

BALLOT ACCESS NEWS

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OREGON BILL WITHDRAWN

Senate Bill 78, mentioned in the January 1987 issue, has been withdrawn. It would have raised the petition for a new party to get on the ballot from 51,000 signatures to 120,000 signatures. Everyone who wrote the Secretary of State (sponsor of the bill) to complain about the bill should pat himself or herself on the back. Also thanks to the *Peoples Daily World*, which ran an article about the bill and urged letters.

KANSAS BILL ADVANCES

On February 11, the Senate Elections Committee heard SB 46, the bill to reduce the number of signatures needed by a new party. The existing requirement is 2% of the last gubernatorial vote, or 16,000 signatures. No one can circulate the petition outside his or her home county. No third party has ever qualified in Kansas by petition.

SB 46, as introduced, required 1,000 signatures. The Senate Elections Committee amended it to 1% of the last vote cast for Governor. The next day, the sponsor of the bill asked for reconsideration. Third party lobbyists believe that the Committee will lower it somewhat on reconsideration, perhaps to one-half of 1% of the last vote.

In the meantime, a sponsor for a similar bill in the House has been found, and there will be a House Elections Committee hearing on February 26.

Chances seem good that some improvement in the law will be made by the 1987 legislature. Contact Douglas Merritt, 1124 U St., Atchison Ks 66002, (913) 367-2035, if you wish to help.

CONGRESSMAN CONYERS

Congressman John Conyers expects to introduce his ballot access bill on February 25. The new bill will be similar to HR 2320 in the last session of Congress. HR 2320 would have set a ceiling on the number of signatures that states can require, for ballot access for independent and third party candidates for federal office, of one-tenth of 1% of the number of registered voters. In 1985, HR 2320 was not introduced until May.

NEW MICHIGAN BILL

The Secretary of State of Michigan, Richard Austin, is again asking the legislature to raise the number of signatures needed for a new party to get on the ballot. A hearing on the bill, HB 4090, was held on February 18. No vote was taken. So many people wanted to testify against the bill that another hearing is scheduled for Feb. 25. The existing requirement is

There are still 27 counties in Michigan which use these mechanical voting machines, and theoretically the 1976 situation could repeat itself (incidentally, in 1976, one petition was judged insufficient, so ultimately even in 1976 there was no problem). The Secretary of State defends HB 4090 by referring to the 1976 situation.

An alternate solution would be for Michigan to leave the party requirements alone, and to provide for substantially easier access for independent candidates, and to also provide that independent candidates might choose a partisan label (not similar to the name of a fully-qualified party) and have that label printed on the ballot next to the names of the candidates. Since it is possible to put many independent candidates in a single column, and since the experience of other states shows that most third parties will use the independent procedure if it is substantially easier, this idea would also solve the ballot-crowding problem. At the February 17 hearing I presented this idea to the Committee, and showed the Committee how the idea works in Wisconsin. However, Chris Thomas, Director of Elections, objected that perhaps it would be unconstitutional. When I mentioned that many federal courts have upheld this system, he stated that nevertheless, the Michigan Supreme Court might not agree.

Also testifying against raising the number of signatures were Charles Congdon of the Michigan Libertarian Party, who attacked the whole idea of mandatory petitions; Joanne Murphy of the Socialist Workers Party, who graphically described the misery of petitioning; and Russell Means, well-known American Indian activist who recently declared his candidacy for the Libertarian Party presidential nomination. Means was the only witness who pointed out that the deadline proposed in HB 4090 (May 31) violates the U. S. Constitution, according to the Supreme Court decision *Anderson v Celebrezze*. Afterwards, privately, Chris Thomas agreed that the bill's deadline is too early and indicated he would seek to have the bill amended.

After the hearing, Russell Means got some publicity against HB 4090, by attacking it in a press conference, on a radio talk show, and to an editorial writer in the office of the *Detroit Free Press*. At next week's hearing, representatives of the Michigan ACLU, the Communist Party, and the Workers League (all of whom wanted to speak against the bill, but time ran out) will have a chance to speak out.

HB 4090 does have some helpful provisions. It deletes wording on the petition which implies that the signers are members of the party, and it makes it possible for voters from different townships (but in the same county) to sign a single petition sheet. Also, it sets up procedures for independent candidates to get on the ballot. HB 4090 requires independent candidates for statewide office to obtain the same number of sig -

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Back in 1976, there was a technical problem with ballot crowding. Ten parties (counting independent presidential candidate Eugene McCarthy as a party) filed, and the old-fashioned mechanical voting machines only had room for 9 parties. Since Michigan requires a party lever, it was impossible to squeeze two parties into the same column.

the party requirements alone, and to provide for substantially easier access for independent candidates, and to also provide that independent candidates might choose a partisan label (not similar to the name of a fully-qualified party) and have that label printed on the ballot next to the names of the candidates. Since it is possible to put many independent candidates in a single column, and since the experience of other states shows that most third parties will use the independent procedure if it is substantially easier, this idea would also solve the ballot-crowding problem. At the February 17 hearing I presented this idea to the Committee, and showed the Committee how the idea works in Wisconsin. However, Chris Thomas, Director of Elections, objected that perhaps it would be unconstitutional. When I mentioned that many federal courts have upheld this system, he stated that nevertheless, the Michigan Supreme Court might not agree.

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COLORADO

On January 9, 1987, the Prohibition Party lost in state district court, over the issue of whether Colorado must permit a third party to place all of its statewide candidates on the ballot with a single petition. Colorado says that a third party must submit a *separate* petition for each of its statewide candidates.

Obviously, petitioning for a slate of candidates is much more difficult if the petition signer must sign his or her name and address on six different petitions. Yet a party running 6 statewide candidates must do this, under the ruling.

Fortunately, the Colorado Supreme Court agreed to hear the Prohibition Party's appeal. The lower court refused to even comment on the constitutional issues in the case, but the Colorado Supreme Court will look at them. In 1974 the U. S. Supreme Court said in *Storer v Brown* that states must have procedures for both new parties, and independent candidates. In this case, the Prohibition Party argues that procedures for new parties imply a single petition to qualify all the party's statewide candidates. Almost by definition, a political party is an organization interested in running many candidates, not just one.

The case is sponsored by the Colorado ACLU. It is called *National Prohibition Party v State of Colorado*.

ARKANSAS

On January 12, 1987, Arkansas federal judge Elsjane Roy handed down a decision in the Populist Party's challenge to the Arkansas ballot access procedures for new parties. The judge stated that while the Arkansas procedures might very well be unconstitutional, the plaintiff Populist Party lacked standing to complain about the law, since it didn't try to petition in 1986. She also found that the case had been filed too late. This decision is being appealed to the U. S. Court of Appeals, 8th circuit.

A decision like the one issued by Judge Roy does no harm. It sets no precedent that the law is constitutional. Nevertheless, it is disappointing for the plaintiffs, who did a great deal of work on the case.

Arkansas law provides that a petition to qualify a new party must be filed no later than the first Tuesday in May. It must be signed by 20,656 voters (3% of the last gubernatorial vote). The petition cannot be circulated before January 1 of the election year. No party has ever complied with this procedure, which has existed since 1977. For third party and independent *presidential* candidates, no petition is needed; the petition only applies to parties which have candidates for office other than president.

NEW YORK

The New Alliance Party is suing the New York city Board of Education over a ballot distributed in all the city's public schools just before last November's election. The ballot for school children listed all the gubernatorial candidates on the New York ballot except the gubernatorial candidate of the New Alliance Party, Lenora Fulani. A court could not alter what happened last year, but could prevent a repetition of this arbitrary practice of the public schools in the

candidate. If you wish to help, contact Brad Warren at 926 E. 52nd St., Indianapolis In 46205, (317) 283-4832. Indiana also bans write-in votes, and has a habit of disqualifying between 40% and 50% of signatures submitted on ballot access petitions. Also, the deadline for submitting these signatures is July 1, the fourth earliest deadline of any state, for presidential candidates.

NORTH CAROLINA; The American Party believes that it can persuade Republican Representative Brad Ligan of Rowan County to submit a bill, easing ballot access. North Carolina requires a petition signed by 2% of the last gubernatorial vote for a party to get on the ballot, now 44,535 signatures, likely to be the third or fourth-highest number of signatures required by any state for president in 1988. No party has ever complied with this requirement. The petitions are due June 1. No write-ins for president are permitted in North Carolina. In 1981 the North Carolina State Supreme Court ruled that shopping center malls are free to bar petitioning on their property if they wish, an outcome which further hampers petitioning. Finally, North Carolina requires a petitioning party to submit 5¢ for each signature it submits, which would be \$3,000 if 60,000 names were submitted.

NEVADA: Assembly Bill 184, prepared by the Attorney General's office, lowers the petition to recognize a new party from 5% of the last congressional vote, to 3%. It also changes the deadline from April to August. The Nevada ACLU will be lobbying to get this bill amended to 2%. Contact Jim Shields, ACLU, 135 N. Sierra St., Reno Nv 89501, (702) 786-8280, if you wish to help.

WYOMING; Although Libertarians tried to find a sponsor for a bill easing ballot access, none was found, and it is now too late to introduce a bill in the 1987 session of the Wyoming legislature

IDAHO; Representative Elizabeth Allan, Republican of Caldwell, has agreed to introduce a bill lowering the number of signatures for a new party from 2% of the last presidential vote, to 1% of the last gubernatorial vote, and also eliminating wording on the petition which implies that signers are members of the party.

A **SPECIAL THANK YOU** to Ed and Alicia Clark of the California Libertarian Party, who contributed my plane ticket to Michigan, so that I could testify on HB 4090. Also, thank you, John Sproul, Dann Hayes and Craig Springer, for contributions beyond the subscription price. Finally, thank you, Irv Sutley, for subscribing to the official state publication which mentions all bills being introduced in the Minnesota legislature, for me.

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LOBBYING STATE LEGISLATURES

INDIANA: Libertarian Party activist Brad Warren has written legislators on the special committee which is re-working the election code. Existing Indiana law requires a petition signed by 2% of the last vote cast for Secretary of State, now 30,974 signatures. This requirement has existed since 1983 and has never been met by any statewide third party or independent

ballot access. North Carolina requires a petition signed by 2% of the last gubernatorial vote for a party to get on the ballot, now 44,535 signatures, likely to be the third or fourth-highest number of signatures required by any state for president in 1988. No party has ever complied with this requirement. The petitions are due June 1. No write-ins for president are permitted in North Carolina. In 1981 the North Carolina State Supreme Court ruled that shopping center malls are free to bar petitioning on their property if they wish, an outcome which further hampers petitioning. Finally, North Carolina requires a petitioning party to submit 5¢ for each signature it submits, which would be \$3,000 if 60,000 names were submitted.

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