BALLOT ACCESS NEWS

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HR 1582

Efforts are being made to get additional co-sponsors for HR 1582, the bill in Congress to provide for fairly easy ballot access for third party and independent candidates in federal elections. Phyllis Avery of Oceanside, California, saw her member of Congress, Republican Ron Packard, on January 8 in his district office. He is leaning toward becoming the first Republican co-sponsor. Douglas Anderson, a Libertarian elected to citywide Denver office last year, hopes to see his member of Congress, Pat Schroeder, soon. Congressman Buddy MacKay of Ocala, Florida, has written a letter to his constituent Michael Geison saying, "I support efforts to make the federal election system more accessible to third parties in ways such as increasing ballot access. All parties should be equally represented in elections." However, he hasn't co-sponsored yet. Congresswoman Barbara Boxer of Marin County, California, has written her constituent J. G. Ford, Jr., "I agree that people should not be denied the right to run for public office--no matter what party they choose." However, she hasn't become a co-sponsor yet either.

COFOE PETITION

The Coalition for Free & Open Elections is distributing petitions in support of HR 1582. A sample is enclosed. Please get any number of signatures that you can, and return it to the COFOE address, which is on the petition. Write to COFOE if you can use extra petitions.

LIBERTARIAN PETITIONING

The Ron Paul campaign has taken responsibility for getting on the ballot, in states in which the state Libertarian Parties are unable to do it. A fund-raising letter specifically for ballot access was mailed out third class mail on January 14, 1988 from Paul headquarters. If the response is good, the campaign will aim to be on the ballot in all jurisdictions. If the response is not good, the state most likely not to be attempted is North Carolina, where 44,535 signatures are required by May 17. The deadline is almost certainly unconstitutional and can be overcome in court by any plaintiff which has made a good start before the deadline. The professional petitioning firm of Arnold Associates has told the Paul campaign that it is willing to tackle North Carolina if the decision is made by February 1, 1988. In the meantime, the Paul campaign has signed a contract with Arnold Associates to do Florida, starting February 1.

OKLAHOMA HEARING

On January 12, 1988, the U. S. Court of Appeals, 10th circuit, heard arguments in *Libertarian Party v Oklahoma Election Board,* #87-2360. The judges assigned to the case are Seymour (who has an excellent record on ballot access), McWilliams (who has a bad record on ballot access), and Saffles (a Carter appointee who has never had a ballot access case before). The issues are the number of signatures, the early filing deadline, and whether voters may register as members of unqualified political parties. Judge Seymour was the only judge who asked any questions. A decision could come in the new few weeks, since the case is being expedited.

DEMS, REPS HATE TO PETITION

The deadline for Democratic and Republican presidential candidates to qualify for primary ballots has now passed in 20 states. The experience in these states in 1988 provides more evidence than ever that the petitioning process is intrinsically burdensome, even for candidates with million dollar budgets and almost unlimited press attention. Examples: (1) in Texas, where Republicans must collect 5,000 signatures to be on the primary ballot, 4 of the 6 leading Republican candidates hired a professional petitioning firm, which turned in petitions which included forged signatures. Before it could be determined if there were enough valid signatures, the Republican Party and the Texas Secretary of State announced that all the petitioning candidates would be on the ballot anyway, because "it wouldn't be fair to the voters to keep anyone off the ballot." (2) In Arkansas, all Democrats and Republicans were given the choice of paying a filing fee of $5000, or submitting 4,000 signatures.Without exception, they all chose to pay the filing fee rather than get the signatures. Similarly in Oklahoma, where they all faced the choice of a fee of $2500 or a petition of 6,000 signatures, they all chose the fee. (3) In New York, where Democrats must submit 10,000 signatures, the Jan. 20 *New York Times* editorialized for liberalizing the requirement, since there is always a good chance that leading contenders will fail to meet it. In 1984 Senator Hollings failed this test, and in 1980 Governor Jerry Brown failed it.

No state except Louisiana gives third party presidential candidates the option of qualifying by fee, rather than by petition. Leading Democratic presidential candidates can qualify for all 37 Democratic presidential primaries by collecting 25,500 valid signatures; leading Republicans can qualify for all 38 Republican presidential primaries by collecting 20,500 valid signatures. Third party presidential candidates need approximately 700,000 valid signatures to be on all ballots.

LYNDON LAROUCHE

Lyndon LaRouche is making an energetic effort to qualify for as many Democratic presidential primaries as possible. In the 20 states for which the deadline has passed, he has qualified in 11 for sure, and is likely to be on in two more. He has been unable to qualify in South Dakota, Vermont, Florida, Georgia, North Carolina, Rhode Island and Tennessee. The two states in doubt are Illinois and Maryland. In Maryland, his signatures are still being checked. In Illinois, the Democratic Party has filed a challenge to his petitions, on the basis that he handed in too many signatures. The law requires at least 3,000 signatures but no more than 5,000 signatures, and LaRouche handed in 5,200. In Virginia, LaRouche was the only candidate who qualified by submitting a petition. He successfully submited the needed 12,640 signatures. All the other candidates who qualified in Virginia did so by having received matching federal campaign funds. LaRouche has not been able to get FEC approval of his request for matching funds this year, and has withdrawn the request for the time being.

DAVID DUKE

David Duke, the other "outsider" who is running in Democratic presidential primaries even though he is considered hostile to party principles, has only been able to qualify so far in New Hampshire, Arkansas, Louisiana, Missouri, Oklahoma and Texas, all states in which it is possible to qualify by paying a fee (except that one qualifies in Louisiana by being on the ballot of at least two other states). Duke was unable to get 500 valid signatures in either Alabama or Mississippi by the deadline. In Texas, Democrats can get on by paying a fee, whereas Republicans must petition, because of a Texas Republican Party rule.

LIBERTY UNION PRIMARY

The first third party presidential primary in 1988 will be the Vermont Liberty Union primary, which is binding, by party rules. The only candidates will be Willa Kenoyer, Socialist Party candidate,and Herb Lewin, Internationalist Workers Party candidate. Lenora Fulani of the New Alliance Party chose not to run, since the New Alliance Party is now also qualified for the Vermont ballot (although it is not entitled to hold a primary). The Vermont Liberty Union Party has been a qualified party with its own primary since 1974. In 1976 it didn't run anyone for president. In 1980 it nominated Socialist Party presidential candidate David McReynolds; in 1984 it ran New Alliance Party presidential candidate Dennis Serrette.

INITIATIVES

The Colorado Secretary of State has filed her request with the U. S. Supreme Court, asking the court to hear her appeal in *Grant v Meyer,* # 87-920, over whether the state may ban the practice of paying petitioners for initiative petitions.

On November 4, 1987, The U. S. Court of Appeals, 6th circuit, ruled that it is unconstitutional for a state to forbid any corporation from contributing more than $40,000 toward the support or defeat of an initiative. *Michigan State Chamber of Commerce v Austin,* 832 F 2d 947 (1987).

FULANI MATCHING FUNDS

Lenora Fulani, independent presidential candidate who is also seeking the New Alliance Party nomination, expects the Federal Election Commission to approve her first request for matching funds on Jan. 21, 1988, for $180,000. In the meantime, she has submitted a second claim for an additional $240,000. She is the only third party or independent candidate who is planning to file for matching funds in 1988.

CONSUMER PARTY

In November 1987 the Consumer Party polled 133,826 votes for one of its candidates for Philadelphia city council-at-large, Max Weiner. This vote was 21% of the number of voters who voted, and was more than sufficient to restore the Consumer Party as a qualified party within Philadelphia. However, under 1986 legislation, even qualified parties which have less than 15% of the total state registration may not nominate by primary. Instead, they must petition, just as if they were unqualified parties.

The Consumer Party plans to bring a lawsuit soon against the 15% registration rule. The case will be based on the principles set forth by the U. S. Supreme Court in 1986 in *Tashjian v Republican Party of Connecticut.* In that case, the Court said that qualified parties have the right to decide for themselves, who should participate in their nominations process. Since the Consumer Party is a qualified party with its own members, it will argue that the state may not force it to get the approval of tens of thousands of outsiders (by requiring the party to submit large numbers of signatures on petitions) in order to nominate.

Maryland law is similar to Pennsylvania's. Even qualified parties must submit approximately 65,000 signatures in order to nominate statewide candidates (other than president) if the party has registration below 10%. The Maryland Libertarian Party is likely to bring a lawsuit similar to the one being planned in Philadelphia by the Consumer Party.

POLITICAL PARTY RIGHTS

Maryland: On December 29, 1987, the U. S. Court of Appeals, 4th circuit, reversed the lower court decision and stated that the Democratic Party and the state of Maryland have a right to ask voters in the Democratic presidential primary to vote separately for male and female delegates to the Democratic national convention. *Bachur v Democratic National Party,* #87-3872.

California: The California Attorney General's brief to the U. S. Supreme Court in the case *San Francisco County Democratic Central Committee v Eu* is due on January 27, 1988. He will not be able to argue that the state Democratic Party does not support the lawsuit, as he has in the past, because on January 8-9, 1988, the Democratic State Executive Committee implemented by-laws on how the party will make endorsements in its own primaries. The lawsuit challenged California's ban on such party endorsements, and the state Democratic Party has never formally become a co-plaintiff, although many county Democratic Party central committees are co-plaintiffs.

Meanwhile, another confrontation between the California Democratic party and the legislature is looming. The State Senate Elections Committee earlier this month refused to pass AB 1206, a bill written by the Democratic Party to restructure its own presidential primary.

Michigan: the Michigan Republican State Committee has lost every round in court so far, but the battle isn't over. The Committee changed the rules late in 1987 to help Jack Kemp and Pat Robertson. Bush supporters filed a lawsuit in state court, *Ehlers v Michigan Republican State Committee,* no. 87-56036-CZ. Judge Boucher of the Kent County Circuit Court invalidated one rule change on December 4, 1987, and Judge Snow of the same court invalidated another rule change on January 8, 1988, in the same case. On January 13, 1988, the Michigan State Court of Appeals upheld the lower court rulings.

The Michigan Republican State Committee had filed a lawsuit in federal court in Detroit, *Heitmanis v Austin,* #87-4465. Federal judge George Woods, a Reagan appointee, ruled on January 12, 1988, that the case should not go forward since the same issues were being considered in state court. The next day he suspended his earlier decision in order to review the briefs and the decisions from the state court cases. He has not yet stated whether he will permit the federal case to proceed.

VIRGINIA

The lawsuit on whether Virginia must permit write-ins for president in general elections will have a hearing on Monday, January 25, at 3 p.m., in the John Marshall Courts Building in downtown Richmond. The case is *Paul v State Board of Elections.*

WORKERS LEAGUE

The Workers League has announced that it will run Ed Winn for president and Barry Porster for vice-president, and that it will attempt to qualify in more states in 1988 than it did in 1984, when it qualified in six states. The Workers League now has 20,000 signatures on its Michigan petition but has not begun petitioning anywhere else yet. It can be reached at Bx 33023, Detroit Mi 48216, tel. (313) 875-4745.

TEXAS

The Libertarian Party lawsuit against Texas' ballot access law will be heard in federal court in Austin on February 8, 1988. The lawsuit challenges Texas' requirement that a petition must include the voter registration number of every signer. The lawsuit is *Pilcher v Rains,* #A-86-CA-430. It was filed in 1986 and is not moot, even though the Libertarian Party is now qualified automatically for the 1988 ballot, because the issue will recur again in the future.

It appears that the Republican Party will not run any candidate for Judge of Criminal Appeals, so there will be a two-way race between a Democrat and a Libertarian (the New Alliance Party plans to qualify in Texas also but will not run any candidates for Judge). In a two-person race, it is very likely that the Libertarian Party will again poll 5% in a statewide race in 1988, as it did in 1986, and will be automatically on the 1990 ballot.

Ballot Access News of April 20, 1987, stated that as a result of moving the date of the Texas primary from May to March, the petitioning period for new parties and independent candidates automatically lengthened. This was not correct. In Texas, petitions cannot be circulated until the day after the primary. Although it's true that moving the primary from May to March permitted earlier petitioning, the legislature also moved the deadlines from July to May (May 23 for parties and May 9 for independent presidential candidates). The new deadlines are almost certainly unconstitutional, under *Anderson v Celebrezze,* 460 US 780 (1983).

POLITICAL PRIVACY

Ballot Access News of November 19, 1987, reported on the lawsuit *Snedigar v Hodderson,* in which a former member of the Freedom Socialist Party of Washington state is suing the party to recover a donation, and demanding that the list of party members be made public. Since that report, the plaintiff has given up his demand that the membership list be made public. The case itself continues; contact the Freedom Socialist Party at 5018 Rainier Ave. S, Seattle Wa 98118, (206) 722-2453, for more information.

DISTRICT OF COLUMBIA

On December 2, 1987, the D. C. Board of Elections adopted a regulation that no one can circulate a third party or independent presidential candidate petition until June 22 of the election year. Previously, there had been no legal restriction on when petitioning could begin, although the Board had been refusing to release petition forms. The petitions are due August 16. The exact number of signatures is still not known, but it will probably be slightly less than 3,000.

WISCONSIN

Ballot Access News of November 19, 1987, listed third parties which are entitled to hold presidential primaries, including the Labor-Farm Party of Wisconsin. This was in error, since the 1986 legislature of Wisconsin had passed legislation restricting the presidential primary to qualified parties which polled 10% for Governor in the last gubernatorial election. The Labor-Farm Party will continue to nominate by primary for other office, but must now choose its presidential candidate by caucus. The party protested, but to no avail. In 1984 the party participated in the presidential primary, but then chose to have no presidential candidate in the general election.

STATE LEGISLATURES

Kansas: on January 21, 1988, Senator Gordon will introduce a bill to improve the filing deadline for independent candidates, permit voters to register into parties that are no longer qualified, and to eliminate the restriction that no one can circulate a petition outside his home precinct. The bill is sponsored by the Secretary of State, as a result of the lawsuit filed last year, *Merritt v Graves.*

Massachusetts: neither of the good bills passed the 1987 legislative session. H 923 ran out of time and received no vote in the State Senate. It would have conformed the filing deadlines to those ordered by a state court in 1985. H 1290, to lower the number of signatures, didn't have time to get a recorded vote in the House.

Michigan: still no action on H 4090.

POST OFFICES

The post office has always maintained that petitioning cannot be carried out on its property, because the public might think that the post office was showing partisanship toward the party doing the petitioning. The *American Libertarian* of November 1987 reported that the U. S. Attorney for Wyoming, Richard A. Stacy, had ordered the Cheyenne post office to permit petitioning on its steps. Unfortunately, Mr. Stacy has not been willing to put his order in writing, so no good precedent has been created.

ILLINOIS

Individuals who filed to run for Congress in the Illinois Solidarity Party primary last month were all eliminated from the ballot by a last-minute ruling which requires them to gather approximately twice as many signatures as individuals who are running for Congress in the Democratic and Republican primaries. Illinois election law states that the number of signatures to get on a party's congressional primary ballot is one-half of 1% of that party's vote in the last presidential election. Since the Illinois Solidarity Party didn't exist in the last presidential election year, the State Board of Elections ruled that its congressional candidates must get signatures equal to one-half of 1% of the number of registered voters in the district.

One of the congressional candidates, Dr. Jessie Fields, who is affiliated with the New Alliance Party, hopes to bring a lawsuit against the Board's ruling, although the Illinois ACLU is not interested in the case. When the same situation came to light in Wisconsin in 1934, the Wisconsin Supreme Court filled the gap in the law by ruling that a candidate in a new party's primary didn't need to have any petition whatsoever. *State ex rel Ekern v Dammann,* 254 NW 759 (1934).

MISSOURI LIBERTARIANS

In 1973, the Missouri legislature improved the ballot access law, by changing the definition of "qualified political party" from one which had polled 2% for Governor, to one which had polled 2% for any statewide office. This was a liberalization, because it's much easier for a third party to poll 2% for a lesser statewide office such as Treasurer or Auditor, than it is to poll 2% for Governor. However, in all the years since 1973, no third party has ever run candidates for the lesser statewide offices, to take advantage of the change. In 1988, however, Missouri Libertarians have nominated candidates for every statewide office except Attorney General, and thus are in a fairly good position to gain enough votes for permanent ballot status. If it is obtained in 1988, it will be good for both 1990 and 1992. No third party has had statewide permanent status in Missouri since the American Party had it in 1970.

USEFUL BOOK

The Census Bureau recently published *Voting & Registration in the Election of Nov. 1986,* and a copy can be obtained for $3.25 from the Government Printing Office, Washington DC 20402. Ask for publication number P-20, 414, S/N 803-005-00007-9.

PETITIONING

STATE	SIGNATURES REQUIRED	COLLECTED NAP	COLLECTED LIBT
Alabama	5,000	6,800	already on
Alaska	2,068	already on	already on
Arizona	17,340	already on	already on
Arkansas	0	no need	no need
California	128,340	can't start	already on
Colorado	5,000	0	0
Connecticut	14,910	1,200	0
Delaware	(reg.) 145	already on	130
Dist of Columbia	3,000	can't start	can't start
Florida	56,318	0	3,552
Georgia	25,759	20,000	? 12,000
Hawaii	3,493	finished	already on
Idaho	8,224	0	1,250
Illinois	25,000	can't start	can't start
Indiana	30,950	0	0
Iowa	1,000	50	350
Kansas	2,500	already on	0
Kentucky	5,000	already on	200
Louisiana	0	no need	no need
Maine	4,000	0	0
Maryland	10,000	finished	already on
Massachusetts	33,682	can't start	can't start
Michigan	16,313	135	already on
Minnesota	2,000	can't start	can't start
Mississippi	1,000	finished	already on
Missouri	21,083	0	2,800
Montana	13,329	already on	already on
Nebraska	5,635	already on	finished
Nevada	7,717	7,500	already on
New Hampshire	3,000	finished	850
New Jersey	800	finished	0
New Mexico	(reg.) 500	already on	already on
New York	20,000	can't start	can't start
North Carolina	44,535	26,700	700
North Dakota	4,000	0	4,500
Ohio	5,000	3,125	0
Oklahoma	37,671	0	0
Oregon	51,578	0	11,498
Pennsylvania	25,568	can't start	can't start
Rhode Island	1,000	can't start	can't start
South Carolina	10,000	already on	already on
South Dakota	2,945	0	0
Tennessee	25	finished	0
Texas	34,424	can't start	already on
Utah	300	already on	already on
Vermont	1,000	finished	already on
Virginia	14,000	0	50
Washington	188	can't start	can't start
West Virginia	7,358	0	0
Wisconsin	2,000	can't start	can't start
Wyoming	8,000	already on	valid 7,350

Notes on petitioning chart:

"Already on" means the state acknowledges that the party or the candidate is on the November 1988 ballot. "Finished" means that the signatures have been collected, but that they haven't been certified yet.

No progress in the last month has been made on the petitions of any other party, except that the Socialist Party petition to put Willa Kenoyer on the Utah ballot has been not only begun, but has been completed., and the Internationalist Workers Party petition to put Herb Lewin on the New Jersey ballot has also been completed.

SWP v FBI

The U. S. government announced on January 4, 1988, that it would appeal the decision in *Socialist Workers Party v Attorney General of the U.S.* U. S. District Court Judge Thomas Griesa had ruled in 1986 that it is unconstitutional for a government agency, such as the FBI, to spy on and disrupt any legal political party, and he had awarded damages to the SWP of $264,000. This ruling will now be appealed. The case was filed in 1973.

POPULIST PARTY

The national executive committee will meet March 5-6 in Cincinnati, to decide whether or not to name a presidential candidate. In the meantime, two petition drives for the party are underway, in Michigan and North Carolina. Each has 5,000 signatures.

The Connecticut Independent Party, which is loosely affiliated with the Populist Party, is also planning to petition for statewide office in 1988 and also to run 21 candidates for the state legislature.

The American Independent Party of California, a ballot-qualified party which is no longer affiliated with the Populist Party, is thinking of running Col. James Gritz of Nevada for president.

WEST VIRGINIA

The Libertarian and New Alliance Parties expect to file a lawsuit within the next month against a West Virginia law which requires that the petition for third party and independent candidates state that the signers will vote for the candidates named on the petition. Similar lawsuits have won during the 1980's in Alaska, Kentucky, Michigan, Nebraska, Nevada, and South Dakota. It is not reasonable to expect voters to know whom they will vote for, months before the election. Petition wording ought to say that the signer desires the particular party or candidate to be on the ballot.

LEAGUE OF MEN VOTERS

The League of Men Voters, established to sponsor debates between *all* candidates for a particular office, has won a ruling that contributions to it are tax-exempt. The League's address is Lockbox 128, Glenview Il 60025.

CONGRESS

The voter registration bill in the House, H 3666, probably will have hearings in March 1988 in Congressman Swift's Elections Subcommittee of the House Administration Committee. HR 435, the poll-closing bill which has already passed the House, will probably have Senate hearings in March before Senator Ford's Rules & Administration Committee.

COFOE

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.

REMEMBER!

WRITE YOUR MEMBER OF CONGRESS, HOUSE OFFICE BLDGS., WASHINGTON DC 20515, and ask him or her to CO-SPONSOR HR 1582. Also write to Congressman Al Swift at the same address and ask him to hold hearings on the bill. .

RENEWALS

If your mailing label indicates that your subscription to *Ballot Access News* expires on February 1, 1988, there is an envelope enclosed to make it easier for you to renew your subscription. Remember, you can get a free 3-month extension if you send me a copy of a 1988 letter from a member of Congress, commenting on HR 1582.

THANK YOU!

Bruce Smith, Charles Szychowski, and Harry Marshall, for contributions.beyond the subscription price. Also, thank you, everyone who sends me clippings.

BALLOT ACCESS NEWS is published by Richard Winger, Field Representative of the Coalition for Free and Open Elections.

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