



# Pine Shavings



**PineyWoods Chapter #51  
Texas Society of Sons of the American Revolution**

March 2012

Volume 22, Issue 3

## A Message from the President



**Compatriots:** This is my final "Message from the President" for my term as your Chapter President. It has been my honor and privilege to serve and represent Piney Woods # 51 for the past twelve months. I plan to continue in other capacities in the future.

At the February meeting we elected the Chapter Leadership for the Chapter year 2012-2013. After a nomination from the floor was

approved, nominating Compatriot Gordon Severance for Second Vice President, the slate of officers (see page 3) was elected by acclamation. I would like to thank all of those who have served this year and are willing to continue next year.

With all of the National attention on the Presidential election process, I thought it would be interesting to share some background on the Electoral College, its history and how it works. So, here it is.

The Constitutional Convention in 1787 used the Virginia Plan as the basis for discussions, as the Virginia delegation had proposed it first. The Virginia Plan

called for the Congress to elect the President. Delegates from a majority of states agreed to this mode of election. However, the Committee of Eleven, formed to work out various details including the mode of election of the President, recommended instead that the election be by a group of people apportioned among the states in the same numbers as their representatives in Congress, but chosen by each state "in such manner as its Legislature may direct." Committee member Governor Morris explained the reasons for the change; among others, there were fears of "intrigue" if the President was chosen by a small group of men who met together regularly, as well as concerns for the independence of the President if he was elected by the Congress. Some delegates, including James Wilson and James Madison, preferred popular election of the executive. Madison acknowledged that while a popular vote would be ideal, it would be difficult to get consensus on the proposal given the prevalence of slavery in the South.

The Convention approved the Committee's Electoral College proposal, with minor modifications, on September 6, 1787. Delegates from the small states generally favored the Electoral College out of concern that the large states would otherwise control presidential elections.

### Origin of the Name

Although the United States Constitution refers to "Electors" and "electors", the name "Electoral College" — or any other name — is never used to describe the electors collectively. It was not until the early 19th century that the name "Electoral College" came into general usage as the collective designation for the electors selected to cast votes for President and Vice President. It was

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## PineyWoods - Meetings - 2012

Mar 15—Member/Guest  
Apr 19—Member Only  
May 17—Member/Guest  
Jun -- No Meeting  
Jul —No Meeting

Aug 16—Member Only  
Sep 20 — Member/Guest  
Oct 18—Member Only  
Nov 15—Member/Guest  
Dec 20—Member Only  
*(tentative date)*

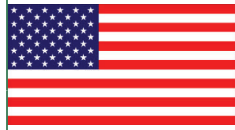
## MEETING LOCATION

**Jimmy G's,  
307 N. Sam Houston Parkway  
Houston TX 77060  
6:30 PM  
See ya'll there**

### RSVP FOR THE MEETING

Please respond with the number of people attending and their names by Tuesday before the meeting date. You can send an RSVP email to John Beard at [johnbeard@suddenlink.net](mailto:johnbeard@suddenlink.net) or call John at 281-358-2970 OR Kim Morton at [Genmorton@usa.net](mailto:Genmorton@usa.net). OR Larry Stevens [wardtracker@aol.com](mailto:wardtracker@aol.com) (281-361-2061) Please RSVP to one person only.

## EVENTS



National : [www.sar.org](http://www.sar.org)

July 7-11, 2012 -

122<sup>nd</sup> National Congress will be held in Phoenix



State: [www.txssar.org](http://www.txssar.org)

Mar 22-25, 2012 - Annual Convention—San Antonio  
Airport Hilton

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**Web Master**  
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[coxmr@earthlink.net](mailto:coxmr@earthlink.net)

## This Month in the Revolution

**March 22, 1765** –Though a decade before the declaration of war against the king, the **Stamp Act** and other acts by Parliament during this period caused dissention in the colonies. Great Britain was faced with an enormous debt following the French-Indian War (Seven Years War in Europe) Debt had almost doubled during the war. English citizens in Britain were heavily taxed. The Stamp act called for taxes (stamps) on printed paper (newspapers, playing cards, court records & pleas, invoices etc.) Two days later Parliament passed yet another act which was also unpopular, the Quartering Act. The Quartering Act was passed as, “An act for punishing mutiny and desertion, and for the better payment of the army and their quarters.” The **Quartering Act** required the colonial assembly to provide for the basic needs of the soldiers stationed within its borders. It included in 1766 billeting soldiers in taverns and unoccupied houses. These acts were part of the Intolerable Acts.



**March 5, 1770** — On this date the **Boston Massacre** occurred between a patriot mob and a squad of British soldiers. Five colonists were killed and six were wounded. The British soldiers were brought to trial and John Adams and Josiah Quincy II acted as their defense council. The soldiers were acquitted.



**March 31, 1774** The passage of the **Boston Port Act** served to anger colonists who may not have been moved by earlier acts of Parliament. The act closed Boston Har-



bor with the justification, “WHEREAS dangerous commotions and insurrections have been fomented and raided in the town of Boston, ... by divers ill affected persons, to the subversion of his Majesty’s government, and to the utter destruction of the publick peace, and good order of the said town; in which commotions and insurrections certain valuable cargoes of teas, ... were seized and destroyed ...” So the Boston Tea Party of 1773 had repercussions further than expected.

Other ports became worried that their liberties could also be taken.

Position	2012-2013 Officers
President	Larry Blackburn
First Vice President	Ben Stallings
Second Vice President	Gordon Severance
Secretary	John Beard
Treasurer	Greg Goulas
Chancellor	Allan M. Henshaw
Genealogist	Kim A. Morton
Registrar	Larry Stevens
Historian	Jim Mitchell
Chaplain	Cannon Pritchard
Sergeant at Arms	John Beard
Newsletter Editor	Larry Stevens
Webmaster	Ray Cox

### Color Guard

The PineyWoods Color Guard was so excited to welcome a new member to the squad. Gordon Severance is now a member of the color guard. It is nice to have such an active color guard.

February offered two opportunities for our Color Guard to perform. Unfortunately those opportunities were both on Saturday February 18th.

Three couples — Ray and Marty Cox, Jim and Dianne Jones and Larry and Barbara Stevens — all traveled to Laredo, Texas for the 115th George Washington Parade. This is the second year that this is a NSSAR “national event” for color guardsmen. President General Larry Magerkurth and his wife Barbara as well as three other General Officers were in attendance. This year Compatriots Stevens, Cox and Jones all participated in the Bridge Ceremony where officials from Mexico and the United States meet and exchange greetings. (Photos are contained on page 5).

The second opportunity was the Kingwood Mardi Gras parade. Four members of our color guard appeared in this parade. See story on page 4.

### Membership

Michael Stallings, son of our chapter treasurer Ben Stallings, was inducted into membership in SAR at our February meeting. Michael is a Second Lieutenant in the Army serving out of Ft. Hood, near Temple, Texas.

Michael’s ancestor was Thomas Harde- man, of NC and TN.

*Pictured left: Ben Stallings, Michael Stallings and chapter president John Beard.*



### Chapter Registrar Report

*Larry Stevens*

The National Application Status list has designated the following applications approved by the genealogists. We hope to induct these members into SAR in an upcoming meeting.

- Eugene Shuffield (National #182580)
- Eugene Shuffield, Jr. (National #182579)
- David Work (National number not assigned)
- Michael J. Streitman (National # 182711)

The following applications are with state registrar (S) or are in Louisville (L):

- Baron Schneider (L\*)
- John Taylor (L\*)

The following application is prepared and ready for signatures and submission to state registrar:

William McKinney

If you have any prospects, please contact me so that we can assist the prospective member with his application.

L\* - Questions from national reviewers have been addressed and submitted to state registrar.

I am currently working with the three individuals who have expressed interest in membership in our chapter.



# Kingwood Mardi Gras

February 18: PineyWoods Chapter of the (SAR) Sons of the American Revolution have been represented with their Color Guard 1776 period uniforms since 2007. SAR Color Guardsmen and Compatriots with their wives, children and grandchildren in some cases were present at this years annual festival and parade including Gordon and Diana Severance, John and Mary Claire Beard, Larry Blackburn and Jim and Anne Mitchell.

An estimated 300 children attending with several hundred families and scores of leashed canines with a few wearing colorful neck scarfs braced the parade route on a cool, mildly pleasant afternoon under dry, but cloudy skies for the annual parade kickoff at

Kingwood Town Center Place led by fifteen to twenty-five area business floats with marching groups representing, clubs, societal organizations and St. Martha's School Band led by a cadre of High School Junior Reserve Officers Training Corps.

The official parade announcer greeted the PineyWoods Chapter with these words: *"PineyWoods Chapter SAR history nationally began on April 30, 1889, the 100<sup>th</sup> Anniversary of George Washington's inauguration as First President, of the U.S. The Society of the Sons of the American Revolution was organized at the Fraunces Tavern at Pearl and Water Streets in Manhattan, as- "Sons of the Revolution" then.*

*"Today, PineyWoods Chapter's male society members uniform in 1778 period, Louisiana Militia uniform of Spanish Gen. Bernardo de Galvez whose militia wore blue socks with light colored uniforms and black tricorne hats."*

*James Mitchell*



John Beard, Larry Blackburn, Jim Mitchell and Gordon Severance



Jim Mitchell, Gordon Severance, Larry Blackburn and John Beard



## Happy Birthday



March	April	April
Donald E. MacGregory Steven Richards	Robert McKenna	Ron Barker Byron Basham Ken Korthanuar



# 115th George Washington Birthday Parade in Laredo



Back Row. Stephen Tanner, Karen Tanner, NSSAR Registrar General Lindsey Brock, Tom Jackson, NSSAR Treasurer General Joe Dooley, Past President General Ed Butler, TXSSAR Past President Jim Jones, Peter Goebel, Carl Jacobs (CA), NSSAR President General Larry Magerkurth, TXSSAR President William Marrs, Marvin Morgan, First Lady Barbara Majerkurth, Mike Bailey, Tom Green, TX First Lady Sylvia Marrs, Susanne Fife, Randy Brown (barely see), National Color Guard Commander Mike Tomme Front Row Knelling: Billie Brock, Larry Stevens, Barbara Stevens, Ray Cox, Carl Hill, Cilla Tomme, Dianne Jones.

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## The Battle for Carolinas—Part VI— Guilford Courthouse, March 15<sup>th</sup>, 1781

**Marquis deMarquis de Chastellux**, “Travels in America in the years 1780, 1781 and 1782”, published 1786, A Paris, page 400. *“Now let us reflect on the fortunes of war, and recall that two months after the victory won by 800 militia over 1200 veteran troops, General Nathaniel Greene—after having collected nearly 5000 men, half militia, half Continentals, chosen and excellent position (Guilford Courthouse, North Carolina), and employed all resources of military art—was beaten (March 15, 1781) by 1800 men, was abandoned by his militia, and forced to limit all his glory to making the English pay dearly for the field of battle, which the rest of the troops defended foot by foot and yielded only with reluctance.”*

**Horace Walpole, Earl of Oxford**, “*Lord Cornwallis’ triumphs have increased our losses, without leaving any hopes.*” And, “*Lord Cornwallis had conquered his men out of shoes and provisions, and himself out of troops.*”

**Charles James Fox, British Statesmen**, echoes Plutarch, Greek Roman Citizen, “*...another such victory would ruin the British Army.*”

**Before Guilford- Prologue:** After Daniel Morgan crossed the swollen Yadkin River on February 3, 1781, to avoid being caught by General Charles O’Hara’s cavalry, General Nathaniel Greene switched his direction of march covering forty-seven miles in forty-eight hours reaching Guilford Courthouse on February 6<sup>th</sup>. Here he waited for General Isaac Huger to rejoin him. While waiting Green studied the site of Guilford Courthouse, the lack of open spaces, the dense woods, the deep ravine with a meadow, a place Cornwallis could not fight in formation. His officers listened to his plan and disagreed. Now was not the time. Agreeing, Greene continued his retreat to Virginia. Re-supplying and adding to his force, Greene recrossed the Dan into North Carolina on February 23 and headed south arriving in the Guilford Courthouse on March 5<sup>th</sup> or 6<sup>th</sup> camping at Reedy Fork. Skirmishing with Cornwallis’ force had all ready started with the red-headed scot of Kings Mountain, Colonel William Campbell with his Virginia militia, joined by Colonels Henry Lee and William Washington, and fought a brief battle on Reedy Creek at Witzell’s Mills.

The next eight days saw little or no action. During this time Van Steuben’s Continentals, 400 strong arrived under Col. William Campbell. The Virginia militia arrived, almost 1,700, commanded by Gen Edward Stevens and Col Robert Lawson. Two brigades on North



Carolina Militia totaling 1,060 arrived commanded by Brig Gen John Butler and Col Pinketham Eaton. Green now had 4,400 men he could count on to do battle. Lord Cornwallis was aware of Greene’s strength but was not dismayed. His force consisted of 1,900 British veterans which he believed were more than a match to the rebels.

**Battle of Guilford Courthouse:** Greene moved his force into a defensive position at Guilford Courthouse on March 14<sup>th</sup>. Similar to Morgan at Cowpens, he deployed his force in three lines on both sides on New Garden Road. Unlike Morgan at Cowpens, Greene would not be able to see his first or second lines due to the dense woods and the ravine. The first line of about 1,000 North Carolina Militia was commanded by General John Butler and Col Picketham Eaton, who were flanked by veterans commanded by Col Henry Lee and Col William Washington. Greene asked the North Carolinians to fire twice and retreat to the second line. The second line of 1,200 Virginia militiamen were deployed in the woods 300 yards behind the first line. His third and his strongest line placed 550 yards behind the second would be Continentals, 778 from Virginia commanded by Isaac Huger and 630 from Maryland under Otho Williams. Greene held no troops in reserve.

About noon, March 15<sup>th</sup>, Cornwallis arrived at Little Horsepen Creek on New Garden Road. He was able to see the open field. The road before him sloped down toward a creek and behind began to rise. There were open fields on each side but at the top the road entered dense forest. In front of the forest was North Carolina militia waiting behind a rail fence. General Butler was west of New Garden Road with about 500 militia, flanked by Colonel Washington’s infantry units under, Col. Charles Lynch and his Virginia riflemen and under Capt. Robert Kirkwood, the Delaware light infantry, and on the outside Washington’s mounted dragoons. Col. Eaton on the West with about 500 militiamen, flanked by Campbell, a Legion of Lee’s Infantry, and Lee and his cavalry. Two six pound cannon were placed on the road commanded by Captain Anthony Singleton.

Cornwallis had divided his main force into two wings under Major Gen Leslie with the 71<sup>st</sup> Fraser’s Highlanders and the Hessian Regiment van Bose on his right. The left was under Lt Col Webster, the 23<sup>rd</sup> Regiment of Royal Fusiliers and the 33<sup>rd</sup> Regiment. In reserve and directly behind, Cornwallis placed Captain Roeder’s Jaeger Detachment, the 2nd Guards Battalion, and the grenadier and light infantry companies. Tarleton was held back in the column. Gen

(Continued on page 7)

Greene's first line heard the British marching, drums and fifes, the bright red coats, brass, polished musket barrels gleamed in the noonday sun as the British emerged in sight. Parading, orderly, they filed left and right, halting in three deep formation facing the Americans. American artillery Captain Singleton fired the six pounder when the British came in range. MacLeod answered firing the British three pounders. Firing continued for about 30 minutes with little effect on either side.

Cornwallis ordered the attack at 1:30 PM and the British marched straight across the quarter of mile of open fields. The Americans opened fire when the British were 150 yards; too far for great effect and not a solid volley like the Continentals but sporadic. While gaps were opened in the British line, they were filled and they kept moving forward. The British reached their musket range, snapped to a halt, and fired their first volley. Col Webster ordered bayonets and continued to march at the Carolinians to 40 yards of the Americans position. Muskets aimed right at the British and the British aimed at them. After a long pause, both fired. Without waiting, the North Carolinians ran from the field leaving only Col Lee and Col Washington and their men on the field. Many had abandoned their muskets, gear, and left the battle entirely. Lee wrote "Every effort was made by Gen. Butler and Eaton .... and many officers of every grade to stop unaccountable panic for not a man of the corps had been killed or even wounded."

Lee and Washington's men, Kirkwood and his Delaware Company and Lynch, Campbell's riflemen and Lee's infantry, continued the fight from the outside with devastating effect. The British were held for a time until Webster directed the 33<sup>rd</sup> and the Jaegers to attack Kirkwood and Lynch. Leslie did the same, sending von Bose and 71<sup>st</sup> at Campbell and Lee's infantry. O'Hara filled the gap in the middle when seeing Webster's and Leslie actions. Washington shielded Kirkwood and Lynch as they retreated to the 2<sup>nd</sup> line. Lee was not as fortunate. Even with the addition of Forbes Company of North Carolinians, who did not leave the field, he and Campbell's riflemen were assailed by the British 1<sup>st</sup> and von Bose and pushed further and further to the left. Lee was now fighting his own war, not able to rejoin Greene. The British pressed on toward the 2<sup>nd</sup> line, down through the woods meeting heavy resistance. They no longer fought from formation and the Virginians inflicted heavy casualties firing from behind trees. The weight of Webster's and O'Hara's advance became centered on the Virginians under Edward Stevens. The pressure was too much and Stevens' brigade was forced back on the right while his left held firm like a swinging door, opening to the right until the line broke. The rest of the Virginia line held firm, withstanding three bayonet charges and holding for a time against the royal Welsh Fusiliers, the 23<sup>rd</sup> and the 71<sup>st</sup>.

Webster taking stock of the situation noticed the way to the right was wide open. He led the 33<sup>rd</sup>, the light infantry, and the Jagers out of the woods and attacked Greene's best troops, the 3<sup>rd</sup> line, the Continentals of the 1<sup>st</sup> Maryland and the 5<sup>th</sup> Virginia and two six pound cannon. The continentals on the high south ground near Reedy Creek road heard sounds of the fight growing louder and then saw the Virginians coming out of the woods, at first a trickle and then a mass in two columns, one in Continental uniform and one in home gray spun and dark brown hunting shirts.

It was Kirkwood's Delaware Continentals and Lynch's Virginia riflemen. They fell in on the right side of Col Green's 4<sup>th</sup> Virginia. Webster emerged from the woods, reformed his troops, and sent the 33 against the 1<sup>st</sup> Maryland and the jagers toward Howe's 5<sup>th</sup> Virginia. The continentals held firm and when Webster reached 30 paces they fired a devastating volley into the advancing British leaving a swathe of dead and wounded. Immediately the continentals charged with bayonets driving the British back to the bottom of the ravine. The British fled into the woods carrying a wounded Webster with them.

While Webster was being driven back, Leslie's attack was weakening Lawson's Virginia militia in the second line. Seeing his advantage, he pulled his 23<sup>rd</sup> and 71<sup>st</sup> regiments away and prepared to attack Greene's third line of defense. Cornwallis restored his front line to launch his main attack upon Greene. A wounded General O'Hara was replaced by Lt. Col. James Stuart to command the 2<sup>nd</sup> Battalion. Instead of waiting for the 23<sup>rd</sup>, 71<sup>st</sup>, and the grenadiers to join him, Stuart attacked Ford's 5<sup>th</sup> Maryland and the two six pounders. The Maryland troops were new recruits and saw Stuart's force coming right at them with bayonets. They fired a quick volley and fled. Stuart's Guards dashed ahead and captured Singleton's two cannon. Stuart continued and was hit on both sides by counter attacks. Observing that he may need to retreat to save his Continentals, Greene ordered Col Green of the 4<sup>th</sup> Virginia to pull back to cover a general retreat.

Col Washington observed the collapse to the Maryland 5<sup>th</sup> and charged with his entire cavalry force into the rear to Stuart's guard sabering their way through. Gumby, who had returned his force back to the original line, received news of Stuart's breakthrough. He turned his 1<sup>st</sup> Maryland and drove into Stuart's Guard. The fight became a melee. Captain Smith of Maryland cut down Stuart with his sword. Cornwallis observing the field did the unthinkable. He directed McLeod to fire his cannon into the melee. When the smoke cleared the Guard and regained their own lines. Gen Greene assessed his situation and decided to retreat at 3:30 PM.

Cornwallis's losses were tremendous, 532 officers and men of which 143 were dead. Greene lost 78 killed. Greene had left the field to save what forces he had for another day. Horace Walpole predicted that the battle boded ultimate defeat for the British in America. The Battle for the Carolinas was over for Cornwallis. He retreated and then he headed for Yorktown. But the Battle in the Carolinas would continue.

*Larry G. Stevens*

#### References:

1. "Battles of the Revolutionary War, 1775-1781" by W. J. Wood, 1990, De Capo Press
2. "The Road to Guilford Courthouse, the American Revolution in the Carolinas" by John Buchanan, 1997, John Wiley & Sons
3. "The Cowpens-Guilford Courthouse Campaign", by Burke Davis, 1962, University of Penn. Press
4. *A Tour of Guilford Courthouse Battleground on July 13, 2011*, by Larry Stevens



*(Continued from page 1)*

first written into federal law in 1845 and today the term appears in 3 U.S.C. § 4, in the section heading and in the text as "college of electors."

### Original Plan

Article II, Section 1, Clause 2 of the Constitution states:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.



Article II, Section 1, Clause 4 of the Constitution states:

The Congress may determine the Time of choosing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

Article II, Section 1, Clause 3 of the Constitution provided for the original fashion by which the President and Vice President were to be chosen by the electors. In the original system, the candidate who received both the most votes and more than half of all votes cast would become President, the candidate receiving the second most votes would become Vice President.

The design of the Electoral College was based upon several assumptions and anticipations of the Framers of the Constitution:

1. Each state would employ the district system of allocating electors.
2. Each presidential elector would exercise independent judgment when voting.
3. Candidates would not pair together on the same ticket with assumed placements toward each office of President and Vice President.

The system as designed would rarely produce a winner, thus sending the election to Congress.

On these facts, some scholars have described the Electoral College as being intended to nominate candidates from whom the Congress would then select a President and Vice President.

Each state government is free to have its own plan for selecting its electors. Several different methods are described at length below.

### Breakdown and Revision

The emergence of political parties and nationally coordinated election campaigns soon complicated matters in the elections of 1796 and 1800. In 1796, Federalist Party candidate John Adams won the presidential election; by finishing in second place, Democratic-Republican Party candidate Thomas Jefferson, the Federalists' opponent, became the Vice President. This resulted in

the President and Vice President not being of the same political party.

In 1800, the Democratic-Republican Party again nominated Jefferson for President, and also nominated Aaron Burr for Vice President. After the election, Jefferson and Burr both obtained a majority of electoral votes, but tied one another with 73 votes each. Since ballots did not distinguish between votes for President and votes for Vice President, every ballot cast for Burr technically counted as a vote for him to become President, despite Jefferson clearly being his party's first choice. Lacking a clear winner by constitutional standards, the election had to be decided by the House of Representatives pursuant to the Constitution's contingency election provision.

Having already lost the presidential contest, Federalist Party Representatives in the lame duck House session seized upon the opportunity to embarrass their opposition and attempted to elect Burr over Jefferson. The House deadlocked for 35 ballots as neither candidate received the necessary majority vote of the state delegations in the House (the votes of nine states were needed for an election). Jefferson achieved electoral victory on the 36th ballot, but only after Federalist Party leader Alexander Hamilton—who disfavored Burr's personal character more than Jefferson's policies—had made known his preference for Jefferson.

Responding to the problems from those elections, the Congress proposed the Twelfth Amendment in 1803—prescribing electors cast separate ballots for President and Vice President—to replace the system outlined in Article II, Section 1, Clause 3. By June 1804, the states had ratified the amendment in time for the 1804 election.

### Fourteenth Amendment

Section 2 of the Fourteenth Amendment allows for a state's representation in the House of Representatives to be reduced to the extent that state unconstitutionally denies people the right to vote.

On May 8, 1866, during a debate on the Fourteenth Amendment, Thaddeus Stevens, the leader of the Republicans in the House of Representatives, delivered a very important speech on the amendment's intent. Regarding Section 2, he said:

The second section I consider the most important in the article. It fixes the basis of representation in Congress. If any State shall exclude any of her adult male citizens from the elective franchise, or abridge that right, she shall forfeit her right to representation in the same proportion. The effect of this provision will be either to compel the States to grant universal suffrage or so shear them of their power as to keep them forever in a hopeless minority in the national Government, both legislative and executive."

*(Continued on page 9)*



*(Continued from page 8)*

Federal law (2 U.S.C. § 6) imposes a de jure mandate for the reduction of a state's representatives to Congress (and thus its Electoral College membership) should the right to vote at any election "named in the amendment to the Constitution, article 14, section 2" be denied or abridged.

### **The Bayh-Celler Amendment**

The closest the country has ever come to abolishing the Electoral College occurred during the 91st Congress. The presidential election of 1968 ended with Richard Nixon receiving 301 electoral votes to Hubert Humphrey's 191. Yet, Nixon had only received 511,944 more popular votes than Humphrey, equating to less than 1% of the national total. George Wallace received the remaining 46 electoral votes with only 13.5% of the popular vote.

Representative Emanuel Celler, Chairman of the U.S. House of Representatives Judiciary Committee, responded to public concerns over the disparity between the popular vote and electoral vote by introducing House Joint Resolution 681, a proposed Constitutional amendment which would have abolished the Electoral College and replaced it with a system wherein the pair of candidates who won at least 40% of the national popular vote would win the Presidency and Vice Presidency respectively. If no pair received 40% of the popular vote, a runoff election would be held in which the choice of President and Vice President would be made from the two pairs of persons who had received the highest number of votes in the first election. The word "pair" was defined as "two persons who shall have consented to the joining of their names as candidates for the offices of President and Vice President."

On April 29, 1969, the House Judiciary Committee voted favorably, 28–6, to approve the proposal. Debate on the proposal before the full House of Representatives ended on September 11, 1969 and was eventually passed with bipartisan support on September 18, 1969, being approved by a vote of 339 to 70.

On September 30, 1969, President Richard Nixon gave his endorsement for adoption of the proposal, encouraging the Senate to pass its version of the proposal which had been sponsored as Senate Joint Resolution 1 by Senator Birch Bayh.

In its October 8, 1969 edition, the New York Times reported that 30 state legislatures were "either certain or likely to approve a constitutional amendment embodying the direct election plan if it passes its final Congressional test in the Senate." Ratification of 38 state legislatures would have been needed for adoption. The paper also reported that 6 other states had yet to state a preference, 6 were leaning toward opposition and 8 were solidly opposed.

On August 14, 1970, the Senate Judiciary Committee sent its report advocating passage of the proposal to the full Senate. The Judiciary Committee had approved the proposal by a vote of 11 to 6. The six members who opposed the plan, Democratic Senators James Eastland of Mississippi, John Little McClellan of Arkansas and Sam Ervin of North Carolina along with Republican Senators Roman Hruska of Nebraska, Hiram Fong of Hawaii and Strom Thurmond of South Carolina, all argued that although the present system had potential loopholes, it had worked well throughout the years. Senator Bayh indicated that supporters of the measure were about a dozen votes shy from the

67 needed for the proposal to pass the full Senate. He called upon President Nixon to attempt to persuade undecided Republican Senators to support the proposal. However, Nixon, while not reneging on his previous endorsement, chose not to make any further personal appeals to back the proposal.

Open debate on the proposal finally reached the Senate floor on Tuesday, September 8, 1970, but was quickly faced with a filibuster. The lead objectors to the proposal were mostly Southern Senators and conservatives from small states, both Democrats and Republicans, who argued abolishing the Electoral College would reduce their states' political influence.

On September 17, 1970, a motion for cloture, which would have ended the filibuster, failed to receive the 67 votes, or two-thirds of those Senators voting, necessary to pass. The vote was 54 to 36 in favor of the motion. A second motion for cloture was held on September 29, 1970, this time failing 53 to 34, or five votes short of the required two-thirds. Thereafter, the Senate Majority Leader, Mike Mansfield of Montana, moved to lay the proposal aside so that the Senate could attend to other business. However, the proposal was never considered again and died when the 91st Congress officially ended on January 3, 1971.

### **Modern Electoral College Mechanics**

The constitutional theory behind the indirect election of both the President and Vice President of the United States is that while the Congress is popularly elected by the people, the President and Vice President are elected to be executives of a federation of independent states.

In the Federalist No. 39, James Madison argued that the Constitution was designed to be a mixture of state-based and population-based government. The Congress would have two houses: the state-based Senate and the population-based House of Representatives. Meanwhile, the President would be elected by a mixture of the two modes.

Additionally, in the Federalist No. 10, James Madison argued against "an interested and overbearing majority" and the "mischiefs of faction" in an electoral system. He defined a faction as "a number of citizens whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community." Republican government (i.e., federalism, as opposed to direct democracy), with its varied distribution of voter rights and powers, would countervail against factions. Madison further postulated in the Federalist No. 10 that the greater the population and expanse of the Republic, the more difficulty factions would face in organizing due to such issues as sectionalism.

### **Reminders:**

The TXSSAR State Convention will be held in San Antonio March 23-25, 2012 at the Airport Hilton. I know several Piney Woods members will be in attendance.

The 122nd National Congress will be held in Phoenix July 7-11, 2012.

*John Beard*  
*President*