

P U B L I C H E A R I N G
before
SENATE JUDICIARY COMMITTEE
on
SENATE CONCURRENT RESOLUTION NO. 2003
(Reduces voting age to 18 years)

Held:
April 7, 1971
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Harry L. Sears (Chairman)
Senator Richard R. Stout

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SENATOR HARRY L. SEARS: We will open the hearing on Senate Concurrent Resolution No. 2003, the 18 year old voting amendment.

We will take witnesses in the order in which they have registered. I have four so far. If there is anyone else here who has not registered and would care to testify, would you please come forward and give your name to the gentleman right here in the front row.

First, we will hear Miss Mary Ann Ely, Director of the League of Women Voters.

All right, Miss Ely.

M A R Y A N N E L Y: I am Mary Ann Ely, a Director of the League of Women Voters of New Jersey. I am the new Chairman of our item on Protection of Voting Rights. On behalf of the League, I thank you for the opportunity to appear before this Committee to testify today.

We are submitting for the record a copy of previous testimony given before the Election Law Revision Commission, this year, in which is documented the ambiguities and confusion in administering Title 18A, 19 and part of Title 40. This situation will certainly be worsened if we come to the 1972 election with two classes of voters. (See p. 25)

Unless the national constitutional amendment to make uniform voting requirements for the country is quickly ratified, it will be necessary to have a state referendum in order to provide uniformity in New Jersey in time for the 1972 elections.

Therefore, the League is in support of a state referendum, in this instance SCR 2003, to extend constitutionally the right of franchise to 18 year old voters, to reduce the state and county residence requirements to 30 days and to provide by law provisions whereby registered voters moving out of the state or county within 30 days of a presidential election would be permitted to vote.

Our support is based on the longstanding realization that only uniformity of state election laws will insure the

right of franchise to as many citizens as possible.

The League of Women Voters has long noted with increasing alarm the barriers to registration and voting, which are certainly dignified by statute. The laws of our state have long acted as deterrents to participation in the election process. The intent of the law certainly seems clear - all citizens have the right to suffrage. Certainly without further extension of the law to encompass the young voters and to establish uniform residence requirements for state and local elections the now existing discrepancies and ambiguities in New Jersey registration and voting procedures will only increase.

In 1970, according to the latest census figures, while the state's population continued to soar, the number of registered voters sharply declined. There are now, in this State, approximately 1 million eligible unregistered voters. This figure does not include the newly enfranchised 18 year olds who will number high in the thousands.

The hodgepodge of confused interpretation that now exists will be exacerbated beyond belief as the 21 counties start their individual interpretation of how to handle the 18 year old voter. Only passage of the federal amendment or the state referendum will insure full compliance under the national Voting Rights Act.

The League urges that uniformity be the goal and, therefore, if the necessity arises by virtue of a delay in ratifying the U. S. constitutional amendment that SCR 2003 be released from committee and passed by the New Jersey Legislature.

Thank you.

SENATOR SEARS: Thank you very much.

Any questions? (No questions)

I forgot to announce that Senator Stout of Monmouth County, who is a member of this Commission, is sitting with me here.

Thank you very much, Miss Ely. We are glad to have the benefit of your views and those of your organization.

Dr. Quinton of the N.J.E.A.

Is Dr. Quinton here?

Dr. Quinton indicates that a substitute who will identify himself to us will present his statement or a statement in lieu of his statement. I assume he represents the same views.

Would you give us your name, sir?

B R U C E B O U R G E O I S: Bruce Bourgeois. I am student, a senior, at Fairleigh Dickinson University.

Perhaps you may have heard some of these ideas before but I am here to testify in favor of lowering the voting age to 18. Education levels have risen for the 18 year olds. They are responsible in court in this State; they are no longer juveniles after 18. They are responsible to pay taxes; they are responsible, if called, to the Armed Services. Democracy demands that they have a share in determining the laws that they must obey.

The United States Congress has voted overwhelmingly to lower the voting age to 18 and for ratification of a constitutional amendment. The intent of this was obvious - all citizens at 18 should be allowed to vote - and I believe that New Jersey should implement this by ratifying.

The last six Presidents have favored lowering the voting age. Senators Case and Williams and Congressman Forsythe also cosponsored this ratification of this amendment.

If you wish to check the example of those states which have had a lower voting age, you might look into Georgia and Kentucky. They have reported there, from their own House of Representatives, their own Assembly, that there is no major change, there is no major obstacle in allowing 18 year olds to vote.

Approximately 60% of the National Gallup Poll has indicated lowering the voting age to 18. And I think, in

particular for New Jersey, I would like to see the participation of students within the system. The 18 year old vote is an opportunity for students to share in democracy within the system. They do not have to rebel against it.

I also believe that those students who are not in college deserve a share in the democratic process commensurate with their responsibility to the community. They must obey the laws, they must pay the taxes, and, therefore, democracy demands that they have a share in determining these laws.

SENATOR SEARS: Thank you very much.

Any questions?

SENATOR STOUT: Mr. Bourgeois, you indicate that all the polls overwhelmingly have favored reduction of the voting age to 18 but how do you reconcile that with the fact that the voters in this State, twice in the last three years, overwhelmingly rejected this very thing?

MR. BOURGEOIS: Nationally they may have favored it.

SENATOR STOUT: Do you know the record on how many states had the proposition before them and what the results were, how many were carried and how many were lost?

MR. BOURGEOIS: I have a list of states where action is going on right now.

SENATOR STOUT: Well, I mean, how many have carried it, passed it?

MR. BOURGEOIS: I'm not positive at this time.

SENATOR STOUT: But there was a sizeable number that rejected the 18 year old vote.

MR. BOURGEOIS: There were a group of states, yes, 8 or 9, I think.

SENATOR STOUT: And in our State we have a constitutional provision about having a question reappear on the ballot before the people - I think it can't be done until after two years and this has been done twice in the last three years. Do you think this action today is inconsistent with our Constitution?

MR. BOURGEOIS: No because I believe it is consistent

with that which the National Government has acted upon.

SENATOR STOUT: But this is not the National Government; we're talking about the State Government and the State Constitution.

I am just bringing a point out here that we have rejected this twice within the last three years overwhelmingly and our Congressmen apparently felt they knew more than the people. I'm saying, what's the use of a referendum any way if the elected representatives can go down and violate the will of the people?

MR. BOURGEOIS: Well, I believe in one of the cases there was a reaction against certain student disturbances.

SENATOR STOUT: But you don't know that for a fact. You don't know how anybody votes when they get in the booth. That's something you read, isn't it?

Do you know why the people voted against the 18 year olds?

MR. BOURGEOIS: Do I know why?

SENATOR STOUT: Yes. You don't. I don't either. Senator Sears doesn't. All we know is that they did.

And another question I would like to raise, and I just want to raise this at the time of this hearing, is, if you have the 18 year old vote and these voters assume their responsibilities and obligations of citizenship, are you willing to go across the board and treat every 18 year old as an adult is treated now? And I have particular reference to our drinking statutes, for example. Are you prepared to support legislation that will give everyone over 18 complete responsibilities and complete liabilities that adults have today?

MR. BOURGEOIS: Yes, I would.

SENATOR STOUT: As you know, there are some criminal laws that favor the adolescents, so to speak; there are drinking laws that prohibit them from drinking; there are laws with respect to contracts and obligations of contracts where they are not held responsible for what they have

signed. And you are perfectly willing to support measures to make it a straight across the board responsibility.

MR. BOURGEOIS: I am aware that our society is evolving in that direction and I would support those measures as it evolved in that direction, yes. I would not be in favor of saying extend the vote without any responsibilities. But I believe some of these responsibilities have already been evolving downward.

SENATOR STOUT: All right. Thank you.

SENATOR SEARS: Thank you, Mr. Bourgeois.

Now we will hear from James Shue who is here representing the Voting Age Coalition.

J A M E S W. S H U E: On behalf of the Voting Age Coalition, as Trustee, for more than 5,000 members, I wish to urge swift passage of SCR 2003 which would permit New Jersey voters to decide if 18, 19 and 20 year olds shall be granted the franchise in state and local elections, and for other purposes.

Because of actions of the U. S. Congress, the U. S. Supreme Court and other State Legislatures and electorates, we face a ridiculous situation in New Jersey. As of now, 18, 19, and 20 year olds are eligible, when registered, to vote for the President of the United States, but not for the Governor of New Jersey. As of now, they are deemed eligible to decide who should serve in the U. S. Congress, but not eligible to decide who should serve in city councils.

Other states, such as Kentucky, Georgia, and Alaska find 18, 19 and 20 year olds qualified to vote in all elections, but living in New Jersey changes all of that. There is no equal treatment of the law for this question. It is, in short, this kind of injustice, inconsistency, and double standard which encourages our young people to mock our established legal processes. The unfair situation that exists today in New Jersey, I think, is a reflection on the adult leadership in the communications media, churches, schools, universities, business community, political parties, and,

most importantly, I think it's a reflection on the quality of parenthood. I know of some high school administrators who denied their students' requests to have debates on the question of a lower voting age and who denied student requests to bring in outside speakers to discuss this issue. There were many, of course, many schools, many administrators and faculty that encouraged it and they are to be commended.

But imagine any high school in this State claiming credit for educating its pupils but denying basic discussion of issues relating to citizenship. The churches were basically silent on this issue. Both major political parties endorsed the vote, then fell silent. Few candidates spoke out vigorously. The business community offered a few token dollars, but little else. University administrations and university faculties, for the most part, ignored the whole thing. And coverage by most of the press was sparse, though the referendum did gain editorial support, sandwiched in with other endorsements, at the end. There were those newspapers that did an admirable job. I remember that the Newark Star Ledger had a full series on this question. There were some pieces in the Newark News. But, by and large, the coverage was sparse. Two defeats in the last two years on the question of a lower voting age are not a very proud record for leadership in this State.

Other nations, other states have confidence in their young, even the mother country, Great Britain, permits 18 year olds to vote in all elections. They have confidence to entrust their young with full citizenship, other states and other nations, but we have not had that confidence in New Jersey. It is clear that a nation which is indifferent to its young is mindless of its future.

There is no assurance of ratification of the 26th Amendment to the U. S. Constitution, but I think it would be foolish, for a number of reasons, to run from this question of putting it on the ballot this November simply because

it has been defeated twice before.

1. The votes in the last two years, I do not believe reflected accurately adult opinion in New Jersey. Inadequate leadership led to an inaccurate public vote.

2. Public opinion has grown more positive since these two referenda.

3. The present inconsistency of permitting the vote for 18, 19 and 20 year olds in federal elections but not in state and local elections is absurd and will also cause a great expense to administer.

4. I think the 18, 19 and 20 year olds are a most valuable resource that has contributed much to progressive change in recent years and they will be a vital element always in our political system to insure that we have more responsive political leadership in the future.

There were some bright spots in the voting statistics in both the 18 and 19 year old referendum. For example, in my home county of Essex, the voters of Newark and East Orange approved of both the 18 and 19 year old vote questions; in fact, the inner city residents gave a resounding vote of confidence to their young. In the Central Ward of Newark, the question both in 1969 at 18, and 1970 at 19, the question passed better than four to one, while in neighboring suburban communities it went down four to three.

In 1969 and in 1970, about 20 percent of those voting for Governor and Senator failed to vote on the lower voting age referendum. That 20 percent would have been enough to change the outcome. For example, in 1969, the number that did not vote on the public question was 435,843. They voted in the gubernatorial race but 435,843 did not vote on the public question. The public question went down, that year, by a margin of 248,800. One wonders if a substantial portion had voted on this question what the outcome would have been.

I remember well in 1969 how, at the last minute, all polls - and they were reliable polls - indicated that the adult population of this State favored it more than 51%;

yet, when the votes were counted, we didn't have enough.

In talking to election officials, a common refrain is heard - many would say that the voters would come out of the booth and then remember that they did not see the question because of its location on the side or at the top of the ballot. It nearly happened to me. But those who had a mind set against this question went into the booth looking for that question in order to pull the "no" lever. I think some investigation should be made by the Legislature as to a better method of location for all of our public questions because I think it has happened in other situations as well.

Now, since the U. S. Congress has proposed the 26th Amendment and the U. S. Supreme Court has found the Congressional enactment valid for federal elections, I believe that public opinion has grown much more positive. If for no other reason, minds will be changed with the argument that allowing 18 year old voting in federal elections but denying it in state and local elections will be expensive and cost millions of dollars.

I will touch a bit on the resources of our youth and then wind it up.

As a recent survey indicates, the present generation of youth is more widely educated than the generation before. And I believe better judgment comes with this breadth of knowledge, especially as to what is in the public interest. We face increasingly not really an age-generation gap, but an education-generation gap, and I think it is time this is recognized. My 9 year old son ponders and has opinions about public issues that would never have entered my head at the age of 9.

Finally, I think that history will record of this period that we are now living in that the young were in the vanguard in demanding and bringing about the end of the tragic war in Asia; that they repeatedly confronted this nation with the cruelties of racial injustice and neglect of the cities; that they were the primary force in mobilizing

citizenry's concern for its deteriorating environment. Take "Earth Day" as a testimony of that. I think our nation denies this quality of citizenship at its peril.

The voting age coalition commends the State Senate and this Committee, Senator Sears, Senator Dickinson, and others - Senator Stout, I'm not sure whether you are on that bill or not but I hope you are.

SENATOR STOUT: No, I'm not on it.

MR. SHUE: We commend the Senate for its passage of SCR 2017 which would ratify the 26th Amendment.

I saw in the New York Times, this morning, that action is moving swiftly; 13 states have now ratified it and they are hoping that by this November we will have 38 but there is no guarantee of that.

The voting age coalition has urged the Assembly to act quickly on SCR 2017. We believe that Passage of SCR 2003 is also essential in case we face the situation where 38 states do not ratify by this November. I believe at this time, with the leadership that can be forthcoming, - the voting age coalition will be in there fighting - and I believe that with this leadership that this time we have the votes.

SENATOR SEARS: Thank you.

Do you have any questions, Senator?

SENATOR STOUT: Yes, I would like to ask Mr. Shue several questions. He and I had a similar experience within the last four years so we both have been on the ballot and we both have some feeling, I hope, for public opinion.

Now, you made statements here that I don't think follow the facts of the matter. You say, for example, that the votes in the last two years did not reflect adequately adult opinion in New Jersey. I don't think you know. I don't know and I don't think you know either. Now in every thing that I've read, everybody bases it on the public opinion polls, but the only thing that counts is the referendum and the referendum was turned down twice in this State. Well,

that didn't mean anything - do you mean to say that any referendum in this State doesn't mean anything? The bond issue was a referendum. You all receive the benefits of this money. The water sites, Long Valley, and the rest of those things have meant something. But the position that all of you are taking is that this referendum didn't mean anything because the leadership was bad.

As I remember, and I was in the campaign, the media and the propoganda and the speakers were all on the side of the 18 year olds and, in spite of that, it was overwhelmingly defeated. Now, I don't think you can say that the leadership was bad or that it did not reflect accurately adult opinion, because the only thing that matters in this democracy is the vote, not Gallup's Poll, not Ropers' Poll, not what News Week says. The only thing that matters is the vote and it was turned down twice, overwhelmingly.

SENATOR SEARS: Do you understand that question, Mr. Shue?

MR. SHUE: Yes, I think I do.

SENATOR STOUT: It's a statement.

MR. SHUE: I think that both of these referenda are very significant but I don't think that they're conclusive.

Under our State Constitution a question can come up after two years have gone by, in the third year, if it's the same question. And this bill that we are now considering is different from the one that was considered in 1969, it is different from the one considered in 1970. So, under our State Constitution, because it's a different question, because now it's addressing itself to just state and local, since the Congress and the Supreme Court have acted, we now are saying, let's give the public a chance to decide again.

I am not making light of those two referenda but what I am saying is that I think had the job been done

adequately prior to this time, voters of this State, if enough had gotten out, enough of that opinion that didn't go to the polls, I think then we would have seen a different outcome. So, I don't weigh it lightly but I do think that we have a responsibility, you as Legislators and I as a citizen, - I think there's a responsibility especially for Legislators, that where they are in touch with current knowledge, current information about particular public issues, that's their job, I think they have an obligation to be delegates in our system; that their obligation is to be out in front leading public opinion so that the public is aware what the pros and cons are, rather than sitting back and saying let's hope that some decision comes. Because I think when the facts are made clear to the people of this State, what potential there is with youth, I think then you will see a different kind of vote.

SENATOR STOUT: Well, that was a nice statement and I'm a representative and have been for 20 years. I spoke on this question when it was on the ballot; I spoke the other day in the Senate when it came up over there, on the ratification, and, if I know anything at all, the response I received when I got home and as I went around the State was overwhelmingly in favor of the position that I took; and it was overwhelmingly that way at the time of the two referenda.

Now, I don't feel my judgment is any better than yours but it's equally as good, and my opinions are exactly the opposite of what yours have turned out to be.

Now let me ask you the other question. I just wanted to bring those points up.

You heard the question I asked the previous speaker - and you are perfectly prepared to give 18 year olds complete freedom and reign in any possible avenue, the same as any adult, including going to X rated movies, drinking in bars, obligations of contracts, accepting the full penalty for any criminal acts they may perform, marriages and the rest. This

is part of it, I assume.

MR. SHUE: I think, for today's purpose, Senator, we are discussing a single issue and that is the right to vote.

SENATOR STOUT: You can't discuss a single issue on this, just the right to vote because, if they are adults and have the right to vote and have the intelligence and the awareness and the education to vote properly on a candidate or an issue or a referendum, they certainly have the same equipment, the same intelligence to decide whether they want to drink, whether they're going to accept the responsibility for drunken driving or whatever it happens to be, or to sign a contract which is another area.

MR. SHUE: I personally am in favor of the expansion of the adult right for 18 year olds but I think right now we're on this single question and then I think we'll proceed to where in years ahead through the entire electorate, through its representatives in the Legislature, not just this body, will be weighing these other questions.

SENATOR STOUT: I expect to see you down here supporting those measures.

MR. SHUE: A very good chance.

SENATOR STOUT: That's all I have.

SENATOR SEARS: Thank you, Mr. Shue.

Mrs. Patricia Bennett.

M R S. P A T R I C I A B E N N E T T: Good afternoon. My name is Pat Bennett. I came as an individual, with Mary Ann Ely from the League of Women Voters, as moral support, and I felt compelled to speak as an individual.

Someone said that they didn't know why people had defeated, or what was in the minds of the persons who voted against the 18 and 19 year old vote. I, personally, voted against the 18 year old vote and I voted against the 19 year old vote at the time it was on the ballot. I, personally, gave it a great deal of thought. I considered what I was looking at on television; I considered the riot; I considered

whether or not I thought I was a qualified voter at the time I graduated from high school, which is about the same as 18 year olds getting out of high school - what had I learned in school and would it make me an intelligent voter or not; I considered my two history teachers and I said to myself, I wouldn't have been a good one to go to the polls when I graduated 15 years ago and I don't know that things have changed. From what I had seen of the riots and what I had seen of the demands that I couldn't go along with, I didn't think that the 18 or 19 year olds were ready to vote and I voted it down, myself.

Since then I have had several experiences that have changed my mind and I'm trying now to change my husband's mind.

Last year, when the Supreme Court was making its decision about the voting rights act of 1970, my organization - I'm President of the Hamilton Township League -- my organization decided that we would make an effort to get the young people registered; since the Attorney General of New Jersey was allowing the young people to be registered and holding the registrations in advance until the Supreme Court decision, we thought we would make an effort to get the young people registered because if the decision was made before the 1st of January, as the Supreme Court had promised, these young people who had registered before December 31st would have been eligible to vote in our local school board election. They would have also been eligible to vote on the Hamilton Township School Bond Referendum. We thought it was pretty exciting that the first election they would be eligible to vote in would be something locally, where they would see the issues firsthand - you know, there's a difference between a local election and an election for Congress, there's no question about it. The first experience of these young people would have been school board elections where they could have gone to public meetings right in their own neighborhood and seen the candidates, where they could have spoken to them personally, where they could have gotten involved in the

campaign. They would have understood the issues of the school bond referendum more than I, who was on the outside. They would know whether or not there were overcrowded conditions; they would know a great deal more about it.

So we went to the schools the first week of December, speaking as League members, encouraging them to register and explaining the Voting Rights Act. With the cooperation of the Mercer County Board of Elections, registrars were brought to the school to register those who were eligible and who wanted to register. We had hoped that the registrars would come during school hours. The school administrators were opposed to this but welcomed them to come after school hours.

Now the Hamilton Township High Schools - 80% of these students are bused, which means that when school hours are over these young people have to put themselves out some in order to register. It's not as though the registrar brought this into their history class and everybody would sign up because their buddy did. They had to think about it and they had to walk home afterward, they had to get a ride afterward, they had to give up something - football practice or something - in order to register when the registrars were there.

The Mercer County Registrars registered 476 young people in two afternoons at the two high schools. Now I thought this was pretty significant because it meant that they wanted to register. Some of them, of course, registered because their buddy was doing it; there are always those. But these people wanted to register.

From what I have seen of the local campaigns, the young people are getting involved in the campaigns, not because of an assignment from their classroom teacher but because they want to. They pick the side that they agree with and they work for it.

It must be pretty frustrating for them to work in the Party and then not be able to go out to the polls; for them to say to an adult, consider voting for so and so, I

think he's a good candidate, and for this adult to say to himself, "Who's he?" you know, who is he to tell me who to vote for when he can't even vote himself.

I, personally, am very much in favor of lowering the voting age to 18 right now.

Something has changed since the referendum was brought to the public last year. At that time the question was, should we lower the voting age for all these young people for all elections, and those who voted against it said no. Now we already have a split system where they are eligible to vote in federal elections. Some people's minds must have changed. Some people, if they realized the cost that could be involved in trying to administer two systems of voting, you know, the discrimination of 18 to 20 and then 21 and up, if they realized what the cost would be to refuse these young people the right to vote, they might very well change their minds and vote in favor of lowering the age.

On your remarks about the legal maturity of young people, marriages and divorces and signing of contracts, I personally think that each one of these issues has to be decided on its own individual merit and content at the time. Lowering the voting age to 18 does not automatically give every 18 year old the right to own property. As somebody said here earlier, they pay taxes; I don't believe they do, except the sales tax. Am I not correct that they can't own real estate until they're 21?

SENATOR SEARS: They can own it, they can have an interest in it. Of course, they can't sell it without a court order or --

MRS. BENNETT: Until they reach their majority, right.

I think there are a lot of things that have changed. I think the attitude of the country is different; I think that the young people have shown through demonstrations, and some of them quite violently end up getting their own way through going against the system. Give them the system to work for. You know, tell them this is the way things are done and then give them the right to do it that way. You

can't say to a young college student, don't burn down the building, that's not the way to do it; he knows the way to do it is to go out and vote and nobody has given him that right.

Thank you.

SENATOR SEARS: Thank you very much, Mrs. Bennett.

Senator Stout, do you have any questions?

SENATOR STOUT: Mrs. Bennett, you mentioned the cost of the election, you meant the money cost?

MRS. BENNETT: I meant the money cost of keeping two sets of records; of keeping registrations of the young people separate from the older ones; of 21 different counties trying to decide how to distinguish between the young voter and the old one. Will there be different voting machines for each group? Will there be more people at the polls to sort these out? If so, these people are going to have to be paid. There is going to be a lot of money involved some place.

SENATOR STOUT: But you don't know how much money.

MRS. BENNETT: No, I don't. But I think if the Legislature made this information available or if somebody knew the facts and presented them to the public as backup information in support of 2003, they wouldn't have any question. People will not vote for something that's going to cost them money.

SENATOR STOUT: Well they voted for bond issues.

MRS. BENNETT: Yes, right. That was too broad a statement on my part.

SENATOR STOUT: And I see no statement as to how much it's going to cost. The only thing I've heard is that the cost would not be much at all. You know, we're in the electronic machine age now and a voting machine is very simple to lock.

MRS. BENNETT: A voting machine costs \$2500, Senator, doesn't it?

SENATOR STOUT: But you don't have to have separate

voting machines.

SENATOR SEARS: We do have a figure, if I may interrupt.

SENATOR STOUT: Let's put it in the record.

SENATOR SEARS: A million and a half. That's in Senator Dickinson's statement which Mr. Terely will present.

SENATOR STOUT: A million and a half.

MRS. BENNETT: And it wouldn't cost any more at all to give them the right to vote.

SENATOR STOUT: But I certainly don't equate citizenship and intelligence and ability with money cost. There are a lot of things you spend money on that --

MRS. BENNETT: No. But now you have the Supreme Court decision and you have the fact that they are eligible to vote for the President. Why shouldn't they be allowed to vote for you and why shouldn't they be allowed to vote for me if I ran for a local office.

SENATOR STOUT: I think you've spent a lot of time on this.

MRS. BENNETT: I've worked very hard.

SENATOR STOUT: You've thought a lot about it and you have children of your own, and I think what you say has been very valuable and helpful. One of my points is that our constitutional limitation limits the resubmission of a referendum over a period of time so that people do have a chance to think about it and reflect upon what has happened and to see what change there has been. I don't think we're giving our Constitution a fair shake this time. I think we're evading the spirit of it even though a few of the words were changed, it was changed from 18 to 19 - and, incidentally, during all this time I've had four children within that age span, two below it, so I've talked to them a lot about it too and I don't see any great overwhelming desire for it.

MRS. BENNETT: It was my understanding that the

Attorney General has said that they had figured a way that this was legitimately placed on the ballot.

SENATOR STOUT: Yes, they figured a way. That's well put.

MRS. BENNETT: I realize you have to stretch a point sometimes in order to get what you want.

SENATOR STOUT: They have to stretch a point.

MRS. BENNETT: The situation has changed too since then.

SENATOR SEARS: I think the Attorney General's opinion recognizes the fact that the situation today is not the same as it was when the other two referenda were voted upon, at least certainly to the extent, as you have pointed out, the young people, the 18 year olds, do not have the right to vote for the presidential electors and members of the Senate and Congress. So they can vote at the Federal level and I would suggest that there is certainly valid argument --

MRS. BENNETT: The political parties are welcoming them too.

SENATOR SEARS: Senator Stout and I will have our own private debate after this hearing is over.

SENATOR STOUT: We had it the other day too.

MRS. BENNETT: Thank you very much.

SENATOR SEARS: Thank you, Mrs. Bennett.

Now our last witness will be Merritt Ierley, Legislative Aid to Senator Dickinson, who will put a statement in the record on behalf of Senator Dickinson who is the prime sponsor of this bill.

M E R R I T T A. I E R L E Y, JR.: Senator Sears and Senator Stout, I am Merritt Ierley, Legislative Assistant to Senator Fairleigh Dickinson who is sponsor of Senate Concurrent Resolution 2003. The Senator regrets very much that he cannot be here today because of a commitment he made prior to the setting of a date for this hearing, and he asked me if I would appear for him and read a brief statement regarding this resolution.

The question of lowering the voting age has been one of considerable public concern in New Jersey for the past several years, and now is of equal concern in every state in the union.

The question at this time resolves itself into two components: on perhaps a philosophical level, the question of whether or not 18 year olds are sufficiently endowed with the maturity, the intelligence, and the understanding to accept the franchise heretofore generally restricted to their fellow citizens over 21; and secondly, on a pragmatic level, the issue of how the states shall deal with the obvious complexity of the dual system of voting mandated through the recent Supreme Court decision defining relevant federal legislation as extending the vote to 18 year olds in federal elections but not in elections for state and local offices.

In the past two years the citizens of New Jersey have had before them the exclusively philosophical side of this matter, in a 1969 referendum on 18 year old voting and a 1970 referendum on 19 year old voting. In each of these referenda, and I might add by decisive margins, the voters of New Jersey saw fit to make no change in the traditional voting age. The question in both of those years was this: should New Jersey lower the voting age with regard to all elections within the jurisdiction of the state of New Jersey?

Since that time there have been two events of enormous consequence at the federal level. The first of these was the 1970 Voting Rights Act, which by federal statute would have reduced the voting age to 18 for all elections--federal, state and local--in the United States. Subsequent to

this was the decision of the United States Supreme Court, in United States v. Arizona, on December 21, 1970, wherein it was determined that the Voting Rights Act applied only to federal elections. This decision left the states with the dilemma of a dual voting system, such that those in the 18 to 21 year age bracket, in certain elections, would be voting for certain offices but not for others. This would necessitate special registration procedures, special election procedures, the acquisition of additional booths, and the hiring of a substantial number of additional personnel. In New Jersey alone, the estimated cost is somewhere around \$1.5 million per year. Besides the obvious and considerable financial impact, there is also the question of what this would do to the traditional secrecy of the ballot. And this is a point, in particular, that the Senator would like to emphasize. Quite obviously, voters in the 18 to 21 year group, as a class, would forfeit the secrecy and anonymity that has been traditionally guaranteed for all voters, of all age groups, in all elections.

With regard to the philosophical question, the Senator's sponsorship last year of the state constitutional amendment lowering the voting age to 19 puts him clearly on record as one believing that 18 year old voters would discharge their right to a ballot with no less conviction and no less maturity than their older fellow citizens. But it is not really the philosophical side of this that is at issue this year.

With regard to the wholly practical consideration of avoiding a dual voting system, there are two alternatives: amend the federal constitution and amend the state constitution. A federal amendment has been adopted by Congress, and is in the process of ratification at the present time by state legislatures. As of this date, at least 12 or 13 states have already ratified. A resolution of ratification has already passed the New Jersey Senate, and is now pending in the Assembly.

Senate Concurrent Resolution 2003 would accomplish the same objective within the state of New Jersey by amendment of the state constitution. In addition to lowering the voting age, it would reduce residency requirements to conform to the new federal legislation.

I can assure the committee that the sponsors of this resolution gave the utmost regard to the State Constitution prohibition against the re-submission of an amendment turned down by the voters within the preceding three years. It was thoughtfully concluded, however, that the question posed in SCR-2003 is not the same as in 1969. The question is not, "Shall New Jersey, of its own accord, extend the right to vote in all elections to 18-year olds?"; the question today is this: "Shall New Jersey extend the right to vote in state and local elections to 18 year olds who are now, by federal fiat, given that right in federal elections?" A written opinion of the State Attorney General, and a similar opinion of Chief Counsel to Legislature, support this conclusion.

SCR-2003 was introduced prior to Congressional action on amendment of the federal constitution. If we could be sure on this date that the federal amendment would be ratified by the requisite 38 states to become the law of the land by the next federal election, SCR-2003 would be unnecessary. But as we know, the federal ratification process has often consumed several years, and could extend beyond the time of the next federal election.

It was with this in mind that the Senator earnestly and respectfully recommends that the process of state constitutional amendment in New Jersey proceed as scheduled, and that the Judiciary Committee look favorably upon this legislation.

SENATOR SEARS: Thank you, Mr. Ierley.

Are there any questions, Senator Stout?

SENATOR STOUT: The cost of the election, that's the additional cost that has been estimated --

MR. IERLEY: Statewide.

SENATOR STOUT: -- to fix the machines. But I don't understand your point about the secrecy at all. A machine is a machine. You go inside and pull the curtain. Now, what's the secrecy violation?

MR. IERLEY: Well, there would have to be a different process for the 18 to 21 year olds to vote than there would be for the older voter.

SENATOR STOUT: Like what?

MR. IERLEY: Separate voting machines.

SENATOR STOUT: Why would there have to be separate voting machines?

MR. IERLEY: Well, this has been conjecture. I don't know that there would or that there wouldn't.

SENATOR STOUT: The ones we assume would only be allowed to vote for the federal candidates, they would have to lock it off. There's no question about that, so that he couldn't vote for the local and statewide offices, but that doesn't call for a separate voting machine and it doesn't call for any invasion of privacy or secrecy.

MR. IERLEY: Well, we understood that there was consideration being given to the use of separate machines.

SENATOR STOUT: Well, separate machines would be better, I suppose. We could duplicate the whole 8,000 that we have in the State. But that's not necessary. This is not a right to be taken lightly, you know. I understand they can lock the machine, lock out the bottom, for example,

without much cost. There may be a little inconvenience to the voter but I don't see any invasion of privacy or lack of secrecy.

MR. IERLEY: Well there would be, of course, if there were separate machines.

SENATOR STOUT: Well, all you would know would be that the person going in was under 21. That's the only thing you would know.

SENATOR SEARS: Your point is that there would be an isolation of the 18 year olds.

MR. IERLEY: That's right.

SENATOR SEARS: As a group.

MR. IERLEY: As a group.

SENATOR STOUT: Well, I'll tell you, Senator, I'd rather be known as under 21 or over 18, than the way you and I are.

SENATOR SEARS: I think you have a point.

SENATOR STOUT: No, I just wanted to bring out that point. I don't follow the secrecy argument at all and I think it has been brought in here without full study and reflection upon just what would have to be done.

SENATOR SEARS: All right. Thank you very much.

This concludes the hearing on the 18 year old vote amendment to our Constitution.

(Hearing concluded)



LEAGUE OF WOMEN VOTERS OF NEW JERSEY

460 BLOOMFIELD AVENUE, MONTCLAIR, NEW JERSEY 07042 TELEPHONE 746-1465 AREA CODE 201

TESTIMONY ON ELECTION ADMINISTRATION AND ENFORCEMENT

N.J. ELECTION LAW REVISION COMMISSION PUBLIC HEARINGS
FEBRUARY 3, 1971

I am Bernice Paul, a Director of the League of Women Voters of New Jersey. In behalf of the League I thank the Commission for this opportunity to testify today.

Since the early 1950's the League has been aware of basic problems in organization and administration of elections in New Jersey. There were indications at that time that the integrity of the ballot was less than sacred. Grand jury investigations of alleged fraud and abuse in counties as different and widely separated as Hudson and Cape May should have led to basic reform. The response of the state was to establish a State Study Commission. The League responded also by beginning an in-depth study of the system of elections in New Jersey. The result of the League study was League recommendations for complete reform of the election system. The League cited specific defects in the election system: lack of uniformity in both interpretation and application of the laws; failure to administer and enforce the laws; frequent abuses which constitute a threat to the voting rights of all citizens. The League recommended sweeping changes including:

That a system of elections should be adopted and administered by a State Commissioner with power to manage and conduct all state, county and municipal elections in order to achieve uniformity of administration and clearly fix responsibility.

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That the election laws should be rewritten in a simple form providing the basic machinery to secure and protect the rights and privileges of the voters, candidates and political parties.

That the rules and regulations for carrying out election procedures should be established by state authority.

That the structure of administration should include a single State Commissioner and a County Commissioner in each county. Consideration should be given to the advisability of having assistant commissioners and an advisory board. District boards should be appointed by the Commissioner from lists of qualified persons and should be bipartisan.

The recommendation of the New Jersey State Study Commission contained no such sweeping reforms. There were revisions of minor consequence to the solution of the major problems. Indeed, the only notable changes were the increase in counties using voting machines and in the reduction of residency requirements for voting eligibility.

Since then, the League has continued to pursue its Voters Service activities in towns, cities and counties across the state, accelerating these activities in recent years. As League members became more involved in seeking answers to questions posed by voters as well as candidates and election officials we became more knowledgeable about New Jersey's laws pertaining to elections...and more frustrated ...and finally gravely concerned with the malfunction of the system of elections in

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the state of New Jersey.

Underlying the major defects in the system is the fact that the political parties are given the power, one might call it license, to control the conduct of elections, while the parties themselves are quasi-private institutions subject to minimal public control.

The rationale for political party control of election machinery is perhaps that the two parties will act as watchdogs over one another, and therefore, prevent abuses. A corollary to this theory is that the parties are therefore acting in the public interest when they prevent their rivals from securing advantages they do not also have.

What becomes apparent is that what is of advantage or disadvantage to the political parties is not necessarily related to the public interest and may act against the administration of an honest and democratic system. This is especially apparent in counties where the two parties are more in collusion than collision.

Mechanically, the parties retain control through their appointment powers of county boards of election and district boards of election. Every county is therefore virtually autonomous in its control. The many procedural requirements of conducting elections are then distributed to a great many different public offices and officials at several different levels. The great distribution of tasks and authority and responsibility render the system a "non-system." There is great discretionary power in nearly every facet of election administration. Even if the laws did not clearly provide for such great latitude in the actions and decisions of election

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officials, it would matter little since there is no machinery to provide for supervision, review, conformity or penalty. Finally, it is a fitting, if ironic touch, that statutes which provide for autonomous control by 21 county systems assure that there will be no administrative recourse for appeal of the decision of these autonomous bodies. The one office which protects the rights of the people of New Jersey in every other respect, is closed to the petition against grievance in the conduct of elections, and that is the office of the Attorney General of New Jersey. That office serves as counsel to state officials, and all officials in the conduct of elections are technically state officials.

The League does not believe that a statute by statute revision of the Election Laws are sufficient to correct the structural defects that exist. We believe that the basis for establishing uniformity begins with the statutes, but can continue only with an enforcement mechanism, with administrative review, with channels for hearings and powers of enforcement that are based on authority commensurate with responsibility.

There is no justification for, but to the contrary, an abundance of evidence against the basing of application of election law on the classification of cities and counties. These arbitrary criteria for determining which officials have responsibility for districting and redistricting, what protective measures apply to canvassing the registered voters, what additional requirements exist for residency in order to vote, not only impede reform but assure continuation of abuses. Different laws apply to machine and paper ballot elections..these laws are utterly confusing. Title 19 has performed a great disservice to the people of this state by permitting actions contrary to the spirit of the laws. The solution lies not in additional

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changes in Title 19, but in the creation of a Department of Elections with a Commissioner of Elections empowered to seek uniformity in law.

There are countless problems that exist in the control and guarantee of democratic processes in elections. It seems arbitrary that school board elections are administered by County Superintendants, with some responsibility accruing to the Board of Elections, to a School Board, to the Secretary of the School Board and to the Department of Education. To cite just a few examples of the confusion and lack of citizen information permissible in Title 18A...selection of polling places which do not have to coincide with the usual district polling places in a municipality...no requirement for a sample ballot, which would indicate the candidates, the budget, and the polling place. Procedures for securing absentee ballots are different -- and so are the qualifications. Other elections, such as commission and nonpartisan elections are prescribed by statutes other than Title 19.

Requirements for seeking office, requirements for placing questions on the ballot for other than general elections are guided by other Titles also. The whole pattern of elections in the state of New Jersey is one of fragmentation and confusion. One result is that many citizens remain ignorant of and alienated from participation in the electoral system, as candidates, as voters and as responsible critics.

A final consideration in this condemnation of New Jersey's election machinery is an often quoted statement that the problems in elections are no longer those of fraud and irregularity, but of smoothness of operation and the guarantee of the right to vote to all qualified citizens. We would remind this Commission, in which we do place great hope for reform, that fraud and corruption are not children of the past.

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In 1968 evidence of fraud in Atlantic County resulted in the vacation of the office of Sheriff. Only this office was challenged. It makes one wonder what would have happened if every office and the public questions on that ballot had been challenged also.

In Ocean County, in a 1970 township election, charges of fraud were brought to court; evidence yes, but not enough to set aside an election. In Somerset County perennial difficulty in obtaining registry lists has serious consequences for candidates and voters. The appalling lack of training and competence of election board personnel in many, many parts of the state has resulted in disenfranchisement of eligible voters. In every election there are expressions from candidates, and complaints from citizens of questionable conduct by party officials and by board personnel at polling places.

There have been contested elections, questionable absentee ballots, charges of improper handling of ballots, fraudulent voting, and reports of vastly different implementation of the same laws from county to county.

One may say that a state so populous and with so many voting districts would have a normal occurrence of these problems. In 1969, a Morris County Grand Jury placed the great share of blame on the laws of New Jersey for the many problems in election procedure and conduct. Two Grand Juries in Atlantic County have recently exposed election corruption which is presently being prosecuted. These investigations are continuing.

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Citing fraudulent activities, however persistent, and inequities and inconsistencies in the application and administration of the laws of this state is almost an exercise in futility. These things exist in abundance because they are inherent in a system that fails to provide the mechanics for minimizing abuse and inefficiency; fails to establish uniform procedures; ignores misapplication of the laws because there is neither a channel for appeal nor a uniform method of applying penalties for infractions.

The League of Women Voters of New Jersey therefore requests this Commission to give serious consideration to recommending a complete and far-reaching reform of the machinery of elections for New Jersey.

We recommend the establishment of a Department of Elections, free from the jurisdiction of other departments, with a Commissioner of Elections empowered to achieve the necessary uniform adoption and implementation of practices and procedures; the power of subpoena; the power to hear complaints and redress grievances; the power to review and the power to apply penalties.

We further recommend that the political parties be removed completely from control of the administration of elections at the county level. It is not in the interest of the public, nor in the pursuit of democratic implementation of the electoral process that political parties control its mechanism. We recommend a single administrative county commissioner for each county. We recommend that his authority be commensurate with his responsibility under law. We recommend the retention of partisan political activity at the district board of elections level with the

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stipulation that any appointee must demonstrate competence in the functions and knowledgeability of the laws governing the conduct of elections in the polling place.

Attached to this testimony are the League's recommendations for a revised election machinery. We hope that you will give it your consideration and that this Commission, unlike the one that reported to Governor Meyner will make recommendations for fundamental changes in New Jersey's election laws...changes which are much needed and long overdue.

We recognize that this position will not be popular with the parties. The League of Women Voters fully recognizes the important role played by the political parties. Our recommendations would in no way endanger the party system. The League of Women Voters does not believe, however, that it is realistic to continue to defend and to perpetuate an election system that is inconsistent with every practice of good and responsible government. We cannot afford the inefficiency, the impracticability, and most of all the loss of confidence in the election system of New Jersey.

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