

# BALLOT ACCESS NEWS

San Francisco, California

July 8, 1988

Volume 4 Number 1

## HR 1582

The Rainbow Lobby has won permission for a booth at the Democratic National Convention, at which HR 1582 (the bill to require the states to provide fairly easy ballot access for third party and independent candidates for federal office) will be publicized. There will also be a press conference at the convention about HR 1582, with prominent endorsers in attendance.

Congresswoman Louise M. Slaughter of Rochester, New York, a Democrat, has written "I agree that the increasingly burdensome restrictions some states have imposed on independent and minor party candidates are unfair and unjustified by the argument that they are necessary to filter out frivolous candidates. More relaxed and standardized restrictions are needed." However, she has not become a co-sponsor of HR 1582.

## NAP GAINS A SENATOR

Senator Ernie Chambers, a Nebraska state senator since 1972, has registered as a member of the New Alliance Party and has also endorsed Lenora Fulani for president. Chambers, of Omaha, also sought to be the New Alliance Party's candidate for the U.S. Senate this year. He received 5 write-in votes in the New Alliance Party's primary (no one was on the party's ballot for U.S. Senate), but the Democratic candidate, former Governor Bob Kerrey, received 20 write-ins and was nominated. Kerrey then declined the NAP nomination, giving NAP the right to choose a new candidate by convention.

Chambers is running for re-election to the Nebraska State Senate this year. He is unopposed. Nebraska is the only state which elects state legislators on a non-partisan ballot.

Chambers still wishes to be the NAP candidate for the U.S. Senate this year, and the party would like to nominate him; but the Attorney General of Nebraska has said that no one can run for two different offices simultaneously.

Chambers has been a political independent for some time. In 1982 he ran for Attorney General as an independent candidate, polling 16.7% of the vote in a two-person race (his only opponent was a Republican).

## SWP GETS ITS AWARD

On June 21, 1988, the Socialist Workers Party received a check from the U.S. Treasury for \$280,544.95, as payment for damages won by the party for FBI burglaries, spying and harassment. Still pending is the party's request that the government pay attorneys fees.

## MICHIGAN

The June 15 *Ballot Access News* reported that a U.S. District Court Judge had ruled that Lenora Fulani need not submit any signatures whatsoever to be an independent candidate for president, since the petitioning procedure for independents did not come into existence until May 1988 and any signatures were due July 21. Attorney George B. Washington of Detroit is about to file a similar lawsuit on behalf of Larry Holmes (Workers World Party candidate), Willa Kenoyer (Socialist Party candidate), Eugene McCarthy (Consumer Party candidate), and James Mac Warren (Socialist Workers Party candidate), .

Michigan appealed to the U.S. Court of Appeals for a stay in the Fulani case, but on June 24 that court ruled that the state must first ask the U.S. District Court judge for a stay. The request for a stay is now pending in the District Court. The case number in the Court of Appeals is 88-1627, *Fulani v Austin*. In the District court the number is 88-CV-72331-DT.

## FILING FEE DEFEAT

On June 13, 1988, federal judge J. Frederick Motz upheld Maryland's requirement that write-in candidates must pay the same filing fee that ballot-qualified candidates must pay. If write-in candidates don't pay the fee, their write-in votes won't be counted. The case is *Dixon v Maryland State Adm. Board of Election Laws*, no. JFM-87-2023. Motz is a Reagan appointee who had never before had a voting rights case. His decision states that if no filing fee were charged, the list of people filing to be write-in candidates might be so long as to be unmanageable. However, no other state charges a filing fee for someone to file as a write-in candidate, and there are no such problems in any other state. In 1984, there were 20 states which provide that write-in candidates should file to have their write-ins counted, and in none of them were there more than 8 declared write-in candidates for president.

The Socialist Workers Party plaintiffs have not yet decided whether to appeal. The plaintiff-candidates were running for Baltimore city office in 1987 and faced filing fees of \$150 each.

## NORTH CAROLINA

The North Carolina Board of Elections has orally told the Populist Party that it will count write-in votes for president, if the write-in presidential candidate submits 500 signatures and a list of electors. Previously the Board had refused to say whether presidential write-ins are allowed in North Carolina or not.

## LIBERTARIAN PETITIONING

The California Libertarian Party has just mailed out a fund-raising appeal on behalf of national ballot access for Ron Paul. In addition, Jack Dean, U.S. Senate candidate of the California Libertarian Party, is about to mail his own fund-raising appeal for the same cause. Money continues to be a problem for the Libertarian ballot drives.

The final, official election returns from North Dakota's primary showed that .89% of the voters chose to vote in the Libertarian Party primary.

## PAID PETITIONING

On June 17, 1988, the Nebraska Supreme Court ruled that Nebraska's law banning payment for circulating an initiative petition is unconstitutional. *State v Radcliffe*, no. 87-645. The decision was no surprise, given the U.S. Supreme Court decision from Colorado eleven days earlier. The only difference between the Nebraska and Colorado laws was that Nebraska permitted payment of expenses to circulators, and the Nebraska Supreme Court said this distinction wasn't enough to save the Nebraska ban.

## LABOR-FARM PARTY

The Labor-Farm Party, Wisconsin's only fully-qualified third party, will conduct a mail ballot of its members during August to determine who should be its presidential candidate. The party will also include literature about the various candidates who are seeking the party's nomination. It is quite possible the party will decide not to nominate anyone for president.

## SOUTH CAROLINA

In 1986, the South Carolina legislature passed a law providing that a party must run at least one candidate every four years, or face disqualification. Prior to that, it had been legally impossible for a party in South Carolina ever to lose qualified status. At the time the bill passed, it was believed that one qualified party in South Carolina, the Independent Party, would be immediately affected, since it had not run any candidates since 1980. However, the Justice Department, Voting Rights Section, refused to clear the new law until South Carolina agreed not to apply it retroactively, so the Independent Party is still qualified. Supporters of David Duke, Populist Party presidential candidate, will try to re-organize the party and to gain its presidential nomination. They have until September 1 to accomplish this. The party will cease to be qualified if it doesn't run anyone this time.

## ILLINOIS DEFEAT

On April 18, 1988, the U.S. Court of Appeals, 7th circuit, upheld an Illinois law which forbids anyone from circulating a petition for a new party, if earlier that year or the previous year, the person had circulated a petition to qualify a candidate for the primary of an old party. The case is *Citizens for John W. Moore Party v State Board of Elections*, 845 F 2d 144. The decision was written by Judge Frank Easterbrook, a Reagan appointee who also voted to uphold Illinois' filing deadline for non-presidential independent candidates of December of the year before the election, in a 1986 case.

The Illinois ACLU will ask the U.S. Supreme Court to overturn the recent Illinois decision. Since the Supreme Court said last month in *Meyer v Grant* that petitioning is speech, the Illinois law cannot stand unless it is necessary for a compelling state interest. The 7th circuit did not apply the compelling state interest test to the law, so the decision is flawed. However, that doesn't necessarily mean the Supreme Court will accept it for review.

## ARIZONA VICTORY

On June 27, 1988, the Arizona Attorney General ruled that Arizona election code section 16-344 is unconstitutional, to the extent that it provides no means for new parties to nominate presidential elector candidates. The Attorney General said that new parties may nominate their candidates in convention, just as old parties do.

Although the opinion didn't address the issue of independent presidential candidates, it seems that it will no longer be possible for Arizona to require that signers of an independent presidential candidate's petition may not have voted in the primary. In 1988, Arizona has no presidential primary, and even presidential elector candidates are no longer chosen by primary. Therefore, there is no more basis for the rule. The Supreme Court had previously upheld such rules on the theory that otherwise, a voter could nominate more than one person for the same office. But in this case, there is no longer any connection between the Arizona primary and the presidential contest.

## NEW MEXICO

New Mexico law requires only 500 signatures to qualify a new party. However, the Secretary of State is interpreting the law to mean that no one can sign the petition unless the signer had previously changed his or her registration to show membership in the party whose petition is being signed. Both the Populist Party and the Workers World Party are hoping to bring a lawsuit against this interpretation.

## PETITIONING

STATE	REQUIRED	SIGNATURES COLLECTED						DEADLINE
		NAP	LIBT	WKRS LGE	POPULIST	CONSUMER	SOCIALIST	
Alabama	5,000	finished	already on	finished	700	0	0	Aug 31
Alaska	2,068	already on	already on	0	200	400	0	Aug 10
Arizona	8,670	already on	already on	0	0	0	0	Sep 23
Arkansas	0	no need	already on	no need	finished	no need	no need	Sep 1
California	128,340	10,000	already on	0	0	nom	nom	Aug 12
Colorado	5,000	6,047	7,200	0	500	500	0	Aug 2
Connecticut	14,910	13,691	6,300	100	0	0	0	Aug 12
Delaware	(reg.) 142	finished	134	0	0	5	0	Aug 20
D.C.	(est.) 2,650	100	400	0	0	25	600	Aug 16
Florida	56,318	57,287	58,000	0	2,500	0	0	Jly 15
Georgia	25,759	finished	33,000	0	1,700	0	0	Aug 2
Hawaii	3,493	finished	already on	0	0	200	0	Sep 9
Idaho	8,224	0	2,000	0	0	0	0	Aug 30
Illinois	25,000	no need	10,000	11,000	200	0	0	Aug 8
Indiana	30,950	41,274	2,500	0	0	1,000	0	Jly 15
Iowa	1,000	300	finished	75	600	400	900	Sep 2
Kansas	2,500	already on	finished	0	1,100	0	0	Aug 2
Kentucky	5,000	already on	1,500	100	0	0	0	Aug 30
Louisiana	0	no need	no need	no need	no need	no need	no need	Sep 6
Maine	4,000	already on	already on	too late	too late	too late	too late	Jun 7
Maryland	10,000	already on	already on	0	500	0	500	Aug 1
Massachusetts	33,682	44,000	16,000	0	0	0	100	Aug 2
Michigan	16,313	no need	already on	already on	7,000	0	500	Jly 20
Minnesota	2,000	0	25	0	0	200	0	Sep 13
Mississippi	1,000	finished	already on	0	100	0	0	Sep 9
Missouri	21,083	16,000	12,850	0	0	0	0	Aug 1
Montana	13,329	already on	already on	0	0	0	0	Aug 3
Nebraska	2,500	already on	2,484	0	0	0	0	Aug 30
Nevada	7,717	already on	already on	0	0	0	0	Sep 1
New Hampshire	3,000	finished	2,750	0	100	0	0	Aug 10
New Jersey	800	already on	already on	already on	finished	finished	finished	Aug 1
New Mexico	(reg.) 500	already on	already on	0	200	0	0	Sep 13
New York	20,000	can't start	can't start	can't start	can't start	can't start	can't start	Aug 23
North Carolina	44,535	finished	1,400	0	5,000	0	0	Jly 12
North Dakota	4,000	156	already on	0	0	0	0	Sep 14
Ohio	5,000	3,125	1,500	8,000	0	100	0	Aug 25
Oklahoma	37,671	finished	46,000	0	0	0	0	Jly 15
Oregon	36,695 / 51,578	4,500	41,500	0	0	0	0	Aug 30
Pennsylvania	25,568	44,000	13,000	27,000	14,000	11,000	0	Aug 1
Rhode Island	1,000	500	0	0	0	0	500	Jly 18
South Carolina	10,000	already on	already on	0	nom	0	0	Aug 1
South Dakota	2,945	105	200	0	50	0	0	Aug 2
Tennessee	275	finished	200	0	170	150	0	Sep 1
Texas	34,424	already on	already on	too late	too late	too late	too late	May 23
Utah	300	already on	already on	0	50	0	already on	Sep 1
Vermont	1,000	already on	already on	0	100	100	already on	Sep 22
Virginia	12,963	6,200	5,200	0	400	0	0	Aug 26
Washington	188	can't start	can't start	can't start	can't start	can't start	can't start	Jly 23
West Virginia	7,358	8,000	0	0	0	0	0	Aug 1
Wisconsin	2,000	can't start	can't start	can't start	can't start	can't start	can't start	Sep 6
Wyoming	8,000	already on	already on	0	0	0	0	Aug 30

NAP is New Alliance; LIBT is Libertarian; WKRS LGE is Workers League; "Nom" means that the presidential candidate is seeking the nomination of a one-state party which is already qualified for the ballot in that state. "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. DEADLINE refers to the *latest* procedure available for qualifying a third party or independent presidential candidate. Oregon "required" column shows both the indep. method (being used by NAP) and party method (being used by LIBT).

## PARTIES NOT ON THE CHART

The Socialist Workers Party is certified in New Jersey and Utah, is finished in Ohio, and is working in Iowa, Nebraska, Alabama, Minnesota, and D.C. The Internationalist Workers Party has completed petitioning in New Jersey and Vermont, is petitioning in Rhode Island and Utah, and is making a strong fight for the California Peace & Freedom nomination. The Workers World Party has completed petitioning in New Mexico and New Jersey. The Prohibition Party is finished in Colorado and New Mexico and plans to qualify in Louisiana, Arkansas, Tennessee and Mississippi. The American Party is certified in Utah.

## NAP OREGON CONVENTION

In Oregon, an independent candidate for statewide office can qualify either by submitting 36,695 valid signatures on a petition, or by holding a meeting at which 1,000 voters simultaneously attend and sign a sheet nominating the candidate. On June 18, Lenora Fulani and her Oregon supporters tried to attract the needed 1,000 voters, following the end of Portland's Gay Freedom Day Parade. 556 voters did attend, not enough, so now Fulani will circulate the independent candidate's petition. Although the 1,000-person alternative is very stringent, it was used successfully in 1976 by independent candidate Eugene McCarthy, and in 1980 by Citizens Party candidate Barry Commoner.

## FLORIDA

There is already a case pending in federal court against Florida's charging 10 cents per signature to check petitions, *Fulani v Krivanek*, no. 88-671-CIV-T-10B. The complaint in the case is being amended to also challenge the July 15 deadline for third party and independent presidential candidate petitions. The Florida deadline for presidential petitions is wholly irrational, since the deadline for independent and third party candidates for other statewide office is 4 days *later* than the presidential petition deadline, yet the other statewide office petitions require three times as many signatures! Obviously, if Florida has time to check 250,000 signatures submitted on July 19, it makes no sense to have an earlier deadline for a smaller petition. Between 1949 and 1983, the Florida presidential petition deadlines were August 15.

## CALIFORNIA VICTORY

On June 22, 1988, federal judge Marilyn Hall Patel declared California election code section 6833 unconstitutional, as applied to independent presidential candidates. Section 6833 limits a presidential independent to only 60 days to collect signatures, yet other independent candidates have 105 days. The Secretary of State had acknowledged that the law was unconstitutional. The case is *Fulani v Eu*, no. C88-1427-MHP. There will be a hearing on July 13 to decide what relief should be granted.

## EUGENE McCARTHY

Eugene McCarthy's June 1 announcement that he would accept the presidential nomination of the Consumer Party brought him coverage on network television news that evening, publicity in virtually every major newspaper, and an editorial in Philadelphia's chief newspaper, scolding him for his action. Activists in the National Unity Party, the political party which John Anderson tried to organize in 1983 but which has never been active, are supporting the McCarthy petitions. McCarthy has also decided to ask for the California Peace & Freedom Party nomination, although chances for getting it are dim.

## MATCHING FUNDS

On June 29, 1988, the Federal Election Commission certified another \$79,482.19 to Lenora Fulani, making a total to her so far of \$619,339.26.

Senator Paul Simon, in an op-ed piece for the July 3 *New York Times*, advocated that the threshold for receiving matching funds be raised from \$100,000 to \$1,000,000. Senator Simon raised almost \$3,000,000 in matchable amounts during 1988. Pat Robertson received the most matching funds of any presidential candidate, almost \$9,000,000.

## NEW ADDRESS FOR 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 now PO Box 355, Old Chelsea Sta., New York NY 10011. Dues are \$10 per year.

## THANK YOU!

Sam Sacra, Darcy Richardson, David Breitkopf, William Hickman, Jim Yarbrough, David Grappo, John Kannarr, Ken L. Smith, Bernard Baltic, Si Gerson, Jerry Douglas, Gerry Walsh, Lew McCammon, Raymond Massa, Tom Glass, Gene Armistead, Dennis Schlumpf, Scott Lieberman, Robert Vogel, David Macko, John C. Sproul, Mike Holmes, Mark Hinkle, John McDivitt, Karen Huffman, Wes Deitchler, Margaret Krogdahl, Ron Ehrenreich, Jim Fay, Gail Lightfoot, and Wendy Ng, for contributions beyond the subscription price.

## 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. Subscriptions to **BALLOT ACCESS NEWS** are \$6 per year.