



The League of Women Voters of Fremont, Newark and Union City presents

# A Pro/Con Presentation on the Death Penalty

Affirmative and Negative presentations will be made by Justin Chan and Patrick Berger, members of the award-winning James Logan High School Forensic team.

Speaking pro will be Assistant D.A. Angela Backers and speaking con will be ACLU lawyer Natasha Minsker.

Monday, March 16  
Fremont Main Library  
7:00 PM

Moderator Pauline Weaver will facilitate the Q & A using written questions from the audience.

The public is invited



**PRESIDENT'S MESSAGE**

Dear Fellow Leaguers:

February 2009 finally brought a few drops of rain to our parched state, probably not enough to end the drought. January ended with an outstanding program by the League of Women Voters of the Bay Area aptly entitled WATER: CALIFORNIA'S NEW GOLD. The bottom line of the messages from speakers was that we will need to continue to conserve water and learn to make do with less. Our Action committee is planning on summarizing the important points for the voter. Meanwhile, you can visit the Bay Area league's website to get speaker presentation materials.

The work now begins for the post-Proposition 11 implementation and the public has been invited to attend meetings by the State Auditor – a session is scheduled in the Bay area for February 27<sup>th</sup> in San Francisco. Locally, our Action committee has been busier than bees with issues such as affordable housing, local transportation issues and our monthly cable programs. The Action Committee recommended that the LWVFNUC Board support legislation to consolidate oversight of the local ground water. The Board voted to support this action.

We are also keeping an eye on the state, local and national budgets to see how these impact our community. I am hearing rumblings that the people who took on redistricting reform will now be targeting reform in the budget approval process for the state of California – high time we did, wouldn't you agree? Another urgent issue, in addition to the deplorable condition of the economy and global warming, is health care. Too many people in the US do not have healthcare or have inadequate healthcare. Our League continues to work with other Leagues to address this issue.

We have some interesting programs coming up in the months ahead. In March we have a forum and training on alternatives to the death penalty. I urge you to attend as the information is eye-opening. In April 2009 we will be holding our consensus meetings on the National Popular Vote Compact study. Our voter has already featured some of the required background reading and we hope you will attend to provide your input on this important topic. We are also looking for speakers for our annual meeting – if you have someone you would like to recommend – please write/email us this information.

—Syeda Yunus, LWVFNUC President

*The League of Women Voters is where hands-on work to safeguard democracy leads to civic improvement. Join LWV and be directly involved in shaping the issues that keep our community fair, vibrant and strong.*

**BOARD BRIEFS**

At the February 19 Board Meeting the board

- ▶ heard that we now have 129 members,
- ▶ plans the following programs: March, Capital Punishment, featuring the James Logan High School Forensic Team. April, National Popular Voter for President, May, possible education meeting concerning high school and college/university coordination of classes,
- ▶ voted to donate \$100 to the Logan High Forensic Team,
- ▶ discussed a list of possible fundraisers,
- ▶ heard that all Board and Off Board members should review his or her job descriptions and add their new duties,
- ▶ discussed who is responsible for keeping various parts of the web site up to date,
- ▶ voted to support the ACWD bill, S133 and
- ▶ discussed the need to buy a projector for presentations.



**ACTION COMMITTEE**

At the February Action Committee meeting Miriam reported about the successful Bay Area League Day that featured speakers talking about Delta water. There will more information about the forum on LWVBA's web site.

Google [Pacific Institute](#) for good information about water issues research and also [Delta Vision](#) for materials on the state report. Our own Susan Gearhart did a great job organizing the speakers for the forum.

For those interested there will be a training for alternatives to the death penalty on April 19<sup>th</sup> in Hayward from 1-5 PM. Check with Marilyn Singer for details. The Guide to Government is ready for the website. Unfortunately Washington Hospital did not respond about putting personal emails in the guide and on their website. Dr. Nicholson was going to bring this up to their board.

Action Committee decided to recommend to the board that our League support legislation to consolidate oversight of local ground water. Tri-city Ecology and the ACWD support this change along with the three cities. Paul Piraino, ACWD manager asked for League's support.

As of the time of our meeting Jean reported that the State had not solved the current budget crisis. CA's credit rating is the lowest of any state in the nation.

The Highway 84 cross-over, undecided for 12 years, seems to be on a path to resolution. For anyone interested there is a map of Shinn Junction on the COF's website. It would be an expensive solution for intersecting modes of transportation. We will contact Rep. Stark's office to see what in the region is ready for construction so we might support it if it is contained in the federal stimulus package.

In the area of housing and redevelopment, Eden Senior Housing on Peralta and Allied Housing on Main Street in the Irvington district have been approved. Fremont's old corporation yard is on hold until the redevelopment issue is solved. The Fremont Housing Element goes to the Planning commission on 2/12. We discussed mobile home parks, especially Besaro. Sam and Andrea will do some research on the issue for next month's meeting. This is a complicated issue with owner property rights competing with the rights of the residents.

Ohlone enrollment is up 11%. Our May general meeting will feature the interface between High schools and colleges. Ohlone has 11-12% GF money in reserves. They are hoping that they will be off warning status with their accreditation in October. They are not taping their workshop meetings.

Upcoming interviews with state representatives and further interviews with those elected and re-elected offer opportunities for our League members to participate.

We made a list of possible Annual Meeting speakers. If you have an idea for a great guest speaker, let us know. Our next Action Committee meeting will be on March 5<sup>th</sup>, 12:30 at Kay Emanuele's.

—Alex Starr

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**LWVUS National Popular Vote Compact Study,  
Supporting Arguments**

by  
Gail Dryden(CA), Barbara Klein (AZ), Sue Lederman (NJ),  
Carol Mellor (NY), and Jack Sullivan ( CA)

The National Popular Vote (NPV) Compact provides a way to choose the President of the United States by popular vote without amending the Constitution. These are the arguments in favor of the NPV Compact.

The League of Women Voters of the United States (LWVUS) already has a position in favor of abolition of the Electoral College and adoption of the "direct-popular-vote" method for electing the president and the vice president. The NPV Compact proposes a way to accomplish the goal of using the direct popular vote for presidential elections.

Given that the LWVUS is already on record favoring abolishing the Electoral College, we do not here directly address the shortcomings of the Electoral College except to the extent necessary to present the arguments.

### **CONSTITUTIONAL ISSUES**

**Difficulty of Amending the Constitution.** Amendment of the Constitution to eliminate the Electoral College would accomplish the goal of election of the president by popular vote, but that is a very long process with uncertain results. People want to believe that their votes count but the current system suggests to many that this is not the case. Most of the electorate is also in favor of a system in which the candidate who receives the most votes wins – over 70 percent in some polls favor a direct election for president. Thus, a more rapid, direct path to the national popular vote would be in the interests of the electorate.

**Amendment Necessary or Not.** No constitutional amendment is needed to implement the NPV Compact. Under the U.S. Constitution, the states already have the right and power to implement the change. Primary constitutional authority for the Compact is found in Article II, section 1, clause 2.

Supreme Court cases have established that this wording gives exclusive and complete power of appointment and mode of appointment of electors to the states and that it is up to each state to decide how to exercise the power as they deem fit (as long as no other provisions are violated).

**Interstate Compacts are Legitimate.** The crux of the NPV Compact proposal is an interstate compact in which states would commit to cast their votes for the winner of the national popular vote. Interstate compacts, involving a myriad of topics, have long been a part of U. S. history and are, in fact, sanctioned by the Constitution. The courts over the years have upheld such compacts and ruled that they are contracts that bind the parties to the terms of the agreement.

LWVUS National Popular Vote Compact Paper Supporting the NPV Compact

**Congressional Consent.** The constitutional provision which permits interstate compacts between states says:

“No state shall, without the consent of Congress,...enter into any agreement or compact with another state...” U. S. Constitution. Article 1, Section 10.

Supreme Court rulings have established that most compacts do not, in fact, require congressional approval. However, to avoid time-consuming litigation on this procedural issue, backers have decided to seek congressional consent. In deference to the exclusive power of the states to decide the manner of awarding electoral votes, the question might be presented to Congress in the form of a bill to grant consent to the Compact on behalf of the District of Columbia. Proponents believe that positive action on this legislation would imply tacit congressional consent to the Compact as a whole.

### **EVALUATING FAIRNESS**

**President of the Minority.** Voters assume that the candidate who wins an election will be the candidate that received the most votes—either a majority or a plurality (in multi-candidate elections). When the “victor” actually receives fewer votes than another candidate, people are led to question the nature of our electoral system. It is unnerving to the electorate when a country supposedly based on majority rule ends up with a “minority” president. This problem is eliminated under the NPV Compact. Furthermore, presidents elected by a popular majority via the NPV Compact would be “stronger” presidents because they would have a greater, more democratic legitimacy.

**Few Battleground States.** Under the current Electoral College system, presidential campaigns focus on a few key states which are the determinants of an Electoral College victory or loss. The electoral votes of these battleground states are viewed as the lynchpins of the election, and most media and candidate attention are focused on the few “competitive” states whose Electoral College votes are believed to be at stake. Voters in other states become observers of the process watching as the voters in a very few of the fifty states are courted intensely by the presidential candidates. Under this system, some votes are worth much more than other votes. A large portion of the country is ignored by the major candidates, except to the extent that the candidates visit “safe” states in search of campaign funds to fuel their activities in the toss-up states.

Under the NPV Compact, candidates would have to be sensitive to the trend of opinion in all states and to develop campaign strategies that appeal to a very broad spectrum of the electorate. In this way, the NPV Compact would bring many more voters directly into the electoral process and take them out of the “spectator from afar” role. Equally important, with the outcome depending on the NPV, voters across the country would have a sense that their vote would indeed count in a meaningful way and this would provide stimulus for greater attention to the campaign and greater participation in the electoral process. The NPV Compact would make it worthwhile for candidates to campaign throughout the country, thereby increasing interest in the election nationwide.

**State Identity.** States’ rights advocates argue that it is an affront to state sovereignty to award a state’s electoral votes to a candidate who did not carry that state. This assumes that the voters within that state care more about their state identity than their own personal vote. The question is whether it is more important for the winner in a particular state to receive the state’s electoral



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votes or for the winner of the entire country to be selected as president. Polls indicate that only about 20 per cent of the public support the current system of awarding all the electors of that state on a winner-take-all basis instead of a popular vote. Seventy per cent oppose the current system, 10 per cent are undecided, suggesting that most voters might opt for the national popular vote over states' rights.

**Influencing the Winner.** Critics of the NPV Compact claimed that "11 colluding states" (as they term them) could theoretically impose their will on the country because those states contain the majority of the population and account for the 270 electoral votes needed for the Compact to take effect. While these 11 largest states do contain 56 per cent of the population, the real likelihood of such "collusion" is extremely small as they have little in common politically. Of the 11 states, recently five tended to vote Republican (Texas, Florida, Ohio, North Carolina, and Georgia) and six tended to vote Democratic (California, New York, Illinois, Pennsylvania, Michigan and New Jersey). Furthermore, the NPV Compact has so far been enacted by four states: Hawaii (a small state), Maryland (an average-sized state), and New Jersey and Illinois (large states). Although passed by the Maine Senate and both houses in Vermont, California and Rhode Island, the Compact has not been signed into law by the governors of those states. Support for the NPV Compact has been across the board so far and in no way limited to the largest states.

**Questioning the Approach.** Opponents have portrayed the interstate compact approach as inappropriately disregarding the U.S. Constitution. This argument ignores the fact that many amendments to the Constitution have begun as state actions to change practices which could have been (and eventually were) changed by constitutional amendment.

The very right to vote for president was begun through enactment of laws by state legislatures - on a state-by-state basis. In 1789 only five states permitted a direct vote for electors. By 1824 three-quarters of the states had such a right, but it was not until 1880 that a direct vote of the people was fully enacted.

Other fundamental voting changes have been accomplished through state-by-state changes in law. Among such changes in voting initiated by state action were the abolition of the requirement that voters be property holders and the extension of the franchise to women, blacks and persons under 21. All of these changes were begun by legislation in individual states, followed by constitutional amendment, and few, if any, questioned supporters' motives. No one criticized the approach as an end run around the Constitution. Many citizens benefited from this process, including women who were able to vote in some states before passage of the 19<sup>th</sup> amendment.

**Small States.** The political power of small states would be increased under the NPV Compact. Currently, political power generally resides in the closely divided battleground states. Few of the 22 least populous states are battlegrounds. With the NPV Compact each vote becomes important regardless of the state; state size and closeness of the race within a state would be less relevant.

**Electing the REAL Winner.** Out of our nation's 55 presidential elections, there have been four "wrong winners," that is, elections in which the candidate elected to the presidency is not the person who won the most votes. This is a failure rate of 1 in 14, which does not instill confidence in the procedures for electing the President of the United States.

When an election is a landslide, there is less chance of a "wrong winner," but the more divided the country and the closer the elections, the greater the chance of erroneous results. We now

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appear to be in an era where many elections are close. The NPV Compact would eliminate the possibility of a “wrong winner.”

### **MECHANICAL CONSIDERATIONS**

**Enforcements: Post-Election Protection of Rules.** Some critics warn that a state legislature might, for partisan reasons and after signing onto the Compact, change the rules for awarding electoral votes – after the people have voted, but before the Electoral College meets.

The drafters of the NPV Compact have anticipated such a problem and have included a mechanism which permits a state to withdraw from the Compact, but only according to a timetable which prevents deleterious effect upon a particular election.

There is a black-out period from July 20<sup>th</sup> until January 20<sup>th</sup> of presidential election years during which time a compacting state cannot withdraw or repeal its law. This time frame was chosen because it includes six major events relating to the presidential election (the national conventions, the campaign period, Election Day, Meeting of the Electoral College, counting of the electoral votes, and Inauguration Day).

Case law supports the enforcement of such a provision holding that interstate compacts are contracts that bind the parties to the agreement. Further, Americans are committed to the notion of fairplay and would react strongly to efforts by one state to “break the rules.”

**Winning Levels.** The winner-take-all rule (currently used by 48 of the 50 states) is not required by the U.S. Constitution. It is entirely a product of state law. Accordingly, changing the winner-take-all rule does not require an amendment to the Constitution but may be changed in the same way that it was originally adopted, namely by the enactment of state laws by state legislatures on a state-by-state basis.

**Recounts.** It is anticipated that the need for recounts will diminish under the NPV Compact because, although the vote count can be extremely close in battleground states, the numbers are not close on a nationwide basis. Should a recount be necessary, the plans and resources to conduct a recount would still be the responsibility of the state experiencing the close vote. However, due to the larger pool of voters, it is more likely that the national results would not be close and, as a result, fewer statewide recounts would be necessary.

**Election Fraud.** The adoption of the NPV Compact would diminish the danger of both voter fraud and election fraud/voter suppression. Under the current system, with only a few battleground states in play, the temptation to engage in election fraud or voter suppression is increased by the skewed weight of votes in battleground states. In the Electoral College system, with most states using a winner-take-all process, one fraudulent vote could affect the entire state’s electoral votes. Under a direct popular vote system nationwide, one fraudulent vote has far less effect on the outcome.

### **OTHER ISSUES-**

**Voting Rights Act.** The NPV Compact is in total harmony with both the terms and purpose of the Voting Rights Act, which was enacted to guarantee equality of the vote throughout the United States, particularly in relation to racial minorities. The NPV Compact’s goal is to create an equal vote for all voters throughout the United States.

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**Faithless Electors.** The faithless elector issue is not a practical concern. States already have constitutional authority to address problems as they come up. The NPV Compact, awarding the nationwide winner the majority of electoral votes as a base, makes the possibility of a faithless elector having any effect on the election unlikely. Considering the support the winner would need to garner a nationwide win, the candidate would probably earn at least another half of the remaining votes in non-compacting states as well – a strong support that would discourage faithless electors. Additionally, the state electors casting their votes for president will be from the party that won nationwide. The NPV Compact is more likely to protect against faithless electors than does the current system.

**LEAGUE ISSUES**

**Uniform Standards.** The LWVUS supports uniform national voting standards. The NPV Compact aims for having all the states become members of the compact, and thus shares the goal of a uniform and universal method of electing the President. The fact that the Compact will become effective at a time when states representing 270 electoral votes have joined does not change the ultimate goal that all states adopt the Compact. Further, the NPV Compact creates uniform standards because every national vote would be counted equally if it were to go into effect.

**CONCLUDING ARGUMENTS SUPPORTING THE NPV COMPACT**

One of the most compelling arguments in support of the NPV Compact is that this method ensures that the candidate who receives the most votes in the national election is elected President, and does so by using the Electoral College system of electing the President of the United States. Amending the U.S. Constitution in order to eliminate the Electoral College and, instead, establish the direct election of the president is much more cumbersome and much less likely to succeed. Above all, the most appealing argument in support of the NPV Compact is that every vote, of every party and of every voter is counted fairly and equally.





It's easy to JOIN the **LEAGUE OF WOMEN VOTERS**

**Any person, man or woman, who subscribes to the purpose and policy of the League may join. To be a voting member, one must be at least 18 years of age and a U.S. citizen.**

Annual dues includes membership in Local, Bay Area, California and National Leagues.

Make your check payable to: LEAGUE OF WOMEN VOTERS and mail it with this form to:

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Dues and contributions to the League are not tax deductible. Contributions to L.W.V. Ed Fund are deductible to the extent allowed by law. For more information, or for confidential financial dues assistance, please contact: Sarabjit Cheema—sarabjitkaurcheema@yahoo.com

### Mission Statement

The League of Women Voters of Fremont, Newark, and Union City, a nonpartisan political organization, encourages the informed and active participation of citizens in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy.

### Diversity Policy

LWVFNUC affirms its commitment to reflect the diversity of our communities in our membership and actions. We believe diverse views are important for responsible decision making and seek to work with all people and groups who reflect our community diversity.

LWVFNUC Voter

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### NOTABLE WOMEN IN HISTORY

#### JANE ADDAMS

Born in [Cedarville, Illinois](#), Jane Addams was the eighth of nine children born into a prosperous, loving family. Although she was the eighth child, three of her siblings died in infancy leaving only four to mature. Her mother, Sarah Addams (*née* Weber), died from tuberculosis during pregnancy when Jane was just two years old. Jane's father, John H. Addams, was the President of The Second National Bank of Freeport, the Senator of Illinois from 1854 to 1870, and owned the local grain mill; he remarried when Jane was eight. Her father also was a founding member of the Republican Party and supported Abraham Lincoln. Jane was a first cousin twice removed to [Charles Addams](#), noted cartoonist for *The New Yorker*. She was born with Pott's disease which caused a curvature of the spine and health problems for Jane throughout her life.

Addams' father encouraged her to pursue a higher education, but not at the expense of losing her femininity and the prospect of marriage and motherhood, as expected of upper class young women. She was educated in the [United States](#) and [Europe](#), graduating from the Rockford Female Seminary (now [Rockford College](#)) in [Rockford, Illinois](#). After Rockford, she spent seven months at the Women's Medical College of Philadelphia, but dropped out. Her parents felt that she should not forget the common path of upper class young women. After her father's sudden death, Jane inherited \$50,000. In 1885, Jane set off for a two year tour of Europe with her stepmother, returned home, and felt bored and restless, indifferent about marriage and wanting more than just the conventional life expected of well-to-do ladies. After painful spinal surgery, she returned to Europe again for a second tour in 1887, this time with her best friend Ellen Starr and a teacher friend. During her second tour, Jane visited London's Toynbee Hall which was a settlement house for boys based on the new philosophy of charity. Toynbee Hall was Jane's main inspiration for Hull House.

*I am not one of those who believe - broadly speaking - that women are better than men. We have not wrecked railroads, nor corrupted legislatures, nor done many unholy things that men have done; but then we must remember that we have not had the chance. —Jane Addams*



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Tune in to watch Alex Starr host a discussion on *Ohlone College* Guest: Dr. Gari Browning, President of Ohlone College

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- Newark**, Channel 6, every Thursday at 7 PM
- Union City**, Channel 15, every Thursday at 9:30 PM
- Hayward**, Channel 28, every Monday at 9:30 PM

**Visit our website:**  
<http://www.lwvfnc.org>

**CALENDAR**

Thurs., March 5	Action Committee	12:30—2 PM	Kay Emanuele's home
Fri., March 13	Education Committee	9:30—11:30 AM	Miriam Keller's home
Mon., March 16	Death Penalty Pro/Con Meeting	7:00 PM	Fremont Main Library
Wed., March 18	Cable Taping	2:00 PM	Comcast Studios
Thurs., March 19	LWVFNUC Board Meeting	7:15 PM	Cultural Arts Center
Sun., March 22	Voter Deadline		