

Madam Speaker, Jorge Nuñez left us a priceless legacy to honor, to continue to build a better world. With that, I ask my colleagues to join me in remembering and celebrating the life of Jorge Nuñez.

#### HONORING THE CAREER OF LEROY JACKSON

#### HON. TED LIEU

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 29, 2020*

Mr. TED LIEU of California. Madam Speaker, I rise to celebrate the career of LeRoy Jackson who is retiring from his position as City Manager of Torrance, California at the end of September 2020. LeRoy has served the city of Torrance for 54 years and is one of the longest serving city managers in the state of California and the country. I had the honor of working with LeRoy when I served on the Torrance City Council. Torrance is a better place to live, work and play because of LeRoy's distinguished service.

LeRoy is a native Californian who has lived in Torrance since 1967 and graduated from California State University, Long Beach with a degree in Political Science and Public Administration. He first started his career serving Torrance in 1966 as a Personnel Analyst. After serving in various positions on the City Manager's staff, he was appointed as the city's fourth City Manager in 1983 and has spent 37 years serving in that position.

As City Manager he helps lead a city of over 146,000 people and oversees ten departments with over 2,000 employees and a budget exceeding \$320 million. In his five decades serving Torrance, Leroy has helped the city grow and thrive through multiple recessions and served alongside numerous mayors, council members and department heads.

Torrance Mayor Patrick Furey stated that LeRoy's "thoughtful leadership, fiscal foresight and dynamic approach to city planning have helped groom our City's strong executive staff." Former Mayor Frank Scotto said, "the key to his longevity is that he's exceptionally good at seeing the best things in other people and getting good people around him." LeRoy's management style has helped the city succeed throughout the decades he has served Torrance.

LeRoy is confident that the organization he has helped create will continue to serve Torrance well. I would like to thank LeRoy for his incredible public service, and wish him, his wife Connie and their family all the best.

#### HONORING IVETTE DOMINGUEZ DRAWE, OWNER AND PRESIDENT OF ALPINE BUICK GMC

#### HON. JASON CROW

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 29, 2020*

Mr. CROW. Madam Speaker, it is my honor today to recognize the accomplishments of Ms. Ivette Dominguez Drawe who will be honored by The Chamber of Northwest Douglas County as a "Woman Who Soars."

Ms. Dominguez Drawe is an outstanding businesswoman. She is one of just 13 His-

panic female car dealership owners among thousands of General Motors dealerships nationwide. Her first location, opened in Denver in 2007, consistently outperforms any other Buick GMC dealership in Denver.

In 2017 and 2018, Ivette acquired struggling dealerships in Illinois and quickly turned them into thriving, profitable businesses. She purchased Alpine Buick GMC South in late 2018 and Post Oak Toyota in late 2019. In Summer 2020, she will officially open Alpine Buick GMC's hallmark location in Douglas County, Colorado.

Ivette currently serves on the Denver Metro Chamber of Commerce Board, on the Habitat for Humanity of Metro Denver Board, and is immediate past chair of GM's Minority Development Dealership Council. She also supports local women and families through her dealership's Alpine Cares program, which grants up to \$15,000 per year to organizations such as the Colorado Ovarian Cancer Alliance and is a sponsor of Habitat for Humanity annual builds. Ivette and Alpine Buick GMC are also longtime supporters of Children's Hospital Colorado.

A tireless volunteer, advocate, and community supporter, I can think of few others more deserving of this honor and I congratulate Ms. Dominguez Drawe for being recognized as a "Woman Who Soars."

#### RECOGNIZING HYDROCEPHALUS AWARENESS MONTH

#### HON. LLOYD DOGGETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 29, 2020*

Mr. DOGGETT. Madam Speaker, I rise today to recognize Hydrocephalus Awareness Month. Every September patients, caregivers and their families come together throughout the nation in support of the more than 1,000,000 people of all ages living with hydrocephalus in the United States. As co-chair of the Congressional Pediatric and Adult Hydrocephalus Caucus, I believe Congress has an important role to play in both raising awareness of this condition, as well as crafting policies that result in better treatments and potentially a cure. I urge my colleagues to join the caucus to learn more about this devastating condition.

Anyone can develop hydrocephalus, an abnormal accumulation of cerebrospinal fluid in the brain, at any time. This can include premature babies, active duty service members, veterans, and seniors. Individuals can also be born with hydrocephalus, develop it as part of the aging process, or acquire it as a result of infections, brain tumors or traumatic brain injuries, among other causes. The only present treatment for this condition is brain surgery.

From children to veterans, the prevalence of this condition is reflected in my own district. The physicians and staff at the Children's Hospital of San Antonio perform the brain surgeries necessary to treat many of the one in 770 babies across the country who develop hydrocephalus per year. Nationwide, these cases alone cost the U.S. health care system \$2 billion per year. Veterans and active military personnel, such as those stationed at Joint Base San Antonio, are also disproportionately affected. Medical researchers

believe that two-thirds of our nation's current and former military service members suffering from moderate to severe traumatic brain injuries are at risk of developing hydrocephalus.

In the midst of this pandemic, it is now more important than ever to improve the federal government's partnership with the hydrocephalus community. Many individuals with hydrocephalus live with other serious medical comorbidities, putting them at a higher risk for severe illness from COVID-19. We must do all we can to help patients, health care professionals and families as they struggle to maintain and improve quality of life during these challenging times.

I urge my colleagues to join me in recognizing Hydrocephalus Awareness Month and the 1 million Americans living with hydrocephalus by joining the Congressional Pediatric and Hydrocephalus Caucus.

#### RECOGNIZING THE 50TH ANNIVERSARY OF THE DEFEAT OF ABOLISHING THE ELECTORAL COLLEGE

#### HON. JAMIE RASKIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 29, 2020*

Mr. RASKIN. Madam Speaker, in September 1969, Senator Birch Bayh, Chairman of the Senate Judiciary Subcommittee on Constitutional Amendments, introduced a constitutional amendment to abolish the Electoral College. The amendment passed with overwhelming bipartisan support in the House and with support from President Richard Nixon. But on this day 50 years ago, the amendment was blocked by a filibuster in the Senate.

The author of two successful and important constitutional amendments (the 25th and 26th), Senator Bayh was an eloquent and learned champion of sweeping institutional reform to make sure that the Constitution safeguards democratic principles rather than antiquated structures rooted in an undemocratic past. At this moment of profound constitutional stress and recurring global and domestic threats to democratic values and practices, we should remember the Senator's passionate commitment to building democratic self-government that serves as an instrument of the common good. Senator Bayh recognized that, in order to make sure that all votes count in our presidential elections and all votes count equally, it will be necessary to abolish the electoral college—or at least transform it through the National Popular Vote interstate agreement. I was honored to work with Senator Bayh, who was a great gentleman and patriot, during my time as a State Senator and he definitely helped us to make Maryland the first state to pass the National Popular Vote Agreement.

Madam Speaker, I wish to include in the RECORD a speech by New York Times Editorial Board Member Jesse Wegman for the annual Birch Bayh Lecture given at University of Indiana McKinney School of Law in honor of Senator Bayh's historic efforts towards electoral reform and in recognition of the melancholy day of defeat of the popular vote in the Senate on September 29, 1969.

## THE BIRCH BAYH LECTURE

(By Jesse Wegman)

I'd like to thank everyone for having me today: the McKinney School of Law community, Dean Bravo, Assistant Dean MacDougall and, of course, the Bayh family, especially Kitty Bayh, who has been so generous with her time, her assistance and her memories over the past few years.

I am honored to give the first Birch Bayh lecture since his passing in March of last year. And while I'm sad not to be with you in person, I think it's very appropriate for this talk to be taking place on September 17, Constitution Day—the day in 1787 that the framers in Philadelphia signed the charter they had spent the past four months drawing up, arguing about, threatening to walk out over—and yet still, in the end, agreeing to sign and take the next step in this audacious new experiment in self-government.

It's appropriate because in any conversation about the nation's founders, we must include the name Birch Bayh. He shares with James Madison, the father of the Constitution, the distinction of being the only Americans to have authored more than one successful amendment to that document. This is not an easy task. More than 11,000 amendments have been proposed over the centuries, and only 27 have been adopted.

I will note that when Birch Bayh pushed through his first amendment, the 25th, he was just 36 years old—the same age Madison was that summer in Philadelphia.

So, now that we've put Senator Bayh in his proper place in American history, I'd like to begin by reading you a short section of my book. (To be fair, this is not included in the book, although as I'll explain, I really wish it had been.)

The Aero Commander 680, a twin-engine prop, descended through heavy fog as it approached Barnes Airport, in western Massachusetts. It was late Friday evening, June 19, 1964. On board were two junior United States senators, Ted Kennedy of Massachusetts and Birch Bayh of Indiana, along with Bayh's first wife, Marvella, and an aide to Kennedy named Ed Moss.

The four were en route from Washington, D.C., to the Massachusetts Democratic Convention in Springfield, where Bayh was to give the keynote speech. They had planned to leave the capital earlier in the afternoon, but were held up by the Senate's long-delayed vote on the landmark Civil Rights Act, which finally passed at around 7:40 p.m. (Both Kennedy and Bayh voted yes.)

By the time the Aero Commander took off, the day's calm weather had turned. Thunderstorms dotted the route, and the pilot, Ed Zimny, had to weave his way around the rain and winds. As the plane descended, it was knocked around like a piñata. "It seemed so dark and foggy," Marvella told a reporter a few days later. "I whispered to my husband, 'Aren't we in trouble?'" He replied, "Oh, no, we're doing fine."

As soon as they broke beneath the cloudline at 600 feet, it was clear something was very wrong. Bayh looked out the window and saw a black line approaching. "I thought it was another storm, but it was the tops of trees," he said.

They had flown directly into an apple orchard. The plane skidded along "like a toboggan," as Kennedy put it, until the left wing snagged on a larger tree, cartwheeling the aircraft to the left and shearing off parts of both wings. The plane came to a stop on a hill three miles short of the runway, its illuminated beacon slowly spinning, its nose crumpled like a soda can.

"I remember mosquitoes coming in and absolute silence," Kennedy recalled. The silence was broken by the sound of Marvella's

voice calling out for her husband, who had managed to free himself from his seat belt and escape through a broken window. Bayh's stomach was badly bruised and his right arm was numb, but with his left arm he dragged Marvella out through the window and laid her on the grass. He then returned to the plane and called out, "Are you all right up there?" Kennedy could hear, but he couldn't move or answer.

Bayh headed off to find help, then became aware of the smell of gasoline. "The plane might catch on fire," he said, running back. Hearing this, Kennedy found his voice. "I'm still alive!" he cried. Bayh reached in and maneuvered him out through the window, probably saving the 32-year-old's life.

"It's not the kind of crash you're supposed to walk away from," Bayh told reporters afterward.

Years later, he still couldn't believe what he'd done. "We've all heard adrenaline stories about how a mother can lift a car off a trapped infant," he said. "Well, Kennedy was no small guy, and I was able to lug him out of there like a sack of corn under my arm."

After extracting his wife and his fellow lawmaker, Bayh limped down to the road and tried to flag down a passing car. Nine drove by before a pickup truck stopped. Ambulances soon followed, and took the passengers to a nearby hospital. Zimny, the pilot, was dead on arrival. Kennedy's aide, Ed Moss, died a few hours later. Kennedy's back was broken in six places, his lung was collapsed and he had significant internal bleeding. He would remain in the hospital for six months, much of it in traction. Birch and Marvella Bayh were shaken and bruised, but basically unharmed.

Okay, so I thought that was a fun way to start a chapter: a plane crash! Two US senators! Dragging people to safety!

My editor read it and said, no.

As anyone who's a writer knows, "No" is often the most painful and yet most necessary word you can hear. So naturally, I pushed back, pleading to keep this story in. My editor said, Jesse, all the parts of your book need to contribute to the central argument. This does not do that. It's not relevant. You know how it would be relevant? If Birch Bayh crawled out of the smoking wreckage and said, by God, I have to abolish the Electoral College!

It was hard to accept, but he was right. All stories need to be streamlined, to be directed so the listeners can follow along. In that regard, editors are essential. They help you find that central thread and follow it, always focusing on what's important.

The problem for Birch Bayh was that everything was important. For him, all the parts *did* contribute to the central argument.

Imagine an editor confronting this: The youngest Speaker in Indiana history; the author of two constitutional amendments; the Senate sponsor of the Equal Rights Amendment; the author of Title IX; the Bayh-Dole Act; and on and on and on.

And on top of that, he literally walked away from a plane crash? I mean, come on. He pulled his wife out of the burning wreckage. He pulled out Ted Kennedy. He saved lives.

An editor would say, stop! Hold up! No one will be able to follow all this. Cut.

Birch Bayh didn't cut. He just kept adding. His life filled with a spirit of democracy and inclusion, a commitment to a better, fairer, more just, more humane, more equal America. So while I'm a firm believer in strong editing, I'm grateful Birch Bayh didn't have an editor.

And I keep coming back to that night in June 1964.

The accident made the front page of the next morning's New York Times, right next

to the lead report on the Senate's passage of the civil-rights bill. The headline read: "Senator Kennedy Hurt In Air Crash; Bayh Injured, Too."

Of course Kennedy got top billing. He was the brother of a fallen president and a rising member of the nation's most prominent political dynasty. Bayh, despite his late-night heroics, was unknown to most Americans. At 36, he was not yet two years into his first term as senator. Had he died that night, like most people do when their airplane crashes, he would have been remembered as a genial, progressive Indiana politician who got along well with his colleagues. But he didn't die. And the fluke of his survival turned out to be one of those moments on which history pivots. Over the decade following the crash, Bayh would find himself at the center of the nation's biggest constitutional debates, and in the process he became one of the most influential lawmakers in American history.

As I said, Birch Bayh holds a rare distinction: he is the only American other than James Madison to have spearheaded multiple successful amendments to the Constitution. He has two under his belt so far: the 25th, adopted in 1967 to lay down clear rules for replacing a president or vice president who dies, resigns or becomes unable to govern; and the 26th, adopted in 1971 to lower the voting age to 18 from 21. He may yet to claim credit for a third—the Equal Protection Amendment, which would prohibit discrimination on the basis of sex, and for which Bayh was the lead Senate sponsor. With his help, the ERA passed Congress in 1972. Last year it got its 38th state ratification—enough (in theory, at least) for it to become the 28th Amendment.

Bayh's almost unequalled record of constitutional reform speaks for itself, but the amendment that would have had the most profound effect on the structure of American government and society was the one he failed to pass—the one that got away, as his staffers called it.

Between 1966 and 1970, the young Indiana senator led a vigorous, high-profile campaign to abolish the Electoral College and elect the president by direct popular vote—a goal he came closer to achieving than anyone since the 1787 convention in Philadelphia.

Back then, it was a Pennsylvania delegate named James Wilson, the most respected lawyer in the country, who pushed throughout the summer for a direct vote. Like Wilson, Senator Bayh fought hard and came up short. Like Wilson, he was blocked by southern politicians intent on protecting their outsized power, which they had seized and maintained through two centuries of systematic racial violence and subjugation.

Unlike Wilson, however, Senator Bayh didn't start out as a believer in the popular vote. He favored modest tweaks to the Electoral College, not a complete overhaul. Then he learned more about the College's historical unfairness and the harms it continued to inflict on American politics. Within months, he became a convert to the cause of a direct presidential election. And but for a handful of Senate votes one late September afternoon in 1970, he may well have converted the nation.

Did you know about any of this? I didn't. Nor did most of the people I've asked over the last few years, many of whom were politically active adults in the late 1960s. What explains this mass amnesia? An effort like Bayh's on an issue like the Electoral College should be burned into America's history books. But like Wilson's valiant but unsuccessful push for a popular vote in Philadelphia, Bayh's has almost completely disappeared down the public memory hole. I'd like to pull it back up and see what it can teach us.

I've spoken about Birch Bayh's astonishing record of accomplishment. But as someone who grew up following Boston sports in the 1970s and 1980s, I have always been less attuned to the successes than to the failures, to the near misses.

So in this talk I want to focus on the one that got away: The Electoral College amendment.

Obviously this matters to me because I wrote a book about it. But, if I may, I also feel a sort of kinship with Senator Bayh. He did not begin as a radical constitutional reformer. After several years, however, he found himself where virtually everyone who spends that much time studying the electoral College does: as an unabashed advocate for a popular vote.

In following his journey of discovery into the way we choose our president, I found myself on a similar track: one of skepticism that transformed into full-on belief.

I will start in the early 1960s, with Birch Bayh as a first-year senator from Indiana looking to make a name for himself in the world's greatest deliberative body. I'm going to tell a shorter version of the story that's in Chapter 5 of my book:

Despite its important-sounding name, the Senate Judiciary Committee's Subcommittee on Constitutional Amendments was a sleepy affair in 1963.

In theory it had a significant role to play—drafting amendments to the Constitution and introducing them into Congress to be voted on—but in practice the subcommittee had done little of note since the days of Prohibition. When its longtime chair, Estes Kefauver, died of a heart attack that August, no one immediately stepped up to take his place. The job wasn't that appealing.

"It was a graveyard," Bayh recalled years later. "How often do you amend the Constitution, for heaven's sakes?" (For the record: 27 times, the first 10 of which, known collectively as the Bill of Rights, were adopted almost before the original Constitution's ink was dry. Since then, we've ratified a new amendment on average once every 13 years.)

Bayh also knew that sitting on a committee was the best way for a young senator to gain power and influence. By the middle of 1963, only a few months after getting elected to the Senate for the first time, Bayh had maneuvered his way onto the Judiciary Committee. It was a prestigious post that involved interviewing Supreme Court nominees, among many other high-profile responsibilities. The problem for Bayh was that he didn't want to be just a member of a gang; he wanted to lead one, and all the Judiciary's subcommittee chairmanships were spoken for. Then Estes Kefauver died.

Bayh didn't volunteer to take over Kefauver's seat at first, because it wasn't being offered. James Eastland, the Judiciary Committee chairman, had begun the process of shuttering the subcommittee entirely. By chance, Kefauver's former chief of staff knew of Bayh's ambitions and suggested that he go to Eastland in person and make the case for saving it. In a 2009 interview, Bayh remembered his first meeting with Eastland, a staunch segregationist from Mississippi:

So I got an appointment and saw Senator Eastland. He got a little scotch and ice. I didn't really drink at the time, but I may have taken a sip or two of it. And I made my pitch: "Mr. Chairman, when I went to law school, constitutional law was my most exciting subject. Boy, it would be my dream come true if I could be Chairman of that Subcommittee."

He said, "Well, Birch, I hope you understand here, but Allen Ellender [a conservative senator from Louisiana] has been giv-

ing us a rough time. I sort of told him I'd close this down. I hope you understand, boy."

I said, "Mr. Chairman, I'd even put one of my own staff people there. It wouldn't cost you a nickel."

"I just made up my mind, Birch. I hope you understand."

"Thank you, Mr. Chairman," and I left.

The next morning, 9:00, my secretary said, "You've got Chairman Eastland on the phone."

"Birch?"

"Yes, Mr. Chairman."

"I want you to be Chairman of that Subcommittee. I think you'd be a good one."

Click.

Whenever else could a plantation owner, one step away from being a slave master, an avowed segregationist, ever do anything to get a little chit with a liberal young turk like me?

If Bayh had any pretensions about the new job, they were snuffed out fast. Eastland, who had apparently taken Bayh's won't-cost-a-nickel promise literally, parked the subcommittee and its small staff in a converted men's room on the third floor of the Capitol building. Jay Berman, an aide and later the senator's chief of staff, described it to me. "It had no windows and it was very small. No claustrophobic could've worked there."

On the plus side, the toilets had been removed.

In politics as in life, everything can change in an instant. Bayh was officially named chair on September 30. Fifty-three days later, President John F. Kennedy was assassinated. And just like that, a graveyard job run out of a bathroom was about to become one of the most important in the country.

Bayh was faced with a suddenly urgent challenge: what to do if a president becomes incapacitated while in office? Previous presidents had informal arrangements in place to deal with such a scenario, but the Constitution itself provided no next steps. It said only that if a president can't serve, the vice president takes over, and any further details can be hammered out by Congress.

The nation was still absorbing the shock of Kennedy's death when Bayh got to work. On December 12, he introduced a resolution to amend the Constitution by adding clear rules for presidential and vice presidential succession in cases of emergency.

Under Bayh's guidance, the bill passed both houses of Congress and went out to the states for ratification. The Twenty-Fifth Amendment went into effect a little more than three years after Bayh first introduced it. It was a remarkable accomplishment for a junior senator who, in the words of a 1970 New York Times profile, "had flunked his bar exam the first time and had practiced law only a couple of months before coming to Washington."

Bayh's success on the Twenty-Fifth Amendment transformed him into a respected lawmaker whose opinions mattered, particularly when it came to the Constitution.

That's why President Lyndon Johnson turned to him for his next big project: amending the Electoral College.

There have been, since the nation's founding, roughly 800 attempts to amend or abolish the Electoral College. With the exception of one—the 12th Amendment—all have failed. So what was Lyndon Johnson trying to do?

He was trying to save the Democratic party from insurgent southerners who were peeling off as the party turned against segregation and toward civil rights. Longtime Democrats like Strom Thurmond in South Carolina were not fans of racial equality, and they were running third-party campaigns to try to undercut the national party.

Across the south, they urged electors to be "faithless"—that is, to break their pledges to vote for the Democratic nominee in favor of third-party segregationist candidates like Harry Byrd. This alarmed the leadership of both major parties, and especially President Johnson, whose support depended on southern Democrats. So he asked Birch Bayh to take the lead on drafting an amendment that would eliminate the risk of faithless electors.

Senator Bayh took up the challenge. In February 1966, he held the subcommittee's first hearing on amending the Electoral College.

Right out of the gate, he shot down any prospect of abolition. "Putting it optimistically," he said in his opening remarks, the chances of Congress passing a popular-vote amendment were "extremely slim, if not hopeless."

And yet, a few months later, after questioning multiple witnesses, reading thousands of pages of archival and statistical documents, Senator Bayh realized he had been wrong. He was aiming too low, getting trapped in the details of endless debates about ratios and percentages. He was missing the bigger picture.

Bayh had come to see, as he would later quote from the historian John Roche, that the College was "merely a jerry-rigged improvisation which has subsequently been endowed with a high theoretical content."

On top of that, the nation in the early 1960s was in the midst of a democratic awakening. From the civil rights movement to the one-person-one-vote cases at the Supreme Court, from the abolition of the poll tax to the Voting Rights Act, America's long history of racial discrimination and exclusion from the ballot box was being challenged like never before. Birch Bayh wasn't just sensitive to all of this, he was energized by it. And when he looked at that bigger picture, the problems with the Electoral College seemed much more serious.

Jay Berman, Bayh's staffer, recalled to me the feeling that emerged after months of hearings. "All of a sudden, you're in the weeds and people are saying, 'You're amending the Constitution for this?' Look, we have fundamental issues here. We've expended so much time and effort to expand the franchise. You've been involved in all these civil rights bills. What are the consequences for the present system if the person with the most votes doesn't win? What was all this about if it doesn't mean that every vote should count?"

On May 18, after months of hearings and expert witnesses and statistical reports, Birch Bayh stood up on the floor of the Senate and gave what I consider one of the strongest and most eloquent arguments for the popular vote in the nation's history. I will quote from it at length, because his words are full of hope and inspiration, and they deserve being repeated.

Mr. President, from the inception of our nation, controversy and complexity has surrounded the question of how to choose the President of the United States.

Indeed, one of the framers of the Constitution, James Wilson, described this problem as "the most difficult of all" to resolve at the Convention. . . .

Bayh acknowledged the hundreds of failed efforts to fix the system, then he said,

Today, Mr. President, the situation is different. Today, for the first time in our history, we have achieved the goal of universal suffrage regardless of race, religion or station in life. . . .

Today, the next logical outgrowth of the persistent and inevitable movement toward the democratic ideal is the popular election

of our national officers—an election in which each person has the right to vote for President without an artificial barrier separating him from the choice of his Chief Executive.

Bayh then noted that the subcommittee had considered many different amendment proposals, before rejecting them all.

It may well be that mere procedural changes in the present system would be like shifting around the parts of a creaky and dangerous automobile engine, making it no less creaky and no less dangerous. What we may need is a new engine, Mr. President, because we are in a new age.

Some may say this proposal is too new, too radical a break with tradition. In all honesty, Mr. President, I was among that number only a few short months ago. Then, we began hearings on the problem. I consulted with scholars in the field. I did a great deal of study and reflection. I came to the conclusion that this idea was not truly a break with tradition at all. It was, in fact, a logical, realistic and proper continuation of this nation's tradition and history—a tradition of continuous expansion of the franchise and equality in voting.

He ran through the list: ending property qualifications and giving the vote to poorer white people; the abolition of slavery and the enfranchisement of blacks . . . of women, of Jews and Catholics . . .

Today, we have witnessed the climax of the long struggle to guarantee Negroes the right to exercise the franchise—the 14th, 15th and 24th Amendments; the Civil Rights Acts of 1957, 1960 and 1964, and the Voting Rights Act of 1965.

In fact, we have only one election remaining, Mr. President, wherein some votes are not equal to others and wherein millions of votes do not count in the final result—and that is in the election of the most powerful political officer in the world, the President of the United States.

It is not radical to suggest that we abolish the Electoral College and elect our President by direct popular vote—no more so than if we suggested the advantages of grounding an open-cockpit biplane in favor of a supersonic jet.

Direct election of the President would make that office truly national. We elect our local official locally; our Congressmen by districts to protect district interests; our Governors and Senators statewide. Why should we not elect the President and Vice President nationally? The President has no authority over state government. He cannot veto a bill enacted by a state legislature. Why then should he be elected by state-chosen electors? He should be elected directly by the people, for it is the people of the United States to whom he is responsible.

Direct election would greatly encourage voter participation. Today, if a state votes traditionally in the column of one party, voters of the other party correctly assume that their vote will count for naught. Under direct election, these votes will be as important as votes cast anywhere else.

In sum, direct popular election brings with it many virtues and no vices; it would substitute clarity for confusion, decisiveness for danger, popular choice for political chance.

Bayh finished with what we would today call the “mic drop”:

James Madison, the father of our Constitution, knew that the President had to be independent of the Congress. He knew, also, that in deciding upon a means of choosing a President some compromise would be reached. But he had his own ideas as to how the President would best be elected.

Madison said that “the people at large . . . was the fittest in itself.”

We are at long last arriving at the place and time in our history where meaning has been brought to the preamble of our Constitution—“We, the People of the United States . . .” Today we are, indeed, “We, the People . . .”

If there was doubt about it in the early years of the Republic, there can be no doubt today. Let us echo Madison. Let us put our trust in the people.

This was the key. More than any political or partisan advantage, Senator Bayh wanted what was best for the American people.

And he people, as it turned out, felt the same way.

On the same day as Bayh's speech, Gallup's first-ever national poll on a direct vote for president found that sixty-three percent of Americans said they favored dumping the Electoral College for a popular vote. Twenty percent opposed it, and 17 percent had no opinion.

Soon the movement had support from across the political spectrum—from the Chamber of Commerce to the League of Women Voters, from organized labor to the American Bar Association. In a report that would later be quoted in the *New York Times*, the ABA called the Electoral College “archaic, undemocratic, complex, ambiguous, indirect, and dangerous.”

The range and depth of support for a popular vote gave Bayh the confidence that he was on the right track. Still, he moved cautiously. As the 1968 presidential race heated up, he pulled back on the popular vote campaign. Merits aside, any debate over how America might choose its president in the future would surely get tangled up in the politics of how America was choosing its president in 1968.

What Bayh couldn't know was how much that year's election—and the collective heart attack it gave the nation—would help his cause.

The 1968 election was primarily between Richard Nixon and Hubert Humphrey. But it was a third-party candidate—George Wallace, the former Alabama governor and arch-segregationist—who nearly managed to deadlock the vote and force Congress to pick the winner. Wallace won the most votes throughout the deep South, and earned 46 electoral votes, the last time any third-party candidate has won any at all. His aim was not to win the election outright, but to prevent either Nixon or Humphrey from winning a majority of Electoral College votes. In that scenario, the Constitution orders the House of Representatives to choose the president, with each state getting a single vote. Wallace thought that if both candidates needed him to help push them over the top, he could make whatever demands he wanted.

Wallace failed in the end. Nixon won a majority of electors. But he succeeded in highlighting just how bizarre and dangerous the Electoral College could be. It was the first time millions of Americans had given the system a thought. The prospect of an unreconstructed racist extorting the presidency horrified them. The best-selling author James Michener wrote a whole book advocating a switch to the popular vote. He called the Electoral College a “time bomb lodged near the heart of the nation.”

Meanwhile, Birch Bayh was riding the wave of the 1968 election, gathering support across the country for a major constitutional reform. By the end of that year, polls showed more than 80 percent of Americans in favor of a national popular vote for president.

In September 1969, the House voted overwhelmingly to abolish the Electoral College and replace it with a direct popular vote. It was a bipartisan effort. Even President

Nixon got on board, and polls of state legislatures suggested strong support throughout the country. All signs pointed to another successful amendment for Mr. Bayh and a radical change in the way Americans chose their presidents.

All signs but one.

As soon as the amendment reached the Senate, it was blocked by Southern segregationists, led by Strom Thurmond of South Carolina, who were well aware that the Electoral College had been created to appease the slaveholding states. They were also aware that it continued to warp the nation's politics in their favor, since millions of black voters throughout the South were effectively disenfranchised by restrictive registration and voting laws. Even those who were able to vote rarely saw their preferences reflected by a single elector. A popular vote would make their voices equal and their votes matter—and would encourage them to turn out at higher rates.

The Southerners delayed and filibustered the amendment for months. On Sept. 29, 1970—50 years ago this month—the last attempt to end the filibuster failed by five votes. It was another echo of the way the Electoral College had been preserved for the benefit of white political power, particularly in the south.

Now here's the really interesting part. The segregationists had help from a key constituency: blacks and ethnic minorities in northern cities like New York City and Chicago. Why? Because at the time, New York was the nation's biggest and most important swing state. And racial and ethnic minorities in the big cities decided how it swung. These voters understood that the Electoral College, using statewide winner-take-all laws, gave them disproportionate power in choosing the president. They didn't want to give up that power any more than the southerners did.

Strom Thurmond took advantage of this fact. He sent personal telegrams to prominent black and Jewish leaders, warning them of the consequences of supporting a direct popular vote. This made Birch Bayh furious. Here's what he said in a 2009 interview:

He told these groups, “What you're going to do is, you're going to give up your advantage to have influence to sway these large electoral votes if you have a direct popular vote. It will just be confined to one person, one vote. You won't be able to sway that whole group of electors,” which is true, of course.

A couple of these guys . . . came to my office and said, “You're going to have to back away from this.”

I said, “What do you mean?”

They said, “Well, it would give us less power.”

I finally said—the only time while I was there, in my eighteen years—I said, “Look, I busted my tail to see that each of you and your constituencies got one person, one vote. Now you're telling me that if you have 1.01, you want to keep it? Get your rear ends out of my office and don't come back.”

Senator Bayh reintroduced his Electoral College amendment in every session of Congress through the 1970s, until he lost re-election in 1980.

With Bayh's departure, the Senate lost its best advocate for a national popular vote. “No one was a better legislator than he was and he couldn't get it done,” Jay Berman told me. “It's just such an empty feeling because it was so right to do. And we couldn't do it.”

For the final portion of this talk, I'd like jump forward a half century, to today. The 21st century is barely two decades old, and yet it has already been defined by the Electoral College's anti-majoritarian distortions.

It happened first on Nov. 7, 2000, when Vice President Al Gore was the choice of the American people, with more than half a million more votes around the country than George W. Bush. But Bush won the White House thanks to a few hundred ballots in Florida, and a recount stopped short by the Supreme Court.

It happened again in 2016. Two times in less than two decades. And there's a very plausible chance it could happen again in November.

If Senator Bayh were here, I know he would say this is a crisis for our democracy. It is a crisis for our republic.

In fact I don't have to speculate. He stayed deeply involved in the politics of electoral reform after leaving the Senate. In 2005, a team of lawyers and activists devised a plan to elect the president by a national popular vote, not by abolishing the Electoral College but by using it exactly as it was designed in the Constitution. They came to Washington to test the political waters, to see whether they could get support for this plan. The first person they spoke to was Birch Bayh.

I was lucky enough to meet the senator—two years ago this week, at his home on the eastern shore of Maryland. It was the last interview he gave before his death. We were joined by his wonderful wife, Kitty, and Kevin Feely, one of his longtime Senate staffers.

When I asked him about his early life, he recalled a childhood spent working on his grandparents' farm in Terre Haute. "Nobody in my family background had ever been involved in politics," he said. "When my father found out what I was doing, I think he wondered what he'd done wrong as a parent."

On the topic of the popular-vote amendment, the pain of the loss was still there. If anything, it was keener, now that the Electoral College has awarded the White House to two popular-vote losers in the past two decades.

"I don't know," he told me when I asked how he thought of the issue today. "I like to think as a country, as we grow older, we learn. It just makes such good sense."

I asked about the familiar charge that eliminating the Electoral College would lead to "mob rule." He was nonplussed. As he saw it, the "mob" was the American people. He said, "That, to me, is the positive end of it. Why shouldn't they be able to determine their own destiny?"

This was emblematic of Bayh's broader commitment to fairness, equality and inclusion. Birch Bayh's America is a big, open, welcoming place. It has room for everyone, and it treats all of us as equals.

I think it's fair to say that Birch Bayh was one of this nation's founding fathers. He changed the country for the better, and he would have done even more if he could. The fact that he didn't succeed in changing how we choose our President . . . well, Madison didn't get everything he wanted either. But the seeds have been planted.

Speaking of seeds, I found a short article about Senator Bayh in a Reader's Digest from November 1948. It was titled "GI Ambassador."

Of course, we know that the senator was raised in a farming family, and had a knack for the work. When he was a teenager, he won \$200 for the best teenaged tomato patch in the state. So, when he joined the army and learned he was being shipped overseas to help with the recovery effort, what's the first thing he did?

He ordered seeds. "Please send at once \$4 worth of vegetable garden seeds," he wrote to the county agent in Terre Haute. "Be sure to put in some sweet corn."

He got 18 packets in the mail. But when he showed up for inspection, he nearly lost

them all. "Regulations state that you can take only military equipment and personal belongings," his sergeant said. "But vegetable seeds—get rid of 'em!"

So he broke open each packet and emptied its contents into a different pocket on his uniform. When he arrived in the small German village where he was stationed, he slowly redistributed the seeds into their 18 packets. "It was quite a job," he said. "But I did want a garden."

He helped build 45 garden plots and got 2 village children to tend each plot. By the end of the growing season, they'd produced mountains of cabbage, beans, spinach, turnips, tomatoes, cucumbers, beets, lettuce, kale, chard . . . and sweet corn. The village was fed all winter.

In an interview years later, he said, "The thing I love about agriculture is that it's pretty hard to get away from the facts. There it is. Mother Nature takes care of it. If you do something wrong, you pay."

Birch Bayh was a farmer of democracy. He planted the seeds of a more equal and more just America. He helped us cultivate a national debate by connecting our modern lives to the fundamental principle of universal human equality embedded in the Declaration of Independence.

This was not a dry intellectual exercise for him. Bayh's conviction was profound, and his inability to achieve a national popular vote pained him deeply for the rest of his life. It was, he would say, the single greatest disappointment of his career.

As an example, in the fall of 2000, John Feerick, the former dean of Fordham Law School and an instrumental figure in the passage of the 25th Amendment, was teaching a seminar at Georgetown Law School, and invited Senator Bayh as a guest speaker.

Bayh visited the class in October. In a few weeks, the nation would be upended with the drama and chaos of a contested election—the recount in Florida, the butterfly ballot, the hanging chads, the Brooks Brothers riot . . . and finally, a tense resolution by the Supreme Court, giving George W. Bush a bare Electoral College majority, and sending the first popular-vote loser to the White House in more than a century.

All of that was in the future when Feerick, sitting next to Bayh in his law-school seminar, posed what seemed at the time like an innocent hypothetical.

"I put the question to him," Feerick said, "'What do you think the reaction of the American people will be if there's a difference between the electoral vote and the popular vote winner?'"

"And his response to me was that the people would accept the legal system we have, and the outcome of that system. The one we have. And then he started to cry."

I want to return a final time to the words Birch Bayh spoke on the Senate floor in 1966. A national popular vote is "a logical, realistic and proper continuation of this nation's tradition and history—a tradition of continuous expansion of the franchise and equality in voting."

That is the essence. In my book I write, "Maybe this is the real American exceptionalism: our nation was conceived out of the audacious, world-changing idea of universal human equality. And though it was born in a snarl of prejudice, mistrust, and exclusion, it harbored in its DNA the code to express more faithfully the true meaning of its founding principles. Over multiple generations, and thanks to the tireless work and bloody sacrifices of millions of Americans—some powerful but most just regular people who wanted to be treated the same as everyone else—that code has been unlocked, and those principles, slowly but surely, have found expression."

I believe a central reason Birch Bayh's effort in the late 1960s came so close was that this was his argument. It was irrefutable, and it resonated with millions of Americans.

Now here we are, 50 years later, facing the same questions he faced, fighting the same battles he fought, and relying all along on his wisdom, his vision and his humanity to help us find our way to an answer—and to a more perfect Union.

## HONORING RECOLOGY

### HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 29, 2020*

Mr. THOMPSON of California. Madam Speaker, I rise today to honor Recology in celebration of its 100th anniversary on September 20, 2020.

Since its founding in San Francisco in 1920, Recology has become a leader in resource recovery and landfill diversion. As a result of its commitment to Waste Zero, Recology has worked to reduce the amount of accumulated waste by converting the waste that they collect for reuse, recycling, composting, or energy generation. Recology has expanded its efforts to cover over 140 communities in California, Oregon, and Washington.

Recology is not just a leader in waste management, but also a leader in employee ownership. Since 1986, Recology has been 100 percent employee-owned and is now one of the nation's ten largest fully employee-owned companies. Recology's efforts to empower its employees through employee ownership has especially served to empower female and minority employees, who currently hold a majority of the company's shares.

Recology has become an integral part of my own Congressional district in California, with offices and facilities in Santa Rosa and Vallejo employing 135 employee-owners. Not only has Recology helped communities in my district with its commitment to Waste Zero and employee ownership, but it has also continued to give back through participation in civic engagement projects and community organizations.

Madam Speaker, Recology emulates the type of company that we should expect from all American companies. Recology is a corporate leader in environmental sustainability, employee ownership, and community involvement within countless communities. It is therefore fitting and proper that we honor Recology here today as they celebrate their 100th anniversary.

## CONGRATULATING JAKE BURKE UPON HIS RETIREMENT WITH TRI-COMMUNITY ACTION

### HON. SCOTT PERRY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 29, 2020*

Mr. PERRY. Madam Speaker, I'm honored to congratulate Gerald "Jake" Burke upon his retirement after 50 years of service with Tri-County Community Action to our community, Commonwealth, and Country. Jake was born on September 11, 1944 in Shippensburg, delivered by his grandmother at home. Growing