offices.
5. Arranges for public notice of sample ballots.
6. Delivers ballots and supplies to town, village and city clerks and to judges in unorganized territory at least one week before any election.
7. Must hold training meetings for municipal clerks and election board chairmen.
8. Handles absentee voting for state elections.
9. Sends certified returns of county canvassing board to Secretary of State.
 - a. Board consists of county auditor, clerk of district court, two members of county board who are not candidates.
 - b. Board meets within three days after a primary election and within ten days after a general election.

C. City, Village, Town Clerk

1. Accepts filings for municipal offices.
2. Supervises printing of ballots for city offices and propositions.
3. Arranges for publishing sample municipal ballots.
4. Acts as commissioner of registration where required.
 - a. Registers voters
 - b. Compiles two files of voters:
 - (1) permanent record
 - (2) files used by election judges in precincts.
 - c. Keeps files up to date.
 - d. Certifies eligibility of voters moving from their municipalities within 30 days of an election.
5. Handles absentee voting for municipal elections.

D. Election Judges

1. Appointment
 - a. City or village council names one judge for every 150 voters in each precinct, provided that there are at least three judges in each precinct and may provide for additional judges in excess of one judge for every 150 voters.
 - b. Town board serves as election board.
 - c. If a village has only one precinct, the village board serves as the election board.
 - d. Must be from civil service lists in first class cities.
 - e. Must be as equally as possible from the political parties. In municipalities having more than 1,000 voters, judges must come from lists furnished by the two major political parties.
 - f. In paper ballot precincts having over 300 voters at the last general election, a fresh counting team must be appointed to replace the previously acting judges who will be relieved of their duties when the polls close.
 - g. Extra judges may be appointed in any precinct to help count votes after the polls close in a general election.
2. Qualifications
 - a. Must be qualified voter in precinct.
 - b. Must not be closely related to any other judge or to a candidate for office.
 - c. Must not be an employee of federal, state, or city government or a candidate for office.
 - d. Must be able to read, write and speak the English language understandably.
 - e. Council may make rules and give examinations to determine qualifications.
3. Duties
 - a. Attend instruction meetings held prior to elections in those municipalities where voting machines are used.
 - b. Open the polling place and make it ready for voting.
 - c. Determine eligibility of each voter:
 - (1) by administering oath when necessary.
 - (2) by signature comparison, where registration is required.
 - (3) by honoring proper certificates of eligibility from new voters in the precinct.

D. Election Judges - Duties (cont.)

- d. Hand to and receive from each voter, the ballots, or operate voting machine where used.
- e. May assist physically disabled voters or those unable to read or write English.
- f. Count votes at the close of the polls and record totals of each candidate or question on tally sheets provided.

ELECTION DAY

A. Election precincts are established by the city, village or town council or by county boards in unorganized territory.

1. Paper ballots - council shall prescribe boundaries and number of voters within each precinct. They may be rearranged from time to time provided changes are made by resolution at least 90 days before the next election.
2. Voting machines - each precinct, when first formed, shall contain no more than 600 voters per machine. More than one machine may be used in any precinct. Precincts may be changed as in (1).

B. Polling Places

1. Designated by city, village, or town council.
 - a. Must be as near to center of voting population of precinct as is practicable.
 - b. No election shall be held in any place where liquor or malt beverages are sold or in any room used as a place of resort for idlers or disreputable persons or in any room adjoining either.
2. Hours of Voting
 - a. 7 A.M. to 8 P.M.
 - b. By option, opening time may be from 7 A.M. to 9 A.M. in municipalities under 1,000 people.
 - c. Municipalities may designate time for municipal elections, but for not less than three hours.
3. National flag is displayed during hours of voting.
4. Voting by ballot shall be done without undue delay; by voting machine, within three minutes.
5. No one can remain inside the voting place except election judges, peace officers, challengers, representatives of elections officials and voters who are about to vote.
6. No one may campaign within 100 feet of a polling place on election day.
7. No one may sell or give political badges or wear such badges at or about the polls on election day.

C. Related Provisions

1. Every employee may take time off from work to vote in the forenoon without loss of pay at statewide general elections and special elections for Congress.

2. No liquor is sold on election day.
3. No person shall be arrested by virtue of any civil process on election day.
4. No campaign literature may be distributed on election day nor may there be any campaign television or radio broadcasts.
5. No person, committee or organization may transport voters to polls except:
 - a. persons in same household.
 - b. two or more voters riding together by mutual agreement.

THE VOTER

A. Constitutional Qualifications

1. Twenty-one years of age.
2. Resident in the state for six months and in the election district (precinct) for 30 days; if moves within 30 days of election may vote under plan provided by law.
3. Citizen of the United States for at least three months preceding an election.
4. Not entitled to vote if:
 - a. Convicted of treason or felony, unless restored to civil rights.
 - b. Under guardianship or not of sound mind.

B. Registration

1. Required in municipalities of more than 10,000; optional in all other municipalities.
2. Voter applies in person to commissioner of registration any time except 20 days preceding an election.
3. Absentee registration
 - a. Qualified voter absent from his election precinct may register by mail up to 20 days preceding an election.
 - b. Armed service personnel may be registered at same time and on same form as application made for ballot.
 - c. Application and registration cards must be notarized.
4. Registration is permanent
 - a. Exceptions: The voter must re-register if he:
 - (1) Fails to vote at least once in four consecutive years.
 - (2) Changes his name by marriage or court action.
 - (3) Moves to different municipality requiring registration; when voter moves within municipality more than 30 days before an election, he may notify the commissioner of registration by mail and then be eligible to vote in new precinct.
 - b. Where no registration is required:
 - (1) Voter must have necessary constitutional qualifications and state, under oath, that he is so qualified.
5. Registration is waived for one election only when voter moves to a different municipality within 30 days of an election and presents a certificate of eligibility at polls.

ABSENTEE VOTING

A. Qualifications

1. Must be 21 years old by election day.
2. Must have been a United States citizen for three months and a resident of the state for six months and of the election precinct for 30 days.
3. Must be registered in municipalities requiring it.
4. To use absentee balloting, must:
 - a. Be a member of the armed forces
The term "armed forces" refers to "the Army and Navy, the Air Force, the Marine Corps and the Coast Guard of the United States, or the Merchant Marine of the United States, or the American Red Cross, the Society of Friends, the Women's Auxiliary Service Pilots, the Salvation Army, the United Service Organizations and all other persons connected in any capacity with the Army or Navy of the United States including all civilian employees of the U.S. Government outside the United States or the spouses or dependents of such persons if actually accompanying such persons and residing with them."
 - b. Be absent from precinct on election day and unable to go to the polling place because of:
 - (1) travel,
 - (2) illness,
 - (3) physical disability,
 - (4) religious discipline or holiday.

B. Registration

1. Members of the armed forces may be registered at the same time and on the same form as application for ballot.
2. Any other qualified person who is unable to register in person because of absence from the precinct, physical disability or religious discipline may register by mail by applying to the local commissioner of registration.
3. Absentee registration will be accepted any time except the 20 day period immediately preceding an election.

C. Obtaining Ballots and Voting

1. Armed forces
 - a. The member or his parent, spouse, sister or child (over 18 years old) may file a request for ballots form with the county auditor.
 - b. The member may mail a federal post card application (available at any military base) to the county auditor.
2. Any other qualified person may request an application for ballots from his county auditor, fill it out, and return it in order to receive ballots.
3. The executed application will be accepted by the county auditor as early as 30 days before and not later than one day before the date of the election.

4. Ballots will be mailed to the voter as soon as they are available.
 5. Voter receives the ballots, a white envelope and a brown envelope. After marking his ballot, he places it in the white envelope and seals it. This envelope remains sealed until it is received by the election judges. The sealed white envelope is then put into the brown envelope for mailing. This brown envelope must be notarized.
 6. Marked ballots must be received by election officials not later than the day of the election.
- D. All official communications with the commissioner of registration or the county auditor must be notarized.

THE CANDIDATE

A. Qualifications for office

1. Senator
 - a. Must be at least 30 years old.
 - b. Must have been a United States citizen for nine years.
 - c. Must be a resident of the state he desires to represent.
2. Representative in Congress
 - a. Must be at least 25 years old.
 - b. Must have been a United States citizen for seven years.
 - c. Must be a resident of the state he desires to represent.
3. Governor or Lieutenant Governor
 - a. Must be at least 25 years old.
 - b. Must be a United States citizen.
 - c. Must have been a bona fide resident of the state for at least one year before election.
4. Judges - must be learned in the law.
5. Other elective offices in the state require that a person be a qualified voter at the time of filing.

B. Filing Procedure

1. Candidates for congressional, state or county offices file not more than 90 nor less than 56 days before the primary election.
2. Where to file
 - a. Candidates for senator with the secretary of state.
 - b. Candidates for United States representative with the secretary of state except that candidates in the 5th Congressional District file with the Hennepin County auditor.
 - c. Candidates for governor and other state executive officers with the secretary of state.
 - d. Candidates for judges, state legislature, any other state office, or county office:
 - (1) with the secretary of state when to be voted for in more than one county,
 - (2) with the county auditor when to be voted for within one county.
 - e. Candidate for city, village or township offices with the clerk of the municipality.

3. Information in affidavit
 - a. That candidate is a qualified voter in subdivision where he seeks nomination.
 - b. Name of his party, if for a partisan office.
 - c. That he is a bona fide member of that party.
 - d. Office.
 - e. That he has not filed for any other office at the same election.
4. Filing fees
 - a. Senator - \$150
 - b. United States representative, state offices, judges of the Supreme Court and district court judges - \$100.
 - c. Members of state legislature - \$20.
 - d. County officers - \$20.
 - e. Unpaid officers - no fee.
 - f. City, village and township officers as prescribed by local law.

C. Petition

1. Does not apply to primary elections.
2. Candidate may have name placed on general election ballot if a proper certificate of nomination is filed before the last day of filing by voters living in his district or political subdivision encompassing office he seeks.
3. Number of signatures must equal a certain percentage of the total vote cast at the last general election.
 - a. If for a state office - one percent of state vote but not more than 2,000.
 - b. If for a congressional or judicial district office - five per cent of district, not more than 1,000.
 - c. If county or legislative office - 10% of county, ward, or precinct, not more than 500.
4. A person who has been a candidate in the primary is not eligible to petition.
5. No petitions are allowed after the last day of filing for office, except to fill a vacancy. Petitions for presidential electors may be filed up to and including primary election day.

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2. A primary election is held on the second Tuesday in September preceding each general election for the purpose of nominating candidates for all elective offices, partisan and nonpartisan.
3. Constitutional amendments may be submitted to the voters at a general election provided a majority of the legislature so authorizes.

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1. Cities and villages with charters set times for local elections and designate which offices are elective.
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 - a. On the first Tuesday after first Monday in December.
 - b. By option of village council, on the first Tuesday after first Monday in November (in even-numbered years, consolidated with state general election).
4. Town elections are held annually on second Tuesday in March.

C. State Special Elections

1. To fill vacancy in office of representative in congress, state elected officer, member of state legislature. (Note: vacancy in office of United States senator is filled by governor's appointment until next general election.)
 - a. If congress or the legislature is in session, governor issues writ calling a special election not more than five days after official notification.
 - b. Date is set not more than 28 days after issuance of writ.
 - c. Primary is held 14 days before election.

D. Municipal Special Elections

Called by governing body of any municipality for special purpose.

ELECTION OFFICIALS

A. Secretary of State

1. Accepts filings of candidates for offices covering more than one county in the state.
2. Certifies these candidates after nomination or election.
3. Prints manuals of election laws.
4. May prepare and distribute guides for election officials in pamphlet form.
5. May prepare and distribute instructions to voters through election officials.
6. Supervises printing of ballots.
7. Sends any blank forms and instructions for voters to county auditors as may be needed to conduct election.
8. Organizes canvassing board for official tabulation of returns.
 - a. Board consists of Secretary of State, two Supreme Court judges and two disinterested District Court judges.
 - b. Board meets on the second Tuesday after any election and at special times after special elections.
 - c. Board certifies the returns.

B. County Auditor

1. Accepts filings of candidates for offices within a county (except municipal offices).
2. Certifies these candidates after nomination or election.
3. Supervises printing of primary election ballots.
4. Supervises printing of ballots for county offices.
5. Arranges for public notice of sample ballots.
6. Delivers ballots and supplies to town, village and city clerks and to judges in unorganized territory at least one week before any election.
7. May hold training meetings for municipal clerks.
8. Handles absentee voting for state elections.
9. Sends certified returns of county canvassing board to Secretary of State.
 - a. Board consists of county auditor, clerk of district court, two members of county board who are not candidates.
 - b. Board meets within three days after a primary election and within ten days after a general election.

C. City, Village, Town Clerk

1. Accepts filings for municipal offices.
2. Supervises printing of ballots for city offices and propositions.

C. City, Village, Town Clerk (cont.)

3. Arranges for publishing sample municipal ballots.
4. Acts as commissioner of registration where required.
 - a. Registers voters.
 - b. Compiles two files of voters:
 - (1) permanent record.
 - (2) files used by election judges in precincts.
 - c. Keeps files up to date.
 - d. Certifies eligibility of voters moving from their municipalities within 30 days of an election.
5. Handles absentee voting for municipal elections.

D. Election Judges

1. Appointment
 - a. City or village council names one judge for every 150 voters in each precinct, provided that there are at least three judges in each precinct. One judge is named chairman in each precinct.
 - b. Town board serves as election board.
 - c. If a village has only one precinct, the village board serves as the election board.
 - d. Must be from civil service lists in first class cities.
 - e. Must be as equally as possible from the political parties.
 - f. Extra judges may be appointed to help count votes after the polls close in a general election.
2. Qualifications
 - a. Must be qualified voter in precinct.
 - b. Must not be closely related to any other judge or to a candidate for office.
 - c. Must not be an employee of federal, state, or city government or a candidate for office.
 - d. Must be able to read, write and speak the English language understandingly.
 - e. Council may make rules and give examinations to determine qualifications.
3. Duties
 - a. Open the polling place and make it ready for voting.
 - b. Determine eligibility of each voter:
 - (1) by administering oath when necessary.
 - (2) by signature comparison, where registration is required.
 - (3) by honoring proper certificates of eligibility from new voters in the precinct.
 - c. Hand to and receive from each voter the ballots, or operate voting machine, where used.
 - d. May assist physically disabled voters or those unable to read or write English.
 - e. Count votes at the close of the polls and record totals of each candidate or question on tally sheets provided.

ELECTION DAY

A. Election precincts are established by the city, village or town council or by county boards in unorganized territory.

1. Paper ballots - council shall prescribe boundaries and number of voters within each precinct. They may be rearranged from time to time provided changes are made by resolution at least 90 days before the next election.
2. Voting machines - each precinct, when first formed, shall contain no more than 600 voters per machine. More than one machine may be used in any precinct. Precincts may be changed as in (1).

B. Polling Places

1. Designated by the city, village, or town council.
 - a. Must be as near to center of voting population of precinct as is practicable.
 - b. No election shall be held in any place where liquor or malt beverages are sold or in any room used as a place of resort for idlers or disreputable persons or in any room adjoining either.
2. Hours of Voting
 - a. 7 A.M. to 8 P.M.
 - b. By option, opening time may be from 7 A.M. to 9 A.M. in municipalities under 1,000 people.
 - c. Municipalities may designate time for municipal elections, but for not less than three hours.
3. National flag is displayed during hours of voting.
4. Voting by ballot shall be done without undue delay; by voting machine, within three minutes.
5. No one can remain inside the voting place except election judges, peace officers, challengers, representatives of election officials, and voters who are about to vote.
6. No one may campaign within 100 feet of a polling place on election day.
7. No one may sell or give political badges or wear such badges at or about the polls on election day.

C. Related Provisions

1. Every employee may take time off from work to vote in the forenoon without loss of pay.
2. No liquor is sold on election day.
3. No person shall be arrested by virtue of any civil process on election day.
4. No campaign literature may be distributed on election day.
5. No person, committee or organization may transport voters to polls except:
 - a. persons in same household.
 - b. two or more voters riding together by mutual agreement.

THE VOTER

A. Constitutional Qualifications

1. Twenty-one years of age.
2. Resident in the state for six months and in the election district (precinct) for 30 days; if moves within 30 days of election may vote under plan provided by law.
3. Citizen of the United States for at least three months preceding an election.
4. Not entitled to vote if:
 - a. Convicted of treason or felony, unless restored to civil rights.
 - b. Under guardianship or not of sound mind.

B. Registration

1. Required in municipalities of more than 10,000; optional in all other municipalities.
2. Voter applies in person to commissioner of registration any time except 20 days preceding an election.
3. Absentee registration
 - a. Qualified voter absent from his election precinct may register by mail up to 20 days preceding an election.
 - b. Armed service personnel may be registered at same time and on same form as application made for ballot.
 - c. Application and registration cards must be notarized.
4. Registration is permanent
 - a. Exceptions: The voter must re-register if he:
 - (1) Fails to vote at least once in four consecutive years.
 - (2) Changes his name by marriage or court action.
 - (3) Moves to different municipality requiring registration; when voter moves within municipality more than 30 days before an election, he may notify the commissioner of registration by mail and then be eligible to vote in new precinct.
 - b. Where no registration is required:
 - (1) Voter must have necessary constitutional qualifications.
 - (2) Voter must take an oath administered by any election judge swearing that he is so qualified.
5. Registration is waived for one election only when voter moves to a different municipality within 30 days of an election and presents a certificate of eligibility at polls.

ABSENTEE VOTING

A. Qualifications

1. Must be 21 years old by election day.
2. Must have been a United States citizen for three months and a resident of the state for six months and of the election precinct for 30 days.

A. Qualifications (cont.)

3. Must be registered in municipalities requiring it.
4. To use absentee balloting, must:
 - a. Be a member of the armed forces
The term "armed forces" refers to "the Army and Navy of the United States or the Merchant Marine of the United States or the American Red Cross, the Society of Friends, the Women's Auxiliary Service Pilots, the Salvation Army, the United Service Organizations and all other persons connected in any capacity with the Army or Navy of the United States including all civilian employees of the U.S. Government outside the United States or the spouses or dependents of such persons if actually accompanying such persons and residing with them."
 - b. Be absent from precinct on election day and unable to go to the polling place because of:
 - (1) travel,
 - (2) illness,
 - (3) physical disability,
 - (4) religious discipline or holiday.

B. Registration

1. Members of the armed forces may be registered at the same time and on the same form as application for ballot.
2. Any other qualified person who is unable to register in person because of absence from the precinct, physical disability or religious discipline may register by mail by applying to the local commissioner of registration.
3. Absentee registration will be accepted any time except the 20 day period immediately preceding an election.

C. Obtaining Ballots and Voting

1. Armed forces
 - a. The member or his parent, spouse, sister or child (over 18 years old) may file a request for ballots form with the county auditor.
 - b. The member may mail a federal post card application (available at any military base) to the county auditor.
2. Any other qualified person may request an application for ballots from his county auditor, fill it out, and return it in order to receive ballots.
3. The executed application will be accepted by the county auditor as early as 30 days before and not later than one day before the date of the election.
4. Ballots will be mailed to the voter as soon as they are available.
5. Voter receives the ballots, a white envelope and a brown envelope. After marking his ballot, he places it in the white envelope and seals it. This envelope remains sealed until it is received by the election judges. The sealed white envelope is then put into the brown envelope for mailing. This brown envelope must be notarized.
6. Marked ballots must be received by election officials not later than the day of the election.

- D. All official communications with the commissioner of registration or the county auditor must be notarized.

THE CANDIDATE

A. Qualifications for Office

1. Senator
 - a. Must be at least 30 years old.
 - b. Must have been a United States citizen for nine years.
 - c. Must be a resident of the state he desires to represent.
2. Representative in Congress
 - a. Must be at least 25 years old.
 - b. Must have been a United States citizen for seven years.
 - c. Must be a resident of the state he desires to represent.
3. Governor or Lieutenant Governor
 - a. Must be at least 25 years old.
 - b. Must be a United States citizen.
 - c. Must have been a bona fide resident of the state for at least one year before election.
4. Judges - must be learned in the law.
5. Other elective offices in the state require that a person be a qualified voter at the time of filing.

B. Filing Procedure

1. Candidates for congressional, state or county offices file not more than 90 nor less than 56 days before the primary election.
2. Where to file
 - a. Candidates for senator with the secretary of state.
 - b. Candidates for United States representative with the secretary of state except that candidates in the 5th Congressional District file with the Hennepin County auditor.
 - c. Candidates for governor and other state executive officers with the secretary of state.
 - d. Candidates for judges, state legislature, any other state office, or county office:
 - (1) with the secretary of state when to be voted for in more than one county,
 - (2) with the county auditor when to be voted for within one county.
 - e. Candidate for city, village or township offices with the clerk of the municipality.
3. Information in affidavit
 - a. That candidate is a qualified voter in subdivision where he seeks nomination.
 - b. Name of his party, if for a partisan office.
 - c. That he is a bona fide member of that party.
 - d. Office.
 - e. That he has not filed for any other office at the same election.

4. Filing fees
 - a. Senator - \$150.
 - b. United States representative, state offices, judges of the Supreme Court and district court judges - \$100.
 - c. Members of state legislature - \$20.
 - d. County officers - \$20.
 - e. Unpaid officers - no fee.
 - f. City, village and township officers as prescribed by local law.

C. Petition

1. Does not apply to primary elections.
2. Candidate may have name placed on general election ballot if a proper certificate of nomination is filed before the last day of filing by voters living in his district or political subdivision encompassing office he seeks.
3. Number of signatures must equal a certain percentage of the total vote cast at the last general election.
 - a. If for a state office - one percent of state vote but not more than 2,000.
 - b. If for a congressional or judicial district office - five per cent of district, not more than 1,000.
 - c. If county or legislative office - 10% of county, ward, or precinct, not more than 500.
4. A person who has been a candidate in the primary is not eligible to petition.
5. No petitions are allowed after the last day of filing for office, except to fill a vacancy. Petitions for presidential electors may be filed up to and including primary election day.

Open - Closed Primaries - L W V favored Open as in Minn.
Minn. Election Laws -
L W V of Minn 1958

THE DIRECT PRIMARY

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If the voter is to be able to make an intelligent choice in a general election, there must be some process for "weeding out" the many candidates who aspire to public office. Our special concern here is the primary election as a means of "weeding out."

History

The earliest method of nomination in the United States was the informal - often secret - caucus of party members or like-minded political groups. Later, the legislative caucus nominated candidates on the state level and Congressional caucuses nominated the President and Vice President. "King Caucus," as it came to be called, fell into disrepute and was displaced by the convention system during the Jacksonian era.

The delegate convention system, popular reform in its time, was found to be susceptible to manipulation and machine control. Though it would be unfair to say that every convention was corrupt, widespread exposure of graft led to deep public resentment against it. Before state statutes regulating the convention, and thereby perhaps correcting some of its faults, could be tested, the primary had emerged on the American political scene.

The direct primary seems to have been first used in 1868 in Crawford County, Pennsylvania, where local rules of the Republican party did away with delegate conventions and provided that the candidates be nominated at the primary. This new system attracted much attention as a reform measure and spread to the West and South. Wisconsin's law, adopted by referendum in 1904, swept away every vestige of the convention system in that state by making the direct primary mandatory for the nomination of every local, state and county party official. It provided also that the state or its subdivisions pay primary election expenses. Today, although every state in the Union uses the primary to varying degrees, neither the caucus nor the convention has completely disappeared from the nominating process. Indiana, Michigan, Maryland and New York use the party convention for nominating all or some state officers, while Iowa and South Dakota resort to party conventions in case no candidate for a state office receives 35% of the vote in a primary election. (Little use has had to be made of this provision.) Some other states use a party nominating convention for some elections or at the option of the party organization. Connecticut, in 1956, is the most recent state to have used direct primary law.

The Nonpartisan Primary

Besides nominating candidates for party office, the direct primary selects nominees for nonpartisan offices as well. It is used most frequently in city, county and judicial elections, though Minnesota and Nebraska both use the nonpartisan primary for selection of state legislators. The generally accepted practice is for names of the two candidates who receive the greatest number of primary votes to appear on the ballot in the general election. Since we are concerned basically with Minnesota's election laws, we should note that the League of Women Voters of Minnesota favors return of party designation for Minnesota's legislators which would mean that nomination of legislators would again become a matter of direct party concern (some legislative candidates, of course, run with party "blessing" - an informal endorsement by the party).

Partisan Primary - Closed and Open Primaries

Who may vote in the partisan direct primary? This question interests political party organizations since the purpose of the partisan primary is to nominate the party's candidate. Laws of states differ in regulating who may vote by tests of party affiliation. In some cases, the test is stringent, in others negligible, and some states have no test at all. Where a party affiliation test exists, the primary is a "closed" primary and where there is no requirement, the primary is "open."

The distinction between the open and closed primary is not so great in practice as in theory for methods used in closing a primary are not fool-proof, and a majority of voters in the open (and blanket) primary apparently vote within the party whose candidates they intend to support at the general election. However, there is always this difference: in the closed primary states, the voter makes public his party affiliation; in the open primary, the choice of party is made in the secrecy of the polling booth.

Pros and Cons

The closed primary tends to promote a strong party system on which our democracy depends. Its proponents contend that the primary in reality takes the place of the party convention, and only people definitely identified with the party concerned should participate in it. The nominating of candidates is a party affair since it assumes that the candidate will represent his party. Independents and others unwilling to affiliate with a party have the opportunity to make their choices in the general election and should not be allowed to interfere in a party matter. The closed primary prevents "raiding," an unsavory practice of voting in the primary of the opposing party (often to vote for the weakest candidate) when there is no contest in one's own party. Another argument in favor of the closed primary is that it tends to make party alignment more definite.

On the other hand, the open primary favors the independent voter who feels he is entitled to a voice in determining who shall be the candidate at the general election. It allows a freedom of movement between parties if a voter desires to change his party affiliation. People who oppose the closed primary contend that the declaration of party affiliation impairs the secrecy of the ballot and that it denies many voters their right to participate in the primary which is in some states the pivotal election. They maintain that raiding is not common practice and that voters who cross over do so with the honest intention of supporting that party's candidates.

Operation of the Closed Primary

The closed primary is the predominant form in use in the United States. All but eight states require some kind of party declaration, but differ in the degree of stringency.

1. Enrollment method

In 18 states, a voter must register his party affiliation prior to election day. He may change by re-registering any time from six months to 10 days before the next primary. The election judges give each voter only the ballot of the party named on the register by that voter.

2. Challenge method

The other states use some form of the challenge method as opposed to enrollment. In Vermont, the voter asks for the party ballot he chooses, and his choice may not be contested or questioned. This is practically an open primary except for the lack of secrecy in the voter's choice. The voter in other states may be asked at the polls to swear that he voted for a majority of the party's candidates in the last election, or that he intends to vote for its nominees, or both. He asks for the ballot of his choice on election day but his right to it may be challenged by election officials or party watchers.

Operation of the Open Primary

Eight states have open primaries: Minnesota, Idaho, Michigan, Montana, North Dakota, Utah, Washington, and Wisconsin. In four states the several party ballots are printed separately and the voter himself chooses in private the one which he wants to use; in the others, including Minnesota, a single ballot is used and the voter invalidates his ballot if he does not confine his marks to a single party's candidates.

Only the state of Washington uses the "blanket ballot" (since 1935) with the names of all candidates and their party affiliations grouped under the office they seek so that the voter may select the candidate he favors regardless of party affiliation. It is contended that under this system the voter has complete freedom of choice. He is not restricted to voting for candidates in only one party - i.e., he may vote for a Democratic nominee for Governor and a Republican for Senator at the primary. Party people claim that this practice breaks down the last vestige of party control. Evidence shows, however, that the parties in Washington have not lost strength or prestige.

California is a closed primary state but the effect of an open primary is achieved by allowing cross-filing. A candidate may run for nomination within more than one party's primary. A study of the practice of cross-filing has led to the general agreement that dual filing tends to weaken political parties and to make party division meaningless. It introduces much confusion and in about two thirds of the contests results in virtual election in the primary. Despite these objections, all efforts to repeal the cross-filing provision have failed. Most public officials like the system since it makes it possible for them to be elected with only one campaign. Voters, too, generally like the system for the freedom of choice it allows them.

New or Minor Parties

Regarding minor and new parties, the authoritative study by the National Municipal League, "Model Direct Primary Election System" (hereafter referred to as the Model) makes these recommendations:

1. "The use of the direct primary should be mandatory for political parties which polled ten per cent or more of the vote cast at the preceding general election. Smaller parties should be permitted to demand state conduct of their internal nominating processes and do not need it.
2. "Provision should be made whereby small or new parties or independent candidates may qualify by petition and have the names of their candidates printed on the ballot at the final election."

Minnesota's law makes the primary mandatory for parties which have polled five per cent of the total vote cast for at least one office. It also provides a petition method whereby other candidates than those nominated by the primary may appear on the general election ballot.

Problems of the Primary

There certainly is no standard method of conducting primaries among the states, although procedures are being amended constantly by state legislatures to make the direct primary a more sound nominating system. Even though the direct primary is now an accepted political institution, it is not without its faults. Besides listing the criteria for a good nominating system and faults of the primary as now practiced, the Model points up problems and suggests ways of solving them. While we do not necessarily recommend the Model's suggestions for Minnesota, we refer to them in order to stimulate more constructive thought and action on improving the primary.

Caliber of Candidates

A criticism leveled at the direct primary is that it has not encouraged men of stature to become candidates and that it does not provide for the drafting of candidates of high qualifications. Those favoring the convention system claim that by sifting candidates and drafting desirable men for office, they produce better candidates. This has not always been the case, however. Proponents of the direct primary maintain that when any citizen could run for office, better candidates would result. "One of the pleasant myths of American politics is that qualified, civic-minded citizens will voluntarily and spontaneously announce their own candidacies and run for public office, at large expense to themselves, for the privilege of serving the public. The facts are usually quite to the contrary," says the Model. Another criticism of the primary is that "it facilitates the candidacies of self-advertisers and demagogues who will push forward unasked and unabashed and wage a campaign for nomination." This situation might be helped by a tightening of the filing procedures. A solution to the problem of encouraging qualified citizens to become candidates as recommended by the Model is pre-primary party endorsement, long ago advocated by Charles Evans Hughes.

Pre-Primary Party Endorsement

In Minnesota, the Democratic-Farmer-Labor party endorses candidates. The Republican party has not done so until just recently. Among the states, pre-primary endorsement is not common though the Model recommends that, "party organizations, acting through committees or conferences of responsible party officers, should be authorized by law to select and propose candidates for nomination by the party for public office and for election to party office, to be voted on at the direct primary. This is the major recommendation, the central feature, of the proposed model primary election system."

Arguments for Pre-Primary Endorsement

The merits of pre-primary endorsement are:

1. It lets the party organization perform the function of sifting candidates to insure that they are qualified for office and in agreement with policies of the party.
2. There is a need for the party openly and responsibly to find suitable candidates because experience proves that qualified candidates will not announce their own candidacies for office. (If we recognize the need for a nominating committee in relatively small organizations, the need will be infinitely greater in choosing public officials.)
3. Party organizations will be able to draft candidates who might otherwise be unwilling to run and conduct a campaign on their own behalf.

4. It will provide voters with a basis for making more intelligent choices.
5. It will provide the occasion to consult not only about candidates but also about policies and programs to adopt a meaningful platform.
6. It will insure candidates who are in agreement with party platform and program.
7. It will reduce the cost of campaigning to individual candidates for often party candidates will be unopposed, but if opposed, the party will be expected to conduct its candidate's campaign.
8. It will strengthen party organization and help attract outstanding citizens to serve in party positions....

Arguments Against Pre-Primary Endorsement

The criticisms of pre-primary endorsement are:

1. It will, in effect, restore the discredited convention system of boss and machine rule.
2. It gives too much power to a group of irresponsible officials often subject to machine control.
3. Every citizen is entitled to become a candidate even if he is not endorsed by the party.
4. The function of party committees is not to influence the choices of candidates by voters of the party.
5. Unofficial endorsement is preferred to legally sanctioned endorsement because it leaves other candidates more freedom to oppose them.

Problems of Pre-Primary Endorsement

If pre-primary endorsement is to be authorized by law, should endorsement be made by regular party committees or by delegate conventions? The advantage of endorsement by party committee is to fix responsibility so definitely that it cannot be escaped. No longer would party leaders be able to hide behind the facade of a convention which they would probably control anyway. The secret of success is often simplicity and this would certainly be simple. The committee method facilitates conference and consultation between state and local party officers which is useful in promoting unity in acceptance of principles and policies.

However, it can be argued that the committee often meets in secret, that it is small and therefore more subject to manipulation and control by the machine. A delegate convention would be more truly representative of the party's rank and file membership. The convention is useful in building up party enthusiasm by permitting greater participation. It also provides a suitable occasion for the party to adopt a platform. The difference between the two methods is probably more apparent than real for no real convention is a truly deliberative body, but accomplishes its work in small committees.

Another question regarding party pre-primary endorsement is whether the organization be authorized to endorse more than one candidate for each office. Colorado, Nebraska and Utah laws authorize endorsement of more than one candidate for an office (two candidates are required in Utah). The advantage of proposing only one candidate for each office is that it fixes responsibility definitely while dual endorsements allow responsibility to be shifted to the voters. Ordinarily a party organization would endorse only one candidate, but a rule to allow for two endorsements in case the second highest candidate should receive a specified percentage of convention votes (25%) would permit insurgent groups within the party to challenge the current leadership. This provision is included in Nebraska's law.

If party pre-primary endorsement is legally authorized, another procedural question arises. Should organization-proposed candidates be so designated on the ballot? The Model recommends "candidates proposed by the party organization committees or conferences and duly certified to the public officers in charge of printing the ballot should have their names printed on the primary ballot with a designation (by asterisk or otherwise) to indicate that they have been proposed by the party organization." It can be argued that designation on the ballot as party endorsed gives the candidate preferential treatment not in accord with a truly democratic election system. On the other hand, it is possible that some voters would refuse to vote for any party endorsed candidate. One thing is certain, designation on the ballot would eliminate voter uncertainty as to which candidate is actually "blessed" by the party.

Short Ballot

For many years, the National Municipal League, the League of Women Voters, and others have recommended that a shorter ballot is necessary for the voter to be able to make intelligent choices at the polls. The Model says that all offices except those of major importance in policy-making should be appointed by responsible officials. When 20 or 30 offices appear on the ballot, the voter is being given a "great array of opportunities to express an opinion when he has no opinion to express." For instance, when a voter is confronted with several candidates for treasurer, he normally makes his choice on the basis of personality, party affiliation, or name.

It is a sad commentary on primary elections in general that mere position on the ballot influences the outcome, so names of candidates are rotated on the ballot to give each candidate a fair chance. The intention in shortening the ballot is not to limit the number of candidates running for any one office, but rather to remove offices that are administrative in character.

There are two methods suggested for helping the voter under the existing system: 1) pre-primary party endorsement; and 2) a non-biased publicity pamphlet sent to each voter by the state (Oregon). However, these are relief remedies only; the real cure would be a shortened ballot. "No primary system will work well with the jungle ballot; any primary system will work better with a short ballot," says the Model.

Effectiveness of the Political Party

Another criticism of the direct primary is that it weakens political parties which are essential in state and national governments to the democratic process. A good nominating system "should promote healthy and effective political parties responsible to the voters of the party." Here again arguments for pre-primary party endorsement apply. A problem that arises, especially under an open primary system, is that the candidate nominated may not be in accord with the party platform. If the platform is formulated before the primary there is no assurance that the winning candidate will accept it; if the platform is formulated after the primary, it is likely to express the views of the successful candidate, which might not necessarily be the same as the ideas of the party.

Campaign Expenses

Running for office is becoming increasingly expensive; a candidate must conduct two campaigns in most cases where the direct primary is used. When a candidate must have large sums of money from other than his own resources, he can incur obligations of a nature that might prejudice the discharge of his duties as a public official. However, public office should not be restricted to those persons with large, private means. This is a knotty problem not easily solved. We have corrupt practices laws to limit campaign expenditures and to make public the names of large contributors to a candidate's cause. Ideally, the wider the base of funds, the more independent a public official may be. The fact that campaign expenses are necessary "serves the salutary purpose of restricting the contest to candidates with substantial public support."

Citizens' Access to the Ballot

While any qualified citizen should be able to run for office, this is not the purpose of the primary. The primary is the means for the voters to choose their officers; it is to the advantage of the voter to have enough restrictions on the nominating process to keep frivolous candidacies from cluttering up the ballot. However, in formulating a good primary law, we are interested in making it possible for others besides party proposed candidates to get their names on the ballot. If opposing candidates are not permitted to run, the effect is to return to the convention system of nominations and its attendant abuses.

The two common requirements for placing a candidate's name on the ballot are (1) petition and (2) declaration of candidacy accompanied by a deposit.

It is generally believed that mere nominating petitions signed by a large number of people do not necessarily indicate whether the candidate has real support. Nomination by a small number of signers or sponsors in conjunction with a reasonable deposit fee is often suggested as the better method of keeping out candidates with no following. The British and Canadian system (on trial in Michigan) of requiring a large deposit to be partly repaid if the candidate receives one-eighth of the vote should be seriously considered even though most state legislatures hesitate to increase filing fees in the belief that it would be undemocratic.

Minority Nominations

A candidate is declared nominated if he receives the most votes - this is called a plurality nomination. Problems can arise if many people run for one office and so disperse the vote that the winning candidate does not receive a majority of the votes, or if the vote is so light in the primary that the candidate chosen does not represent the majority feeling of his party. Several methods have been employed to obviate the first condition. One method is to hold a second, or "run-off" election used especially in one-party states where nomination is tantamount to election. Laws in southern states permit this plan, but it is too burdensome and expensive to have found favor elsewhere. Another method is that of preferential voting - the voter marks his second choice and in case no candidate receives a majority, the candidate with the lowest vote is dropped and his ballots are transferred to their second choices and this process is continued until one candidate receives a majority. This plan is used successfully to some extent in Canada and Great Britain, but is difficult to use in America with our long ballot. It was tried by a dozen or so states from 1913 to 1921 and abandoned as impractical. The third method used by some states is a post-primary party convention if no candidate receives a certain percentage of the vote. However, it has not been necessary to resort to these means very often. The plurality nomination is successful in most cases.

MAJOR PRIMARY LAW PROVISIONS

Minnesota (an open primary state) is compared with the Model and Ohio (a closed primary state).

	<u>MINNESOTA</u>	<u>MODEL</u>	<u>OHIO</u>
Parties which may use primary	Mandatory - to parties polling not less than 5% of total vote	Mandatory - to parties polling 10% or more of total vote	Mandatory - to parties polling 10% or more of total vote
Date of primary	2nd Tuesday, September	1 to 2 months prior to final election	1st Tuesday after 1st Monday in May
Type of primary	OPEN	In accord with state history & tradition	CLOSED (by declaration of party support)
Indication of party endorsement on ballot	None	Yes	None
Selection of nominees	by plurality	by plurality (run-off in one-party states)	by plurality
Inclusion of party officers on ballot	None	Yes*	Yes

*Inclusion of party offices without a closed primary would not be workable.