

BALLOT ACCESS NEWS

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HR 1582

Congressman George Crockett of Michigan has just become a co-sponsor of HR 1582, so the bill now has 21 co-sponsors.

The bill has been endorsed by the Service Employees International Union, the first time that either HR 2320 or HR 1582 has been endorsed by a major union international.

Lobbyists for the bill report the following negative oral responses from certain members of Congress: Torres Estaban of California and Mary Rose Oaker of Ohio say it would result in splits from the Democratic Party; Joe Moakley of Massachusetts says he wants to see what happens later; Gerry Studds of Massachusetts says he is wary of the bill; Thomas Downey of New York says he may co-sponsor it later; Barbara Boxer of California says the requirements are already too easy; Patricia Schroeder of Colorado says it isn't a big enough issue; Henry A. Waxman of California says he isn't sure of the ramifications; George Hochbrueckner of New York says he is uncomfortable with the bill; Senator Mikulski of Maryland supports the bill but doesn't want to be the only sponsor in the Senate; and these members of Congress refuse to indicate any reason for not co-sponsoring the bill: Mel Levine of California, George Miller of California, Barney Frank of Massachusetts, Barbara Kennelly of Connecticut, and Amory Houghton, Republican of New York.

Starkey Armistead, Republican Party county chairman in Marengo County, Alabama, and a supporter of HR 1582, was invited to a meeting of Jack Kemp campaign officials. Armistead asked what Kemp's position on the bill is, and was told that he isn't familiar with the bill.

Kansas Libertarian Douglas Merritt has received a letter from Congressman Jim Slattery of Kansas which says that he supports the bill and will vote for it if it reaches the floor. However, he didn't offer to co-sponsor it. Mr. Merritt also received a letter from another Kansas Congressman, Bob Whittaker, who says he is reluctant to intrude on states' rights.

Texas Libertarian Peter Elloway has received letters from Texas members of Congress Bill Archer and Tom DeLay, which express no opinion. A favorite trick of members of Congress is to answer a letter by telling you which committee the bill is in. When you write, tell them that you already know that the bill is in the Elections Subcommittee. Make it plain that you want your member of Congress to co-spon-

sor the bill, and ask him or her to tell you why he or she won't, if indeed he or she won't.

Always remember, in the 19th century, there were absolutely no restrictions on who could be on the ballot, since there were no government-printed ballots. Voters could make their own ballots, but most ballots were prepared by political parties. Our political system was healthier in the 19th century than it is now. Voter turnout usually exceeded 80% of the eligible voters, sometimes over 85%. The political parties did adhere to certain principles (e.g., for or against restrictive tariffs, for or against anti-monopoly legislation) and when both major parties shut out entire segments of the population, new parties arose suddenly and in considerable strength (in 1894 the Populist Party elected 15 members of Congress, for example).

Who can write a better letter to your member of Congress about HR 1582 than you? Congressman Conyers this year has more co-sponsors than ever before; this is no time to let him down. Your letters are important.

LEGISLATIVE NEWS

California: Assembly Bill 2570, as introduced, did two things: it made it possible for a qualified party to nominate by convention if it wishes, instead of by primary; and it made it much easier for a new party to get on the ballot. Assemblywoman Gwen Moore deleted the part of the bill making it much easier for a new party to get on the ballot, just two days before bringing it to a vote in the Assembly Elections Committee. She said that part of the bill was "controversial". As amended so that it only lets already-qualified parties (other than Democratic or Republican) choose whether to nominate by convention or primary, the bill passed unanimously out of the Committee on May 13. It next goes to the full Assembly.

Another bill pending in the California legislature would injure independent candidates. It is SB 1196, by Senator Milton Marks of San Francisco. It would make it illegal for an independent candidate to file as a write-in candidate in a political party's primary. This bill, if enacted, would be the first time that California state law ever restricted a voter's right to write in anyone who is qualified to hold the office. Ironically, the bill was introduced only 15 months after the California Supreme Court said in *Canaan v Abdenour* that the First Amendment protects a voter's right

to vote for anyone. The bill has already passed the Senate Elections Committee, which is chaired by Senator Marks. I hope to testify against the bill when it reaches the Assembly Elections Committee. The bill was suggested by the California Secretary of State.

Colorado: A bad bill has passed both houses of the legislature and is in a conference committee. It is SB 101, sponsored by the Colorado Secretary of State. It would declare that a third party must submit a separate petition for each statewide candidates, instead of letting the party submit one petition to qualify all of its statewide candidates.

Hawaii: HB 1266, which would have permitted write-in voting at least in primaries, failed to pass before the legislature adjourned.

Illinois: SB 10, the bill to permit fully-qualified parties to merge with each other, passed the Senate on May 13, 37-0, with 18 voting "present". However, because of the possibility that the law could be overturned in court, another bill, SB 1208, has been introduced. It would simply revise the formula for determining which parties can name election judges. The existing law gives this right to the parties polling the greatest, and second-greatest, number of votes for Governor. Under existing law, these are the Republican and Illinois Solidarity Parties. SB 1208 would provide that the two parties with the greater number of legislators in the lower house of the legislature would be the two parties permitted to name election judges.

Indiana: SB 293, which changes the filing deadline for third party and independent candidates from July 1 to August 1, has been signed into law.

Maine: LD 121, which would have made it illegal for third party and independent candidates to collect signatures from the ranks of registered Republicans and Democrats, has been defeated in a House committee. An editorial in the *Portland Press Herald* of April 16, 1987, congratulated the legislature for killing the bill.

Massachusetts: Representative John Businger is actively working in favor of both H 1290 and H 923. The first bill would lower the petitioning requirement for third party and independent candidates from 2% to 1% of the last gubernatorial vote. The second bill revises the filing deadlines to the early August date mandated by a state court in 1985. Rep. Businger is chair of the House Elections Committee. He has until June 10 to persuade his committee to recommend the bills.

Minnesota: HF 1128 would move the filing deadline for third party and independent candidates for president from September to June. It is almost surely unconstitutional. Although it passed the House Committee which handles election law bills, it is not likely to pass the entire legislature before adjournment.

Nevada: AB 184, the bill to lower petition and vote requirements for third parties and independent candidates, has passed the State Senate Elections Committee.

ARKANSAS

The Populist Party lawsuit against the Arkansas ballot access laws for new parties (for office other than president) is in the US Court of Appeals, 8th circuit. Briefs have been filed. The lower court refused to rule on the substantive issues.

Arkansas law says that third parties must submit their petitions by early May, but it also says that all parties must nominate by primary and that the 1988 primary will be in March! The Attorney General's brief says that if a party submits a petition in May, it will be allowed to nominate candidates by convention. If this is true, it represents a gain. However, the law says "The General Assembly hereby determines it to be in the public interest that in election years all candidates who wish to have their name placed on the ballot in any biennial general election shall declare his (sic) candidacy and file as a candidate for nomination by a political party, or file petitions as an independent candidate without political party affiliation, within the same deadline." That deadline is January, so there seems to be no basis for the Attorney General to say that a new party could nominate candidates in May or a later month.

Just because a state Attorney General says in a brief that a proper interpretation of state law is a permissive one, is no guarantee that the state government will agree, after the case is over. In 1982, an Oregon brief filed in federal court by the state told the judge that one petition could be used to nominate candidates for all levels of office, statewide and district. As soon as the case was over, the state said that separate petitions were needed for each level of office. The allegations the state had made in court were worthless.

NEBRASKA

One lower state court has ruled that it is unconstitutional to ban the practice of paying people to collect initiative petition signatures, but two other lower state courts have upheld the ban. The issue will be settled by the State Supreme Court. The same issue in Colorado has been pending in the U. S. Court of Appeals, 10th circuit, since 1984.

Also in Nebraska, the Attorney General has ruled that independent voters must be permitted to vote in partisan primaries, since the 17th amendment to the U. S. Constitution states that the qualifications of voters to vote for U. S. Senate must match the voter qualifications to vote for the lower house of the legislature. In Nebraska, the legislature is elected on a non-partisan basis, so of course independent voters can vote in legislative primaries.

WRITE-INS

The most important voting rights case in 15 years is now pending in the 9th circuit, US Court of Appeals. It is *Burdick v Takushi*, the case on whether Hawaii may bar write-in votes or not. The case has two numbers, 86-2689 and 86-2703.

All the briefs are in. The Hawaii Assistant Attorney General who is handling the case is passionately convinced that he is right, and his briefs are feisty, energetic and forceful. His underlying premise is that the voters cannot be trusted to act responsibly if they are free to write-in. They will elect people who don't hold the constitutional qualifications to hold the office; they will elect people who don't exist; they will vote for people whom they don't know anything about, etc. He believes that voting is not a matter of individual choice. It is a process by which the herd must gently be guided to vote for approved candidates, i.e., the candidates who are on the ballot.

When the government took over the function of printing ballots in the 1890's, a blank line was left for each office, in recognition of the fact that historically the voters had been free to vote for anyone they wished, and no one had any intention of abolishing this freedom. This is the origin of the write-in space on American ballots. Unfortunately, this tradition was not followed in Hawaii, and therefore the issue of whether the United States Constitution protects freedom of choice is now in court.

I urge every reader to write these judges: James M. Ideman, Cecil F. Poole, and William A. Norris, US Court of Appeals, 99 7th St., San Francisco Ca 94103.

State that you are not an attorney, but that you are concerned about voting rights, and ask them to uphold the voter's right to vote for any candidate who holds the qualifications to hold the office. The right to vote includes the right of choice for whom to vote. Two write-in candidates have been elected to Congress in this decade. Mention the history of ballots. Unfortunately, *none of these points has been mentioned in any briefs filed in the case.*

I have never before asked readers to write a letter to a judge. But in this case, in which there are no amicus briefs and the case has received little publicity, it is important for the court to know that people care. It is appropriate for citizens to write letters to federal judges, and these letters can be effective if they are thoughtful and courteous.

If we lose the right to cast a write-in vote, then we lose a powerful incentive for persuading elections officials to keep ballot access open. Write-in votes are a nuisance to count, and if elections authorities know that strict ballot access rules will mean lots of write-ins to count, they will be more likely to support tolerant ballot access laws.

LaROUCHE

According to *The Spotlight* of May 11, 1987, Lyndon LaRouche is now in Europe and not expected to return to the US anytime soon. LaRouche was an independent candidate for president in 1984 and had earlier announced his candidacy for president in the 1988 Democratic primaries. However, the federal government and the Virginia state government had repeatedly raided his offices earlier this year, stopping publication of his newspaper *New Solidarity*. Civil rights supporters have never been happy about the existence of the LaRouche group, but are nevertheless concerned about the precedent of government suppression of any peaceful political movement.

PETITIONING IDEA

The Alabama Libertarian Party reports good success with having petitioners carry balloons, particularly in parks or other open space areas. The balloon is offered to anyone who signs the petition. After a while, the area is likely to have a festive look, which further increases the visibility and legitimacy of the petitioning. The Alabama Libertarian balloons say, "Feel free...join us."

PETITIONING PROGRESS

In the states listed below, it is now possible for any new party to be petitioning for the 1988 election, even though it may not know the names of any of its candidates. The chart below also shows the number of signatures obtained so far by the Libertarian Party and the New Alliance Party, the only two parties which are now conducting petition drives.

In addition to these states, it is possible to qualify a party as early as the group wishes to begin, and before the candidates are known, in California, Ohio, Minnesota, Tennessee, and Wisconsin. However, the party procedures in these states are almost never used, because the independent procedures in these states are considerably easier than the new party procedures, so new parties use the independent method.

STATE	SIGNATURES REQUIRED	SIGNATURES COLLECTED	
		Alliance	Libertarians
Alabama	12,345	0	731
Alaska	2,068	0	already on
Arizona	17,340	8,500	9,000
Delaware	(reg.) 145	19	already on
Georgia	25,759	8,000	0
Hawaii	4,198	0	already on
Idaho	8,224	0	0
Kansas	16,813	0	0
Maryland	10,000	500	already on
Michigan	16,313	0	1,000
Miss.	be organized	proceeding	already on
Montana	13,329	0	already on
Nebraska	5,635	0	850
Nevada	7,717	1,200	already on
New Mexico	500	already on	already on
North Carolina	44,535	3,500	200
North Dakota	7,000	0	0
Oklahoma	45,497	0	0
Oregon	51,578	0	500
South Carolina	10,000	already on	already on
South Dakota	7,362	0	0
Utah	500	0	200
Vermont	be organized	proceeding	already on
Wyoming	8,000	0	100

Note: lawsuits are pending in Oklahoma and Oregon over the number of signatures required.

COALITION FOR FREE AND OPEN ELECTIONS

The Coalition for Free and Open Elections is an organization devoted to working for fair election laws. Individuals are encouraged to join. Your ideas for building the Coalition are welcome. The Coalition address is Box 1885, Annapolis Md 21404. Dues are \$10 per year.

NATIONAL CONVENTIONS

The Communist Party will hold a national convention August 13-16, 1987, in Chicago, to decide whether or not to run a presidential candidate.

The New Alliance Party convention mentioned in the last issue of *Ballot Access News* will not nominate a presidential candidate and is not just a New Alliance Party meeting. It consists of all the organizations that are a part of the Rainbow Alliance, and which wish to work with it. The meeting will be August 20, probably in Atlanta.

The Democratic Party presidential convention will be in Atlanta, not Houston.

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