

MOTION FILED

JUL 20 1966

NO. 28 ORIGINAL

IN THE
Supreme Court of the United States

OCTOBER TERM, 1966

STATE OF DELAWARE, *Plaintiff*

v.

THE STATE OF NEW YORK, *ET AL.*, *Defendants*

**MOTION FOR LEAVE TO FILE COMPLAINT,
COMPLAINT AND BRIEF**

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STATE OF DELAWARE, *Plaintiff*

v.

THE STATE OF NEW YORK, *ET AL.*, *Defendants*

MOTION FOR LEAVE TO FILE COMPLAINT

The State of Delaware, by its Attorney General asks leave of the Court to file its Complaint against the States of New York, et al., submitted herewith.

David P. Buckson, Attorney General

STATEMENT IN SUPPORT OF THE MOTION

This is an original action by the State of Delaware, as *parens patriae* for its citizens, against the State of New York, all other states, and the District of Columbia, brought under authority of Article III, Section 2 of the United States Constitution and 28 U.S. Code Sec. 1251. The suit challenges the constitutionality of the respective state statutes employing the "general ticket" or "state unit-vote" system, by which the total number of presidential electoral votes of a state is arbitrarily misappropriated for the candidate receiving a bare plurality of the total number of citizens' votes cast within the state.

The Complaint alleges that, although the states, pursuant to Article II, Section 1, Par. 2 of the Constitution, have some discretion as to the manner of appointment of presidential electors, they are nevertheless bound by constitutional limitations of due process and equal protection of the laws and by the intention of the Constitution that all states' electors would have equal weight. Further, general use of the state unit system by the states is a collective unconstitutional abridgment of all citizens' reserved political rights to associate meaningfully across state lines in national elections.

Although the Complaint seeks declaratory and injunctive relief, it is recognized that ultimate correction of the conditions complained of may best be achieved by Constitutional Amendment. But unless this Court sees fit to "open the door," and point the way through equitable interim relief, as it did in the field of legislative apportionment, no Constitutional Amendment aimed at fair and just reform of the Electoral College is likely to come from entrenched political interests which are satisfied with a voting device that suits their purposes. No other remedy is available to aid citizens whose votes in presidential elections are diluted, debased and misappropriated through the state unit system and its risks of miscarriage of the popular choice will continue indefinitely, unless this Court grant relief.

IN THE
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STATE OF DELAWARE, *Plaintiff*

v.

THE STATE OF NEW YORK, *ET AL.*, *Defendants*

COMPLAINT

The State of Delaware, and the people of the State of Delaware, by and through David P. Buckson, the Attorney General thereof, bring this suit in equity against each of the other states of the Union, and the District of Columbia *viz.*, the State of New York, the State of California, the State of Pennsylvania, the State of Illinois, the State of Ohio, the State of Texas, the State of Michigan, the State of New Jersey, the State of Florida, the State of Massachusetts, the State of Indiana, the State of North Carolina, the State of Georgia, the State of Missouri, the State of Virginia, the State of Wisconsin, the State of Tennessee, the State of Alabama, the State of Louisiana, the State of Maryland, the State of Minnesota, the State of Iowa, the State of Kentucky, the State of Washington, the State of Connecticut, the State of Oklahoma, the State of South Carolina, the State of Kansas, the State of Mississippi, the

State of West Virginia, the State of Arkansas, the State of Colorado, the State of Oregon, the State of Arizona, the State of Nebraska, the State of Hawaii, the State of Idaho, the State of Maine, the State of Montana, the State of New Hampshire, the State of New Mexico, the State of North Dakota, the State of Rhode Island, the State of South Dakota, the State of Utah, the State of Alaska, the State of Nevada, the State of Vermont, the State of Wyoming, and the District of Columbia. (Defendants are named in descending numerical order according to their respective numbers of presidential electoral votes.)

1. This action is within the original jurisdiction of this Court under Article III, Section 2 of the Constitution of the United States, and 28 U.S. Code, Section 1251.

2. Plaintiff sues in its own right, and also as *parens patriae* in behalf of the voting rights, political equality, welfare, and prosperity of its citizens. Each State of the United States, including Plaintiff by submission, is made a party, along with the District of Columbia, which is a body corporate created by Act of Congress to govern the territory constituting the seat of the government of the United States, and which is vested with power to sue and be sued by Section 1-102 of the District of Columbia Code. (Hereafter the word "state" will also include the District of Columbia unless otherwise indicated.) Defendants are joined pursuant to Rules 19(a) and 20(a) of the Federal Rules of Civil Procedure. All parties participate in the election of the President and Vice President and are equally interested in the subject matter of this action and therefore must be made parties to it if complete relief is to be afforded.

3. Each State is required and entitled by Article II, Section 1 of the United States Constitution (and the District, by Amendment XXIII) to appoint presidential electors who, in turn, elect the President and the Vice President of the United States. (Hereafter, when the terms "presidential election," "presidential electors" or "elec-

toral votes" are used, the terms will be intended to refer to the election of both the President and the Vice President.) Each state is represented by as many presidential electors as it has Senators and Representatives in both houses of Congress, and the District of Columbia by the same number of electors as the smallest state. The current allocation of electoral votes is as follows:

New York	43	South Carolina	8
California	40	Kansas	7
Pennsylvania	29	Mississippi	7
Illinois	26	West Virginia	7
Ohio	26	Arkansas	6
Texas	25	Colorado	6
Michigan	21	Oregon	6
New Jersey	17	Arizona	5
Florida	14	Nebraska	5
Massachusetts	14	Hawaii	4
Indiana	13	Idaho	4
North Carolina	13	Maine	4
Georgia	12	Montana	4
Missouri	12	New Hampshire	4
Virginia	12	New Mexico	4
Wisconsin	12	North Dakota	4
Tennessee	11	Rhode Island	4
Alabama	10	South Dakota	4
Louisiana	10	Utah	4
Maryland	10	Alaska	3
Minnesota	10	Delaware	3
Iowa	9	Nevada	3
Kentucky	9	Vermont	3
Washington	9	Wyoming	3
Connecticut	8	District of Columbia	3
Oklahoma	8		
TOTAL			538

4. The laws of each state provide for popular election of presidential electors but allow each voter to vote for all of its electors on a general ticket, with the result that all of a state's electoral votes are cast as a unit for the presidential candidate who wins a plurality of its popular votes. (These state laws are listed in Exhibit A to this complaint.) This uniform state practice of casting elec-

toral votes by units is hereinafter referred to as the "state unit" or "state unit-vote" system. Acts of Congress establish the date for the appointment of presidential electors and regulate their subsequent balloting and the counting of electoral votes by Congress, but the state unit system is solely the result of state laws and is not required by the Constitution or by any Federal law. As is hereinafter more specifically alleged, these laws and their combined effects operate to deny and abridge fundamental rights of plaintiff, its citizens and large numbers of persons in other states.

5. In early presidential elections, the individual electors were chosen by districts in various states in many instances, thus causing a division of a state's electoral vote when the people of such districts differed in their choice of candidates. After the rise of a national two-party system the state unit-vote system became uniform because of the political advantages which accrued to those states which first adopted it. Attached hereto as Exhibit B is a table showing each state's method of electing presidential electors in every election from 1788 through 1836, when the general ticket state unit method had come to be used by every state except South Carolina, which continued legislative election (which also had a state-unit effect) until the Civil War. Election by districts tended to dilute the power of dominant political interests to deliver a state's entire electoral vote to their candidate. Such interests therefore installed the state unit system because its "winner-take-all" effect maximized their power. The dominant interests were enabled, with any popular vote plurality, to cast all of the state's electoral vote for their party's candidate. The persons casting a plurality of the popular votes in such a state therefore exercised greater power in a presidential election than was justified by their numbers and these popular pluralities in such states accordingly were more eagerly sought by candidates. This caused other states to adopt the state unit system as a defensive measure to maximize their relative strengths

in the national election. The reasoning in Virginia was typical. Thomas Jefferson stated prior to its switch from the district system in 1800, that ". . . An election by districts would be best if it could be general, but while ten States choose either by legislatures or by a general ticket it is folly and worse than folly for the other States not to do it." As Exhibit B shows, a district system was used in 1796 in five of the eight states which allowed popular election of electors, but by 1808 six of ten such states were using the general ticket, as were twelve of eighteen in 1824. The district system disappeared in 1836 when Maryland abandoned it. It is therefore a historical fact that each state's continued use of the state unit-vote method is caused in part by its continued use by every other state.

6. In its actual functioning the state unit system of electing the President and Vice President is part of an integrated national process. The interlocking and interdependent features of this national electoral system cause each state's methods to be affected by all others and give each state and its citizens a real interest in the electoral methods of every state. Each state's electoral votes and each individual's popular vote are subject to impairment, debasement, and dilution by the methods and procedures of other states.

7. In every election the state unit system abridges the political rights of substantial numbers of persons by arbitrarily awarding all of the electoral votes of their state to the candidate receiving a bare plurality of its popular votes. This occurs without regard to the number of votes cast for an opponent. 435 of the total of 538 electoral votes correspond to Representatives and are allocated to states because of their numbers of persons. Nonetheless, the state unit system frequently allows all of a state's votes to be cast for a candidate opposed by as many as 49% of its voters. Votes cast for the losing candidate within a particular state are not only discarded at an intermediate stage of the elective process but are effec-

tively treated as if they had been cast for an opponent. The barest popular vote plurality and the overwhelming landslide are converted alike into a unanimous state vote in the national election. This arbitrary misappropriation of the elective power of substantial political minorities denies them due process of law and equal protection of the laws in violation of the Fourteenth Amendment.

8. Our national two party system causes substantial numbers of popular votes to be cast for the candidates of both major political parties in every state in virtually every election. Attached as Exhibit C are state-by-state returns for the last five elections, 1948-1964. They show that in each state both parties' nominees poll thousands or millions of votes in every election. (Exclusion of Democratic Party electors from the ballot in South Carolina in 1948 and in Alabama in 1960 are shown to be aberrations by returns from those states in other years.) Therefore, in every election the state unit system's arbitrary misappropriation of minority voting strengths, as alleged in paragraph 7 above, denies due process and equal protection of the laws to millions of Democratic and Republican voters throughout the United States who are out-voted at the state level.

9. On a national basis, the state unit system's cancellation of states' minority votes causes inequities and distortions of voting rights among citizens of the several states by arbitrarily isolating the effects of votes cast by persons of a particular political persuasion or party in one state from those cast by voters of the same persuasion or party in other states. Chance and accident produce distorted and inequitable results when the state units are combined in the national electoral totals. This is illustrated by the distorted effects of the popular votes cast for the Republican and Democratic candidates in the adjoining units of Illinois and Indiana in the 1960 election. The candidates' vote totals and percentages were as follows:

	KENNEDY		NIXON	
	Popular Vote	Electoral Vote	Popular Vote	Electoral Vote
ILLINOIS	2,377,846	27	2,368,988	0
INDIANA	952,358	0	1,175,120	13
TWO-STATE TOTALS	3,330,204 (48.4%)	27 (67.5%)	3,544,108 (51.6%)	13 (32.5%)

Thus, the winner of a clear majority of the popular votes cast in the two states received less than one-third of their electoral votes. In the adjoining states of Virginia and Maryland, voters who supported Kennedy suffered a similar fate:

	KENNEDY		NIXON	
	Popular Vote	Electoral Vote	Popular Vote	Electoral Vote
MARYLAND	565,808	8	489,538	0
VIRGINIA	362,327	0	404,521	12
TWO-STATE TOTALS	928,135 (50.9%)	8 (40%)	894,059 (49.1%)	12 (60%)

Again, the unit-votes by states converted a two-state popular vote minority into a sizable electoral vote majority.

10. Many instances can be shown of both Democratic and Republican votes being similarly diluted and debased by the state unit-vote system. The national result of the combined state unit votes multiplies and distorts the effects of the earlier misappropriations of popular votes. The national electoral vote totals consequently bear no reasonable relation to the popular vote and the disparity varies widely from one election to the next. Attached as

Exhibit D is a list of successful candidates' percentages of the electoral vote and the popular vote in the 25 presidential elections of the past century which demonstrates the arbitrary and unreasonable fluctuations in the relation of the two. This contributes to the risk that a candidate may be elected despite receiving fewer popular votes than his opponent, which actually occurred in the elections of 1876 and 1888.

11. Two more recent elections illustrate the extreme distortions of the popular vote affected by the state unit system and dramatize its risk of electing minority presidents. In 1916, a shift of 1,904 votes for Hughes in California would have awarded its 13 electoral votes to him and resulted in his election even though Wilson would have remained the national electorate's choice by more than 587,000 votes. In 1948, a shift of 29,294 votes in California, Illinois, and Ohio would have elected Dewey by two electoral votes, although Truman would still have had a national plurality of more than 2,077,000 popular votes.

12. The state unit-vote system therefore causes the national electoral vote to be so unrelated to the popular vote that it unreasonably burdens efforts of citizens of different states to join in concerted political activity to bring about the election of a person of their mutual choice, a right reserved to them by the Ninth and Tenth Amendments to the Constitution. The votes for state winners are combined nationally on an exaggerated basis while the votes for state losers are isolated within their states and excluded from the national count. This national distortion of the effects of individual votes both abridges the right to engage in national political activity and denies Plaintiff's citizens due process of law in violation of the Fifth and Fourteenth Amendments. It also denies them equal protection of the laws and abridges citizens' privileges of voting for national officers in violation of the Fourteenth Amendment. This interstate wrong also violates principles of equity enforceable in actions between states.

13. Article II, Section 1 of the Constitution vests in Plaintiff, as one of the equal and sovereign states, both the right and the duty to appoint electors for the selection of the President and places all such electors on an equal basis. The state unit-vote system effectively denies to Plaintiff's electors the equality of voting weight required by this provision and by Amendment XII, in that larger states' electors are enabled to increase their effective individual voting weights by voting in larger, more powerful units.

14. The state unit-vote system debases the national voting rights and political status of Plaintiff's citizens and those of other small states by discriminating against them in favor of citizens of the larger states. A citizen of a small state is in a position to influence fewer electoral votes than a citizen of a larger state, and therefore his popular vote is less sought after by major candidates. He receives less attention in campaign efforts and in consideration of his interests. Conversely, members of the electorates of the larger states are each in a position to influence more electoral votes and are enabled by the state unit system to play a larger political role and to gain special influence in matters of national policy. A resultant further consequence of the state unit system is that it discriminates against citizens of smaller states by affording to citizens of larger states a disproportionate opportunity to obtain election to the Presidency. Attached hereto as Exhibit E is a table showing the number of Presidents elected from each state. The states of New York, Ohio, Massachusetts and Virginia have seen twenty-one of their citizens elected to the office of President for thirty terms with service totaling 111 years. (All elections of Virginians occurred prior to the Civil War when it was relatively a large state.) Plaintiff and thirty-five other states, including eight of the thirteen original states, have never had one of their citizens elected President. The state unit-vote system and the strategic importance which it gives larger states has generally prevented both

major parties from nominating smaller states' citizens for both the Presidency and Vice-Presidency. Attached hereto as Exhibit F is a list of the Democratic and Republican nominees in each of the 25 elections conducted during the past century, showing the home state of each candidate. The attached Exhibit G then lists each state and shows the number of instances in which their citizens have been nominated by either of the two parties for President or Vice-President.

15. The state totals in Exhibit G establish the favored position of large states' citizens under the state unit system. New York was named first as a defendant to this action because it is the largest electoral unit, with 43 electoral votes as contrasted to Plaintiff's three, and its citizens have been the chief beneficiary of the state unit system. Sixteen of the two parties' 50 nominations for the Presidency from 1868 through 1964 have gone to New Yorkers. Of the total of 100 nominations for President and Vice-President, citizens of New York have been nominated in 24 instances. Six large states (New York, California, Illinois, Indiana, Massachusetts and Ohio) account for 68 of the total of 100 nominations, while the citizens of 26 states, including Plaintiff, have been totally excluded from the nominations. Plaintiff is one of eight of the original 13 states (Connecticut, Delaware, Georgia, Maryland, North Carolina, Rhode Island, South Carolina and Vermont) which has never elected one of its citizens President in the 45 elections conducted in our 177-year history and these citizens have been totally excluded from nomination for either President or Vice President during the past century. According to the 1960 census these eight states have a total population of 18,213,449 compared to New York's population of 16,782,304. Citizens of these states are as well qualified for national office as are New York's citizens, but the unreasonable and discriminatory effects of the state unit system exclude them from any practical opportunity for nomination or election because of the premium placed upon the strategic location of potential can-

didates residing in New York and other large states. Plaintiff was the first state to ratify the Constitution but the unforeseen state unit system in presidential elections has reduced it and its citizens to a second-class citizenship in national politics. Plaintiff and other small states as virtual bystanders do little more than watch while the large states serve as the fields of contest in national elections. This invidious oppression and discrimination results directly from state laws which cause large states' electoral votes to be cast in units, and it would not occur if such states' electoral votes were cast on a basis reasonably designed to reflect the divisions of the popular will within them. The rights to seek national office and participate on an equitable basis in the election of national officers are reserved to the people by the Ninth and Tenth Amendments and are privileges of United States citizenship protected by the Fourteenth Amendment. The state unit system unduly abridges these rights in Plaintiff's citizens and citizens of other small states and denies them due process and equal protection of the laws in violation of the Fifth and Fourteenth Amendments.

16. The only practicable legal relief to correct the foregoing inequities is a decree of this Honorable Court requiring each state to appoint its presidential electors by a method reasonably calculated to reflect the will of all the people of the state as shown by their popular voting. Individual states cannot reasonably be expected to effect such reforms on a state-by-state basis. For the reasons alleged in paragraph 5 of this complaint, which caused all states to copy the example of a few in initially adopting the state unit system, individual states will not voluntarily adopt any alternative designed to cause their electoral votes to be more representative of the popular will.

WHEREFORE, Plaintiff prays that a decree be entered:

1. Declaring the rights of the parties in the premises.
2. Enjoining each party from continuing to appoint its

presidential electors by a method which treats the state as an electoral unit for the choice of electors and causes its entire electoral votes to be cast for the candidate winning a plurality of its popular votes.

3. Adjudging the statutes listed in Exhibit A to be unconstitutional insofar as they are applied to debase voting rights and political status by failing to provide a method by which each state's electoral vote may be cast so as reasonably to represent the division of the will of the people of that state as shown by its popular votes for the respective candidates.
4. Enjoining further appointment of presidential electors in any state by any method which is not designed reasonably to reflect in its electoral vote the division of the will of the people of the state as shown in its popular vote.
5. Ordering such other and further relief as may be found to be equitable and appropriate in the circumstances.

DAVID P. BUCKSON
Attorney General
State of Delaware

APPENDIX TO COMPLAINT

EXHIBIT ASTATE GENERAL TICKET LAWS

Code of Alabama, Tit. 17, Sec. 155 (1959)
Alaska Stats. Ann. Tit. 15, Secs. 30.010, 30.050 (1962)
Arizona Revised Statutes, Secs. 16-844-845 (1956)
Arkansas Statutes, Secs. 3-329-330 (Supp. 1963)
California Election Code, Secs. 10204-5 (Dearing 1961)
Colorado Revised Statutes, Sec. 49-11-7 (3) (1963)
Connecticut Gen. Stats. 9-175 (1964)
Delaware Code Ann., Tit. 15, Sec. 4301-02 (1953); Sec. 4502
(Supp. 1964)
Florida Stats. Ann., Sec. 103.011 (1960)
Georgia Code Ann., Sec. 34-2502 (1962)
Hawaii Rev. Laws, Sec. 11-216 (Supp. 1963)
Idaho Code, Sec. 34-904 (1963)
46 Illinois Ann., Stats., Sec. 21-1 (Smith-Hurd 1965)
Indiana Statutes, Secs. 29-3901-05 (Burns 1949)
Iowa Code Ann., Secs. 49-32-.33 (1949); 49.42 (Supp. 1965)
Kansas Stats. Ann., Secs. 25-602, 26-603a (1964)
Kentucky Rev. Stats., Sec. 118-170(6) (1962)
Louisiana Rev. Stats., Sec. 18:1381 (1951)
Maine Rev. Stats., Ch. 5, Secs. 78-79 (1954)
Maryland Code Ann., Secs. 33-153, 33-154 (1957)
Massachusetts General Laws, Ch. 5, Sec. 43 (Michie 1964)
Michigan Stats. Ann., Sec. 6.1045 (1956)
Minnesota Stats. Ann., Sec. 208.04 (1962)
Mississippi Code Ann., Sec. 3107.5 (1957)
Missouri Rev. Stats., Secs. 128.010, 128.040 (Vernon 1952)
Revised Code of Montana, Sec. 23-2101 (1955)
Revised Statutes of Nebraska, Secs. 32-421-22, 32-546 (1960)
Nevada Rev. Stat., Tit. 24, Secs. 293.477, 298.020 (1955)
New Hampshire Revised Stats., Secs. 59:3, 59:7 (1955)
New Jersey Stats. Ann., Sec. 19:14-8.1 (1964)
New Mexico Stats. Ann., Sec. 3-10-2 (1953)
New York Election Law, Sec. 290 (1964)
General Statutes of North Carolina, Sec. 163-108 (1964)
North Dakota Century Code, Secs. 16-11-06, 16-16-01 (1960)
Ohio Rev. Code, Sec. 3505.10 (Baldwin 1964)
Oklahoma Stats. Ann. Tit. 26, Sec. 513 (1955)
Oregon Rev. Stats., Sec. 250.110 (2) (1965)
Pennsylvania Stats. Ann. Tit. 25, Sec. 3056 (f) (Purdon 1963)
General Laws of Rhode Island, Sec. 17-4-10 (Supp. 1965)
Code of Laws of South Carolina, Sec. 23-557 (1962)
South Dakota Code, Sec. 16.1105 (2) (1939), Sec. 16.1105 (4)
(Supp. 1960)

Exhibit A (Continued)

Tennessee Code Ann., Sec. 2-403 (1955)
Texas Election Code Art. 11.02 (Supp. 1965)
Utah Code Ann., Sec. 20-7-5 (Supp. 1965)
Vermont Stat. Ann. Tit. 17, Sec. 1751 (1959)
Code of Virginia, Secs. 24-290.4, 24-290.5 (1964)
Rev. Code of Washington Ann., Sec. 29.71.020 (1964)
West Virginia Code of 1961, Sec. 97
Wisconsin Stats. Ann., Sec. 9.04 (West 1957)
Wyoming Stat. Tit. 22, Sec. 301 (1957)
District of Columbia Code Tit. 1, Sec. 1108(e) (1965 Supp.)

EXHIBIT B

METHOD OF ELECTING ELECTORS, 1788-1836

	1788-1789	1792	1796	1800	1804	1808	1812	1816	1820	1824	1828	1832	1836
New Hampshire...	G. T. and L. ²	G. T. ⁴	G. T. and L. ³	L.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.
Massachusetts....	D. (8) and L. ³	D. (4) and L. ³	D. (14) and L. ¹	L.	D. (17) and A. (2)	L.	D. (6) ¹¹	L.	D. (13) and A. (2)	G. T.	G. T.	G. T.	G. T.
Rhode Island.....	.....	L.	L.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.
Connecticut.....	L.	L.	L.	L.	L.	L.	L.	L.	G. T.	G. T.	G. T.	G. T.	G. T.
New York.....	.....	L.	L.	L.	L.	L.	L.	L.	L.	L.	D. (30) and E. ¹²	G. T.	G. T.
New Jersey.....	L.	L.	L.	L.	G. T.	G. T.	L.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.
Pennsylvania.....	G. T.	G. T.	G. T.	L.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.
Delaware.....	D. (3) ⁹	L.	L.	L.	L.	L.	L.	L.	L.	L.	L.	G. T.	G. T.
Maryland.....	G. T.	G. T.	D. (10)	D. (10)	D. (9) ⁸	D. (9) ⁸	D. (9) ⁸	D. (9) ⁸	D. (9) ⁸	D. (9) ⁸	D. (9) ⁸	D. (4) ¹⁴	G. T.
Virginia.....	D. (12)	D. (21)	D. (21)	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.
North Carolina....	.....	L. ⁸	D. (12)	D. (12)	D. (14)	D. (14)	L.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.
South Carolina...	L.	L.	L.	L.	L.	L.	L.	L.	L.	L.	L.	L.	L.
Georgia.....	L.	L.	G. T.	L.	L.	L.	L.	L.	L.	L.	G. T.	G. T.	G. T.
Vermont.....	.....	L.	L.	L.	L.	L.	L.	L.	L.	L.	G. T.	G. T.	G. T.
Kentucky.....	.....	D. (4)	D. (4)	D. (4)	D. (2) ¹⁰	D. (2) ¹⁰	D. (3) ¹⁰	D. (3) ¹⁰	D. (3) ¹⁰	D. (3) ¹⁰	G. T.	G. T.	G. T.
Tennessee.....	.....	.....	E. ⁸	E. ⁸	D. (5)	D. (5)	D. (8)	D. (8)	D. (8)	D. (11)	D. (11)	G. T.	G. T.
Ohio.....	.....	.....	.....	.....	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.	G. T.
Louisiana.....	.....	.....	.....	.....	.....	.....	L.	L.	L.	L.	G. T.	G. T.	G. T.
Indiana.....	.....	.....	.....	.....	.....	.....	.....	L.	L.	G. T.	G. T.	G. T.	G. T.
Mississippi.....	.....	.....	.....	.....	.....	.....	.....	.....	G. T.	G. T.	G. T.	G. T.	G. T.
Illinois.....	.....	.....	.....	.....	.....	.....	.....	.....	D. (3)	D. (3)	G. T.	G. T.	G. T.
Alabama.....	.....	.....	.....	.....	.....	.....	.....	.....	L.	G. T.	G. T.	G. T.	G. T.
Maine.....	.....	.....	.....	.....	.....	.....	.....	.....	D. (7) and A. (2)	D. (7) and A. (2)	D. (7) and A. (2)	G. T.	G. T.
Missouri.....	.....	.....	.....	.....	.....	.....	.....	.....	L.	D. (3)	G. T.	G. T.	G. T.
Arkansas.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	G. T.
Michigan.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	G. T.

Explanation: L. = by legislature; G. T. = by people, on a general ticket, D. = by people, in districts; A. = by people, in the state at large; E. = by electors. The number in parentheses following the abbreviation "D." is the number of districts into which the state was divided. As a rule each district elected one

¹ A majority of the popular vote was necessary for a choice. In case of a failure to elect the legislature supplied the deficiency.

² Each of the eight districts chose two electors, from which the General Court (i.e., the legislature) selected one. It also elected two electors at large.

³ Each qualified voter voted for one elector. The three electors who received most votes in the state were elected.

⁴ A majority of votes was necessary for a choice. In case of a failure to elect one or more electors a second election was held by the people, at which choice was made from the candidates in the first election who had the most votes. The number of candidates in the second election was limited to twice the number of the electors wanted.

⁵ Two of the districts voted for five members each, and two for three members each. A majority of votes was necessary for a choice. In case of a failure to elect by popular vote the General Court supplied the deficiency. In the election of 1792 the people chose five electors and the General Court eleven.

⁶ The state was divided into four districts, and the members of the legislature residing in each district chose three electors.

elector. Exceptions to the rule that are not obvious are given in the notes. The number in parentheses following the abbreviation "A." is the number of electors elected at large.

⁷ A majority of votes was necessary for a popular choice. Deficiencies were filled by the General Court, as in 1792. It also chose two electors at large. In 1796 it chose nine electors, and the people seven.

⁸ In 1796 and 1800 Tennessee chose three Presidential electors—one each for the districts of Washington, Hamilton, and Mero. Three "electors" for each county in the state were appointed by the legislature, and the "electors" residing in each of the three districts chose one of the three Presidential electors.

⁹ During the years 1804–1828 Maryland chose eleven electors in nine districts, two of the districts electing two members each.

¹⁰ Each district elected four electors.

¹¹ One district chose six electors; one, five, one, four; two, three each, and one, one.

¹² Two districts chose five electors each, and one chose four electors.

¹³ One district elected three electors, two, two electors each, and twenty-seven, one elector each. The thirty-four electors thus elected chose two electors.

¹⁴ One district chose four electors; one, three; one, two; and one, one.

SOURCE: Paullin, "The Atlas of The Historical Geography of the United States", page 89

EXHIBIT C

Popular Vote Returns of U.S. Presidential Elections

1948								1948 - 1964				1952			
	TRUMAN	%	DEWEY	%	THURMOND (States Rights)	%	PLURALITY		EISENHOWER	%	STEVENSON	%	PLURALITY		
Ala.			40,930	19.0	171,443	79.7	SR 130,513	Ala.	149,231	35.0	275,075	64.6	D 125,844		
Alaska			Territory of Alaska did not vote for President in 1948					Alaska	Territory of Alaska did not vote for President in 1952						
Ariz.	95,251	53.8	77,597	43.8			D 17,654	Ariz.	152,042	58.3	108,528	41.7	R 43,514		
Ark.	149,659	61.7	50,959	21.0	40,068	16.5	D 98,700	Ark.	177,155	43.8	226,300	55.9	D 49,145		
Calif.	1,913,134	47.6	1,895,269	47.1	1,228		D 17,865	Calif.	2,897,310	56.3	2,197,548	42.7	R 699,762		
Colo.	267,288	51.9	239,714	46.5			D 27,574	Colo.	379,782	60.3	245,504	39.0	R 134,278		
Conn.	423,297	47.9	437,754	49.5			R 14,457	Conn.	611,012	55.7	481,649	43.9	R 129,363		
Del.	67,813	49.8	69,588	50.0			R 1,775	Del.	90,059	51.8	83,315	47.9	R 6,744		
Fla.	281,988	48.8	194,280	33.6	89,755	15.5	D 87,708	Fla.	544,036	55.0	444,950	45.0	R 99,086		
Ga.	254,646	60.8	76,691	18.3	85,055	20.3	D 169,591	Ga.	198,961	30.3	456,823	69.7	D 257,862		
Hawaii			Territory of Hawaii did not vote for President in 1948					Hawaii	Territory of Hawaii did not vote for President in 1952						
Idaho	107,370	50.0	101,514	47.3			D 5,656	Idaho	180,707	65.4	95,081	34.4	R 85,626		
Ill.	1,994,715	50.1	1,961,103	49.2			D 33,612	Ill.	2,457,327	54.8	2,013,920	44.9	R 443,407		
Ind.	807,833	48.8	821,079	49.6			R 13,246	Ind.	1,136,259	58.1	801,530	41.0	R 334,729		
Iowa	522,380	50.3	494,018	47.6			D 28,362	Iowa	808,906	63.8	451,513	35.6	R 357,393		
Kan.	351,902	44.6	423,039	53.6			R 71,137	Kan.	616,302	68.8	273,296	30.5	R 343,006		
Ky.	466,756	56.7	341,210	41.5	10,411	1.3	D 125,546	Ky.	495,029	49.8	495,729	49.9	D 700		
La.	136,344	32.7	72,657	17.5	204,290	49.1	SR 67,946	La.	306,925	47.1	345,027	52.9	D 38,102		
Maine	111,916	42.3	150,234	56.7			R 38,318	Maine	232,353	66.0	118,806	33.8	R 113,547		
Md.	286,521	48.0	294,814	49.4	2,476	0.4	R 8,293	Md.	499,424	55.4	395,337	43.8	R 104,087		
Mass.	1,151,788	54.7	909,370	43.2			D 242,418	Mass.	1,292,325	54.2	1,083,525	45.5	R 208,800		
Mich.	1,003,448	47.6	1,038,595	49.2			R 35,147	Mich.	1,551,529	55.4	1,230,657	44.0	R 320,872		
Minn.	692,966	57.2	483,617	39.9			D 209,349	Minn.	763,211	55.3	608,458	44.1	R 154,753		
Miss.	19,384	10.1	5,043	2.6	167,538	87.2	SR 148,154	Miss.	112,966	39.6	172,566	60.4	D 59,600		
Mo.	917,315	58.1	655,039	41.5	42		D 262,276	Mo.	959,429	50.7	929,830	49.1	R 29,599		

Mont.	119,071	53.1	96,770	43.1			D 22,301	Mont.	157,394	59.4	106,213	40.1	R 51,181
Neb.	224,165	45.8	264,774	54.2			R 40,609	Neb.	421,603	69.2	188,057	30.8	R 233,546
Nev.	31,291	50.4	29,357	47.3			D 1,934	Nev.	50,502	61.4	31,688	38.6	R 18,814
N. H.	107,995	46.7	121,299	52.4	7		R 13,304	N. H.	166,287	60.9	106,663	39.1	R 59,624
N. J.	895,455	45.9	981,124	50.3			R 85,669	N. J.	1,373,613	56.8	1,015,902	42.0	R 357,711
N. M.	105,464	56.4	80,303	43.0			D 25,161	N. M.	132,170	55.4	105,661	44.3	R 26,509
N. Y.	2,780,204	45.0	2,841,163	46.0			R 60,959	N. Y.	3,952,813	55.5	3,104,601	43.6	R 848,212
N. C.	459,070	58.0	258,572	32.7	69,652	8.8	D 200,498	N. C.	558,107	46.1	652,803	53.9	D 94,696
N. D.	95,812	43.4	115,139	52.2	374	0.2	R 19,327	N. D.	191,712	71.0	76,694	28.4	R 115,018
Ohio	1,452,791	49.5	1,445,684	49.2			D 7,107	Ohio	2,100,391	56.8	1,600,367	43.2	R 500,024
Okla.	452,782	62.7	268,817	37.3			D 183,965	Okla.	518,045	54.6	430,939	45.4	R 87,106
Ore.	243,147	46.4	260,904	49.8			R 17,757	Ore.	420,815	60.5	270,579	38.9	R 150,236
Pa.	1,752,426	46.9	1,902,197	50.9			R 149,771	Pa.	2,415,789	52.7	2,146,269	46.9	R 269,520
R. I.	188,736	57.6	135,787	41.4			D 52,949	R. I.	210,935	50.9	203,293	49.0	R 7,642
S. C.	34,423	24.1	5,386	3.8	102,607	72.0	SR 68,184	S. C.	168,082	49.3	173,004	50.7	D 4,922
S. D.	117,653	47.0	129,651	51.8			R 11,998	S. D.	203,857	69.3	90,426	30.7	R 113,431
Tenn.	270,402	49.1	202,914	36.9	73,815	13.4	D 67,488	Tenn.	446,147	50.0	443,710	49.7	R 2,437
Texas	750,700	65.4	282,240	24.6	106,909	9.3	D 468,460	Texas	1,102,878	53.1	969,228	46.7	R 133,650
Utah	149,151	54.0	124,402	45.0			D 24,749	Utah	194,190	58.9	135,364	41.1	R 58,826
Vt.	45,557	36.9	75,926	61.5			R 30,369	Vt.	109,717	71.5	43,355	28.2	R 66,362
Va.	200,786	47.9	172,070	41.0	43,393	10.4	D 28,716	Va.	349,037	56.3	268,667	43.4	R 80,360
Wash.	476,165	52.6	386,315	42.7			D 89,850	Wash.	599,107	54.3	492,845	44.7	R 106,262
W. Va.	429,188	57.3	316,251	42.2			D 112,937	W. Va.	419,970	48.1	453,578	51.9	D 33,608
Wis.	647,310	50.7	590,959	46.3			D 56,351	Wis.	979,744	61.0	622,175	38.7	R 357,569
Wyo.	52,354	51.6	47,947	47.3			D 4,407	Wyo.	81,049	62.7	47,934	37.1	R 33,115
NATIONAL TOTALS								NATIONAL TOTALS					
Popular Votes	24,105,812	49.5	21,970,065	45.1	1,169,063	2.4	D 2,135,747	Popular Votes	33,936,234	55.1	27,314,992	44.4	R 6,621,242
(Progressive Party; Henry Wallace - 1,157,172 - 2.4%) (Also minor party and scattered votes - 288,844 - .6%)								(Also minor party and scattered votes - 299,692 - .5%)					
Electoral Votes: Truman: 303 Dewey: 189 Thurmond: 39								Electoral Votes: Eisenhower: 442 Stevenson: 89					

SOURCE: Congressional Quarterly: *Congress and the Nation* 1945-1964

EXHIBIT C (cont'd)

1956

1960

	EISENHOWER	%	STEVENSON	%	PLURALITY		KENNEDY	%	NIXON	%	UNPLEDGED	%	PLURALITY
Ala.	195,694	39.4	280,844	56.5	D 85,150	Ala.	318,303*		237,981		324,050*		D 86,069
Alaska	Territory of Alaska did not vote for President in 1956					Alaska	29,809	49.1	30,953	50.9			R 1,144
Ariz.	176,990	61.0	112,880	38.9	R 64,110	Ariz.	176,781	44.4	221,241	55.5			R 44,460
Ark.	186,287	45.8	213,277	52.5	D 26,990	Ark.	215,049	50.2	184,508	43.1	28,952	6.8	D 30,541
Calif.	3,027,668	55.4	2,420,135	44.3	R 607,533	Calif.	3,224,099	49.6	3,259,722	50.1			R 35,623
Colo.	394,479	60.0	257,997	39.3	R 136,482	Colo.	330,629	44.9	402,242	54.6			R 71,613
Conn.	711,837	63.7	405,079	36.3	R 306,758	Conn.	657,055	53.7	565,813	46.3			D 91,242
Del.	98,057	55.1	79,421	44.6	R 18,636	Del.	99,590	50.6	96,373	49.0			D 3,217
Fla.	643,849	57.2	480,371	42.7	R 163,478	Fla.	748,700	48.5	795,476	51.5			R 46,776
Ga.	222,778	33.3	444,688	66.4	D 221,910	Ga.	458,638	62.6	274,472	37.4			D 184,166
Hawaii	Territory of Hawaii did not vote for President in 1956					Hawaii	92,410	50.0	92,295	50.0			D 115
Idaho	166,979	61.2	105,868	38.8	R 61,111	Idaho	138,853	46.2	161,597	53.8			R 22,744
Ill.	2,623,327	59.5	1,775,682	40.3	R 847,645	Ill.	2,377,846	50.0	2,368,988	49.8			D 8,858
Ind.	1,182,811	59.9	783,908	39.7	R 398,903	Ind.	952,358	44.6	1,175,120	55.0			R 222,762
Iowa	729,187	59.1	501,858	40.7	R 227,329	Iowa	550,565	43.2	722,381	56.7			R 171,816
Kan.	566,878	65.4	296,317	34.2	R 270,561	Kan.	363,213	39.1	561,474	60.4			R 198,261
Ky.	572,192	54.3	476,453	45.2	R 95,739	Ky.	521,855	46.4	602,607	53.6			R 80,752
La.	329,047	53.3	243,977	39.5	R 85,070	La.	407,339	50.4	230,980	28.6	169,572	21.0	D 176,359
Maine	249,238	70.9	102,468	29.1	R 146,770	Maine	181,159	43.0	240,608	57.0			R 59,449
Md.	559,738	60.0	372,613	39.9	R 187,125	Md.	565,808	53.6	489,538	46.4			D 76,270
Mass.	1,393,197	59.3	948,190	40.4	R 445,007	Mass.	1,487,174	60.2	976,750	39.6			D 510,424
Mich.	1,713,647	55.6	1,359,898	44.1	R 353,749	Mich.	1,687,269	50.9	1,620,428	48.8			D 66,841
Minn.	719,302	53.7	617,525	46.1	R 101,777	Minn.	779,993	50.6	757,915	49.2			D 22,018
Miss.	60,685	24.5	144,453	58.2	D 83,768	Miss.	108,362	36.3	73,561	24.7	116,248	39.0	U 7,886
Mo.	914,289	49.9	918,273	50.1	D 3,984	Mo.	972,201	50.3	962,221	49.7			D 9,980

Mont.	154,933	57.1	116,238	42.9	R 38,695
Neb.	378,108	65.5	199,029	34.5	R 179,079
Nev.	56,049	58.0	40,640	42.0	R 15,409
N. H.	176,519	66.1	90,364	33.8	R 86,155
N. J.	1,606,942	64.7	850,337	34.2	R 756,605
N. M.	146,788	57.8	106,098	41.8	R 40,690
N. Y.	4,345,506	61.2	2,747,944	38.7	R 1,597,562
N. C.	575,062	49.3	590,530	50.7	D 15,468
N. D.	156,766	61.7	96,742	38.1	R 60,024
Ohio	2,262,610	61.1	1,439,655	38.9	R 822,955
Okla.	473,769	55.1	385,581	44.9	R 88,188
Ore.	406,393	55.2	329,204	44.7	R 77,189
Pa.	2,585,252	56.5	1,981,769	43.3	R 603,483
R. I.	225,819	58.3	161,790	41.7	R 64,029
S. C.	75,700	25.2	136,372	45.4	D 60,672
S. D.	171,569	58.4	122,288	41.6	R 49,281
Tenn.	462,288	49.2	456,507	48.6	R 5,781
Texas	1,080,619	55.3	859,958	44.0	R 220,661
Utah	215,631	64.6	118,364	35.4	R 97,267
Vt.	110,390	72.2	42,549	27.8	R 67,841
Va.	386,459	55.4	267,760	38.4	R 118,699
Wash.	620,430	53.9	523,002	45.4	R 97,428
W. Va.	449,297	54.1	381,534	45.9	R 67,763
Wis.	954,844	61.6	586,768	37.8	R 368,076
Wyo.	74,573	60.1	49,554	39.9	R 25,019

NATIONAL TOTALS

Popular Votes	35,590,472	57.4	26,022,752	42.0	R 9,567,720
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(Also minor party and scattered votes - 413,684 - .6%)

Electoral Votes: Eisenhower: 457 Stevenson: 74

*Alabama - The 11-man Democratic elector slate consisted of six unpledged electors who finally voted for Sen. Harry Flood Byrd (D Va.) and five loyalist electors for Kennedy. Since the votes cannot be separated in counting, the highest vote for an unpledged elector (324,050) is listed under that column and the highest vote for a Kennedy elector (318,303) is listed in his column. Under this method

Mont.	134,891	48.6	141,841	51.1	R 6,950
Neb.	232,542	37.9	380,553	62.1	R 148,011
Nev.	54,880	51.2	52,387	48.8	D 2,493
N. H.	137,772	46.6	157,989	53.4	R 20,217
N. J.	1,385,415	50.0	1,363,324	49.2	D 22,091
N. M.	156,027	50.2	153,733	49.4	D 2,294
N. Y.	3,830,085	52.5	3,446,419	47.3	D 383,666
N. C.	713,136	52.1	655,420	47.9	D 57,716
N. D.	123,963	44.5	154,310	55.4	R 30,347
Ohio	1,944,248	46.7	2,217,611	53.3	R 273,363
Okla.	370,111	41.0	533,039	59.0	R 162,928
Ore.	367,402	47.4	408,060	52.6	R 40,658
Pa.	2,556,282	51.1	2,439,956	48.7	D 116,326
R. I.	258,032	63.6	147,502	36.4	D 110,530
S. C.	198,129	51.2	188,558	48.8	D 9,571
S. D.	128,070	41.8	178,417	58.2	R 50,347
Tenn.	481,453	45.8	556,577	52.9	R 75,124
Texas	1,167,932	50.5	1,121,699	48.5	D 46,233
Utah	169,248	45.2	205,361	54.8	R 36,113
Vt.	69,186	41.4	98,131	58.6	R 28,945
Va.	362,327	47.0	404,521	52.4	R 42,194
Wash.	599,298	48.3	629,273	50.7	R 29,975
W. Va.	441,786	52.7	395,995	47.3	D 45,791
Wis.	830,805	48.0	895,175	51.8	R 64,370
Wyo.	63,331	45.0	77,451	55.0	R 14,120

NATIONAL TOTALS

Popular Votes	34,221,349*	49.71*	34,108,546	49.55	638,822*	.92*	D 112,803*
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(Also minor party and scattered votes - 188,565 - .27%)

Electoral Votes: Kennedy: 303 Nixon: 219 Byrd: 15

of counting, however, votes for the Democratic elector slate are actually counted twice with resultant inflation of both the Kennedy and unpledged popular vote totals. An alternative is to divide the highest Democratic elector vote, 5/11 to Kennedy and 6/11 to unpledged. If that is done, Kennedy's Alabama total drops to 147,295 and he trails Nixon by 58,205 in the national popular count.

EXHIBIT C (cont'd)

Official 1964 Presidential Election Results

*Based on complete official vote totals reported to Congressional Quarterly
by the Governmental Affairs Institute and state government sources.*

Total popular vote cast: 70,642,496

STATE	TOTAL POPULAR VOTE			PLURALITY	PERCENTAGES*		ELECTORAL VOTE	
	JOHNSON	GOLDWATER	OTHER PARTIES		JOHNSON	GOLDWATER	JOHNSON	GOLDWATER
ALABAMA	‡	479,085	210,733	268,353		69.5		10
ALASKA	44,329	22,930	None	21,399	65.9	34.1	3	
ARIZONA	237,753	242,535	482	4,782	49.5	50.4		5
ARKANSAS	314,197	243,264	2,965	70,933	56.1	43.4	6	
CALIFORNIA	4,171,877	2,879,108	6,601	1,292,769	59.1	40.8	40	
COLORADO	476,024	296,767	4,195	179,257	61.3	33.2	6	
CONNECTICUT	826,269	390,996	1,313	435,273	67.8	32.1	8	
DELAWARE	122,704	78,078	538	44,626	60.9	38.8	3	
FLORIDA	948,540	905,941	None	42,599	51.1	48.9	14	
GEORGIA	522,557	616,600	195	94,043	45.9	54.1		12
HAWAII	163,249	44,022	None	119,227	78.8	21.2	4	
IDAHO	148,920	143,557	None	5,363	50.9	49.1	4	
ILLINOIS	2,796,833	1,905,946	62	890,887	59.5	40.5	26	
INDIANA	1,170,848	911,118	9,640	259,730	56.0	43.6	13	
IOWA	733,030	449,148	2,361	283,882	61.9	37.9	9	
KANSAS	464,028	336,579	7,294	77,449	54.1	45.1	7	
KENTUCKY	669,659	372,977	3,469	296,682	64.0	35.7	9	
LOUISIANA	337,068	509,225	None	122,157	43.2	56.8		10
MAINE	262,264	118,701	None	143,563	68.8	31.2	4	
MARYLAND	730,912	385,495	50	345,417	65.5	34.5	10	
MASSACHUSETTS	1,786,422	549,727	8,649	1,236,695	76.2	23.4	14	
MICHIGAN	2,136,615	1,060,152	6,335	1,076,463	66.7	33.1	21	
MINNESOTA	991,117	559,624	3,721	431,493	63.8	36.0	10	
MISSISSIPPI†	52,618	356,528	None	303,910	12.9	87.1		7
MISSOURI	1,164,344	653,535	None	510,809	64.0	36.0	12	

MONTANA	164,246	113,032	1,350	51,214	58.9	40.6	4	
NEBRASKA	307,307	276,847	None	30,460	52.6	47.4	5	
NEVADA	79,339	56,094	None	23,245	58.6	41.4	3	
NEW HAMPSHIRE	184,064	104,029	None	80,035	63.9	36.1	4	
NEW JERSEY	1,867,671	963,843	15,256	903,828	65.6	33.9	17	
NEW MEXICO	194,017	131,838	1,760	62,179	59.2	40.2	4	
NEW YORK	4,913,156	2,243,559	9,488	2,669,597	68.6	31.3	43	
NORTH CAROLINA	800,139	624,844	None	175,295	56.2	43.8	13	
NORTH DAKOTA	149,784	108,207	398	41,577	58.0	41.9	4	
OHIO	2,498,331	1,470,865	None	1,027,466	62.9	37.1	26	
OKLAHOMA	519,834	412,665	None	107,169	55.7	44.3	8	
OREGON	501,017	282,779	2,509	218,328	63.7	36.0	6	
PENNSYLVANIA**	3,130,954	1,673,657	18,079	1,457,336	64.9	34.7	29	
RHODE ISLAND	315,463	74,615	None	240,848	80.9	19.1	4	
SOUTH CAROLINA	215,700	309,048	8	93,348	41.1	58.9		8
SOUTH DAKOTA	163,010	130,108	None	32,902	55.6	44.4	4	
TENNESSEE	635,047	508,965	34	126,082	55.5	44.5	11	
TEXAS	1,663,185	958,566	5,060	704,619	63.3	36.5	25	
UTAH	219,628	181,785	None	37,843	54.7	45.3	4	
VERMONT	108,127	54,942	20	53,185	66.3	33.7	3	
VIRGINIA	558,038	481,334	2,895	76,704	53.5	46.2	12	
WASHINGTON	779,699	470,366	8,309	309,333	62.0	37.4	9	
WEST VIRGINIA	538,087	253,953	None	284,134	67.9	32.1	7	
WISCONSIN	1,050,424	638,495	2,896	411,929	62.1	37.7	12	
WYOMING	80,718	61,998	None	18,720	56.6	43.4	3	
DIST. OF COLUMBIA	169,796	28,801	None	140,995	85.5	14.5	3	
TOTAL	43,128,958	27,176,873	336,665	15,952,085	61.0	38.5	486	52

Other Party Vote Breakdown: Independent Democratic Electors (Alabama only) 210,732; Socialist Labor (Hass and Blomen) 45,186; Prohibition (Munn and Shaw) 23,267; Socialist Worker (DeBerry and Shaw) 32,705; Constitution (Lightburn and Billings) 5,060; National States Rights (Kasper and Stoner) 6,953; Universal (Hensley and Hopkins) 19; Scattered 12,743

** Count from Schuylkill County not yet official.

† Including write-in votes reported.

‡ Democratic electors were not pledged to Johnson, thus their vote appears under Other Parties Column.

@Percentages of total Presidential vote cast, including minor party vote.

EXHIBIT DWINNING CANDIDATES PERCENTAGES OF POPULAR
AND ELECTORAL VOTES, 1868—1964

Year	Winning Candidate	% of Popular Vote	% of Electoral Vote
1868	Ulysses S. Grant	53	73
1872	Ulysses S. Grant	56	82
1876	Rutherford B. Hayes	48	50
1880	James A. Garfield	49	58
1884	Grover Cleveland	49	55
1888	Benjamin Harrison	48	58
1892	Grover Cleveland	46	62
1896	William McKinley	51	61
1900	William McKinley	52	65
1904	Theodore Roosevelt	56	71
1908	William H. Taft	52	66
1912	Woodrow Wilson	42	82
1916	Woodrow Wilson	49	52
1920	Warren G. Harding	60	76
1924	Calvin Coolidge	54	71
1928	Herbert C. Hoover	58	84
1932	Franklin D. Roosevelt	57	89
1936	Franklin D. Roosevelt	61	98
1940	Franklin D. Roosevelt	55	85
1944	Franklin D. Roosevelt	54	81
1948	Harry S. Truman	50	57
1952	Dwight D. Eisenhower	55	83
1956	Dwight D. Eisenhower	57	86
1960	John F. Kennedy	50.08	62
1964	Lyndon B. Johnson	61	90

Source: Congressional Quarterly: *Congress and the Nation*
1945-1964

EXHIBIT ENUMBERS OF ELECTED PRESIDENTS BY STATES

STATE	PRESIDENTS (Elected)	TERMS
Alabama	0	
Alaska	0	
Arizona	0	
Arkansas	0	
California	1	1
Colorado	0	
Connecticut	0	
Delaware	0	
Florida	0	
Georgia	0	
Hawaii	0	
Idaho	0	
Illinois	2	4
Indiana	1	1
Iowa	0	
Kansas	0	
Kentucky	0	
Louisiana	1	1
Maine	0	
Maryland	0	
Massachusetts	4	4
Michigan	0	
Minnesota	0	
Mississippi	0	
Missouri	1	1
Montana	0	
Nebraska	0	

Exhibit E (Continued)

STATE	PRESIDENTS (Elected)	TERMS
Nevada	0	
New Hampshire	1	1
New Jersey	1	2
New Mexico	0	
New York	7	11
North Carolina	0	
North Dakota	0	
Ohio	6	7
Oklahoma	0	
Oregon	0	
Pennsylvania	1	1
Rhode Island	0	
South Carolina	0	
South Dakota	0	
Tennessee	3	3
Texas	1	1
Utah	0	
Vermont	0	
Virginia	5	8
Washington	0	
West Virginia	0	
Wisconsin	0	
Wyoming	0	

* A seventh citizen of New York, Millard Fillmore, succeeded to the office from the Vice-Presidency but was never elected President.

** A third Tennessean, Andrew Johnson, succeeded from the Vice-Presidency but was never elected to the office of President.

SOURCE: "Biographical Directory of the American Congress",
Government Printing Office, #85/2: HDOC 442

EXHIBIT F

PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATES
OF MAJOR PARTIES AND THEIR HOME STATES
1868 — 1964

1868

Republican: Ulysses S. Grant, Illinois
Schuyler Colfax, Indiana

Democratic: Horatio Seymour, Indiana
Francis Blair, Jr., Ohio

1872

Republican: Ulysses S. Grant, Illinois
Henry Wilson, Massachusetts

Democratic: Horace Greeley, New York
Benjamin G. Brown, Missouri

1876

Republican: Rutherford B. Hayes, Ohio
William A. Wheeler, New York

Democratic: Samuel J. Tilden, New York
Thomas Hendricks, Indiana

1880

Republican: James A. Garfield, Ohio
Chester A. Arthur, New York

Democratic: Winfield S. Hancock, Pennsylvania
William H. English, Indiana

1884

Democratic: Grover Cleveland, New York
Thomas A. Hendricks, Indiana

Republican: James G. Blaine, Maine
John A. Logan, Illinois

1888

Republican: Benjamin Harrison, Indiana
Levi P. Morton, New York

Democratic: Grover Cleveland, New York
Allen G. Thurman, Ohio

1892

Democratic: Grover Cleveland, New York
Adlai E. Stevenson, Illinois

Exhibit F (Continued)

Republican: Benjamin Harrison, Indiana
Whitelaw Reid, New York

1896

Republican: William McKinley, Ohio
Garret A. Hobart, New Jersey

Democratic: William Jennings Bryan, Nebraska
Arthur Sewall, Maine

1900

Republican: William McKinley, Ohio
Theodore Roosevelt, New York

Democratic: William Jennings Bryan, Nebraska
Adlai E. Stevenson, Illinois

1904

Republican: Theodore Roosevelt, New York
Charles W. Fairbanks, Indiana

Democratic: Alton B. Parker, New York
Adlai E. Stevenson, Illinois

1908

Republican: William H. Taft, Ohio
James S. Sherman, New York

Democratic: William Jennings Bryan, Nebraska
John W. Kern, Indiana

1912

Democratic: Woodrow Wilson, New Jersey
Thomas R. Marshall, Indiana

Republican: William H. Taft, Ohio
James S. Sherman, New York

1916

Democratic: Woodrow Wilson, New Jersey
Thomas R. Marshall, Indiana

Republican: Charles Evans Hughes, New York
Charles W. Fairbanks, Indiana

1920

Republican: Warren G. Harding, Ohio
Calvin Coolidge, Massachusetts

Democratic: James M. Cox, Ohio
Franklin D. Roosevelt, New York

Exhibit F (Continued)1924

Republican: Calvin Coolidge, Massachusetts
Charles G. Dawes, Illinois

Democratic: John W. Davis, West Virginia
Charles W. Bryan, Nebraska

1928

Republican: Herbert Hoover, California
Charles Curtis, Kansas

Democratic: Alfred E. Smith, New York
Joseph T. Robinson, Arkansas

1932

Democratic: Franklin D. Roosevelt, New York
John Nance Garner, Texas

Republican: Herbert Hoover, California
Charles Curtis, Kansas

1936

Democratic: Franklin D. Roosevelt, New York
John N. Garner, Texas

Republican: Alfred Landon, Kansas
Frank Knox, Illinois

1940

Democratic: Franklin D. Roosevelt, New York
Henry A. Wallace, Iowa

Republican: Wendell Wilkie, Indiana
Charles L. McNary, Oregon

1944

Democratic: Franklin D. Roosevelt, New York
Harry S. Truman, Missouri

Republican: Thomas E. Dewey, New York
John W. Bricker, Ohio

1948

Democratic: Harry S. Truman, Missouri
Alben W. Barkley, Kentucky

Republican: Thomas E. Dewey, New York
Earl Warren, California

Exhibit F (Continued)1952

Republican: Dwight D. Eisenhower, New York
Richard M. Nixon, California

Democratic: Adlai E. Stevenson, Illinois
John J. Sparkman, Alabama

1956

Republican: Dwight D. Eisenhower, New York
Richard M. Nixon, California

Democratic: Adlai E. Stevenson, Illinois
Estes Kefauver, Tennessee

1960

Democratic: John F. Kennedy, Massachusetts
Lyndon B. Johnson, Texas

Republican: Richard M. Nixon, California
Henry Cabot Lodge, Massachusetts

1964

Democratic: Lyndon B. Johnson, Texas
Hubert H. Humphrey, Minnesota

Republican: Barry M. Goldwater, Arizona
William E. Miller, New York

EXHIBIT G

MAJOR PARTIES' PRESIDENTIAL AND VICE
PRESIDENTIAL CANDIDATES BY STATES
1868 — 1964

D — Democratic Nominee

R — Republican Nominee

States	Parties	Presidential Nominees				Vice Presidential Nominees				Pres. & V. Pres. Totals
		1868-1896	1900-1928	1932-1964	Pres. Totals	1868-1896	1900-1928	1932-1964	V.P. Totals	
Alabama	D R				0 0			1	1 0	1
Alaska	D R				0 0				0 0	0
Arizona	D R			1	0 1				0 0	1
Arkansas	D R				0 0		1		1 0	1
California	D R		1	2	0 3			3	0 3	6
Colorado	D R				0 0				0 0	0
Connecticut	D R				0 0				0 0	0
Delaware	D R				0 0				0 0	0
Florida	D R				0 0				0 0	0
Georgia	D R				0 0				0 0	0
Hawaii	D R				0 0				0 0	0
Idaho	D R				0 0				0 0	0

Exhibit G (Continued)

States	Parties	1868-1896	1900-1928	1932-1964	Pres. Totals	1868-1896	1900-1928	1932-1964	V.P. Totals	Pres. & V. Pres. Totals
Illinois	D R	2		2	2 2	1 1	2 1	1	3 3	10
Indiana	D R	1 2		1	1 3	3	3 2		6 2	12
Iowa	D R				0 0			1	1 0	1
Kansas	D R			1	0 1		1	1	0 2	3
Kentucky	D R				0 0			1	1 0	1
Louisiana	D R				0 0				0 0	0
Maine	D R	1			0 1	1			1 0	2
Maryland	D R				0 0				0 0	0
Massachusetts	D R		1	1	1 1	2	1	1	0 4	6
Michigan	D R				0 0				0 0	0
Minnesota	D R				0 0				0 0	0
Mississippi	D R				0 0				0 0	0
Missouri	D R			1	1 0	1		1	2 0	3
Montana	D R				0 0				0 0	0
Nebraska	D R	1	2		3 0		1		1 0	4

Exhibit G (Continued)

States	Parties	1868-1896	1900-1928	1932-1964	Pres. Totals	1868-1896	1900-1928	1932-1964	V.P. Totals	Pres. & V. Pres. Totals
Nevada	D R				0 0				0 0	0
New Hampshire	D R				0 0				0 0	0
New Jersey	D R		2		2 0	1	1		0 2	4
New Mexico	D R				0 0				0 0	0
New York	D R	5	2 2	4 3	11 5	4	1 2	1	1 7	24
North Carolina	D R				0 0				0 0	0
North Dakota	D R				0 0				0 0	0
Ohio	D R	3	1 4		1 7	2			2 0	10
Oklahoma	D R				0 0				0 0	0
Oregon	D R				0 0			1	0 1	1
Pennsylvania	D R	1			1 0				0 0	1
Rhode Island	D R				0 0				0 0	0
South Carolina	D R				0 0				0 0	0
South Dakota	D R				0 0				0 0	0
Tennessee	D R				0 0			1	1 0	1

Exhibit G (Continued)

States	Parties	1868-1896	1900-1928	1932-1964	Pres. Totals	1868-1896	1900-1928	1932-1964	V.P. Totals	Pres. & V. Pres. Totals
Texas	D R			1	1 0			3	3 0	4
Utah	D R				0 0				0 0	0
Vermont	D R				0 0				0 0	0
Virginia	D R				0 0				0 0	0
Washington	D R				0 0				0 0	0
West Virginia	D R		1		1 0				0 0	1
Wisconsin	D R				0 0				0 0	0
Wyoming	D R				0 0				0 0	0

IN THE
Supreme Court of the United States

OCTOBER TERM, 1966

No. ____ Original

STATE OF DELAWARE, *Plaintiff*

v.

THE STATE OF NEW YORK, *ET AL.*, *Defendants*

BRIEF FOR PLAINTIFF

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5 Elliot, Debates on the Federal Constitution 365 (Supp. 1845)	72
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3 Letters and Other Writings of James Madison 333-334 (Worthington ed. 1887)	60
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54 National Civics Review 430, Representation Column (1965)	51
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2 Stanwood, A History of the Presidency 15 (1898)	78
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10 The Writings of Thomas Jefferson 134 (Jefferson Memorial Ass'n, Library Ed., 1904)	61
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JURISDICTION OF THE SUBJECT MATTER

As a controversy between States this case is within the original jurisdiction of this Court pursuant to Article III, Section 2 of the United States Constitution and 28 U.S. Code § 1251(1). The District of Columbia is authorized to be sued by Section 1-102 of the District of Columbia Code. Because of its interest in the subject matter the District is a proper party within the Court's ancillary jurisdiction, and it is joined as a necessary or proper party pursuant to Rules 19(b) and 20(a) of the Federal Rules of Civil Procedure which are made applicable to original actions by Rule 9(2) of this Court.

The fact that the subject of the controversy concerns presidential elections is no obstacle to this Court's jurisdiction. In *McPherson v. Blacker*, 146 U.S. 1, the constitutionality of a state's method of choosing presidential electors was considered and although the opinion noted that the selection of presidential electors is a matter granted "exclusively" to the states by the Constitution and referred once to the power of state legislatures therein as "plenary", this Court nonetheless adjudicated the dispute by passing upon the merits of several constitutional claims and affirming a Michigan judgment which upheld a state statute providing for election of presidential electors by districts. In a fore-runner to its recent reassertions of judicial power to protect voting and political rights, the Court also said:

"The question of the validity of this act, as presented to us by this record, is a judicial question, and we cannot decline the exercise of our jurisdiction upon the inadmissible suggestion that action might be taken by political agencies in disregard of the judgment of the highest tribunal of the State as revised by our own." (Id. at 24)

Jurisdiction over this subject matter was also exercised by this Court in *Ray v. Blair*, 343 U.S. 214, which upheld Alabama's requiring pledges of candidates for presidential elector.

In accordance with the analysis by Mr. Justice Brennan in *Baker v. Carr*, 369 U.S. 186, considerations of the appropriateness of exercising this jurisdiction, or "justiciability", and Plaintiff's standing to raise the questions presented will be considered separately.

STANDING

Precedent supports Delaware's standing to sue both in its own right and in its *parens patriae* capacity as representative of individual and collective interests of its citizens. Paragraph 13 of the Complaint alleges that the state unit system dilutes the votes of Delaware's three presidential electors and hence the status of the State in its national constitutional role in the process of appointing electors for choosing the president. Once appointed, the Nation's presidential electors become a constituency comparable to those which choose Representatives and Governors. Although a unique constituency, they are entitled to the same "one elector — one vote" equality. This is denied them by the distorted nationwide packaging of electors achieved by the state unit system. Since they are the agents of Delaware in its role as one of the sovereign states participating in a national function, protection of their equal voting status by multi-state litigation is as meaningful to the state as similar actions over boundary lines or state property rights, such as *Alabama v. Arizona*, 291 U.S. 286; *Virginia v. West Virginia*, 206 U.S. 290, and *Rhode Island v. Massachusetts*, 37 U.S. (12 Pet.) 657.

Delaware's suit in its *own* right therefore has two aspects. First, it sues to protect its proper status as one of the sovereign states of the United States in their most vital multi-state function, the choice of their President; secondly, Delaware sues as a principal seeking to secure the lawful rights of agents who act in its behalf, its three presidential electors, appointed pursuant to a mandatory requirement and condition of Delaware's membership in this Union of States. Although Delaware's