BALLOT ACCESS NEWS

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YOUR ACTION NEEDED!

Enclosed is a copy of a court order from Florida which is so unjust, it can be used as a tool to help HR 1582, the bill in Congress to outlaw all forms of restrictions on ballot access in federal elections (except that petitions could still exist, but not to exceed one-tenth of 1% of the number of registered voters).

Florida requires third parties to pay petition-checking fees when they submit petitions to be on the ballot. This year, for president, the Libertarian Party submitted 94,000 signatures, and the New Alliance Party submitted 102,000 signatures, making each group liable for about $10,000 in fees. Most counties demanded the fees immediately, but a few counties did not. The court order, issued by federal Judge William T. Hodges on July 15, refused to overturn the fee requirement.

It should be clear to any fair-minded judge that the fees are unconstitutional, on equal protection grounds. In Florida, Democrats and Republicans nominate by primary. The primaries cost the government over $1,000,000 each election year, but the government doesn't force the Democratic or Republican Parties to pay any offsetting fees. Third parties nominate by petition and they must pay the costs of having the petitions checked. There are also candidate filing fees, which all candidates must pay. Florida and North Carolina are the only states which force third parties to pay for having their petitions checked. Florida exempts independent candidates from having to pay the fees if they can't afford it, but does not extend this exception to third parties. Even initiative petitioners need not pay the fees, if they can't afford it, under a 1984 federal court ruling. It is mandatory only for third parties.

Please write your member of Congress, describe the Florida law, and enclose a copy of the court order. Explain that HR 1582 would end the Florida requirement. Ask your member of Congress to express an opinion of the Florida fees. Obviously, no member of Congress will be able to say "The courts take care of these problems", when the evidence that they will not, is set before them. Remember to emphasize that Florida requires BOTH the fees AND a very large number of signatures, and that only third parties are subject to the fees.

Judge Hodges is a Nixon appointee who upheld the Florida petition in lieu of filing fees in 1975. The Florida petition requirement for a Democrat who is unable to pay a filing fee for statewide office is 170,000 valid signatures. They must be collected within 21 days. The case was *Fair v Taylor,* unreported, no. 72-296, Middle District, Tampa Division.

LaROUCHE TO RUN AS INDEPENDENT

Lyndon LaRouche, who ran in 21 Democratic presidential primaries this year, has qualified as an independent presidential candidate in Washington state and plans to qualify in a few more easy states.

NEBRASKA

The New Alliance Party and state Senator Ernie Chambers are about to file a lawsuit to force the state to accept his candidacy as the New Alliance Party's candidate for U. S. Senate. The state says that Chambers didn't register into the party in time to be one of its candidates. However, all precedents from other states' court decisions agree that duration-of-membership laws are not applicable in the case of newly-qualified parties. The state also says that Chambers can't run for the U.S. Senate because he is also running for re-election to the non-partisan state senate. Chambers points out, however, that the law only forbids someone from filing for two offices in the primary, and Chambers didn't file in the New Alliance Party's primary; rather, he was chosen by state convention.

MICHIGAN

There has been no response yet from the U. S. Court of Appeals on the state's request for a stay of the order in the lower court, ordering Fulani on the ballot as an independent candidate without any petition, on the grounds that the independent petition procedure didn't exist until May 1988, too late to expect anyone to comply with it. On July 12, a second lawsuit was filed in U. S. District Court, to qualify the presidential candidates of the Socialist, Consumer, Workers World, and Socialist Workers Parties, as independents, as well as the U. S. Senate candidate of the Socialist Workers Party.. No action on this lawsuit has yet occurred.

PENNSYLVANIA

On July 28, the first day that third parties are permitted to submit their petitions, the Workers League succeeded in having its petitions time-stamped before the petitions of any other party, and thus won the third line on the ballot, behind the Democrats and Republicans. In Pennsylvania, more than any other state, there is a vote-getting advantage for the party on the third line, compared to lower lines. The party in the third line is virtually guaranteed to receive 20,000 votes.

IOWA

On July 18, a hearing was held in federal court before a magistrate in the Socialist Party's lawsuit over whether the state must permit voters to register other than "Democrat", "Republican", or "Independent". The case is assigned to Judge Charles R. Wolle, a Reagan appointee who has never before had a case involving ballot access or third parties. The case is Iowa *Socialist Party v Nelson,* no. 86-842A, southern district, central division. It is an ACLU-sponsored case.

EUROPE LOOKS AT OUR ELECTIONS

According to *The Spotlight* of July 11, 1988, many members of the European Parliament look askance at the United States presidential election process. Particularly noteworthy were the remarks of Thomas J. Maher, a member from the Republic of Ireland, who said, "This weakness (the low turnout) is worse in the American system than in the European and as I see it, it is due to the two-party system. The Americans must make it possible for more parties to exist."

POPULIST PARTY WINS PRECEDENT

Most states forbid anyone from running for office as an independent candidate, if that person had previously run in a party primary for the same office that year. However, in 1980, when John Anderson dropped out of the Republican race and declared himself an independent candidate, states in which he had already run in the primary decided that the "sore loser" laws didn't apply to presidential candidates. Thus, a precedent was set in each of these states, permitting such action in future years. States in which Anderson caused this precedent to be set were California, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Nebraska, New Hampshire, New Mexico, North Carolina (with certain reservations), Oregon, Tennessee, Vermont, Wisconsin, and the District of Columbia.

In 1984, Lyndon LaRouche ran in Democratic primaries and then ran as an independent. He profited from the Anderson precedents and extended them to Louisiana, North Dakota, and Ohio.

Now, in 1988, the Populist campaign has extended the precedent to Arkansas. The party's presidential candidate, David Duke, ran in several Democratic primaries, including Arkansas'. When he later filed as an independent candidate in Arkansas, he was first told "No" on the grounds that he had run in the primary. But he has now persuaded Arkansas that this initial ruling was erroneous.

The Populist Party appears to have qualified in Pennsylvania as well. This will mark the first time that the Populist Party has met a ballot access requirement greater than 7,500 signatures.

However, the Populist Party failed in its attempt to "capture" the South Carolina Independent Party's presidential nomination. The Independent Party is a defunct, yet ballot-qualified party in South Carolina, but deadlines for reviving it with precinct conventions passed before Duke supporters could hold them.

OREGON LIBERTARIAN LUCK

The Democratic Party of Oregon has no candidate for Attorney General. The only opponent for the incumbent Republican Attorney General will be a Libertarian candidate. This situation virtually guarantees that the Libertarian will poll over 5% of the vote, and thus the Libertarian Party will be on the 1990 ballot automatically.

POLITICAL PARTY RIGHTS

On July 27, 1988, the U. S. Court of Appeals, 9th circuit, denied the state's request for a stay in *Geary v Renne,* so now political parties are free to endorse candidates in non-partisan elections, at least while the case gets heard. A hearing is scheduled for September in the 9th circuit on the case. The judges who denied the stay were Cecil Poole and Arthur Alarcon.

In *San Francisco County Democratic Central Committee v Eu,* the case over whether parties can endorse candidates in their own primaries, and over whether they can structure themselves as they wish, the state has filed its brief with the U. S. Supreme Court. It is a very unusual brief. Undoubtedly, the Supreme Court wants to hear constitutional arguments, but the state's brief virtually concedes the constitutional issue, and instead focuses on its conviction that none of the plaintiff political parties in the case, really ever properly authorized the litigation! The only constitutional argument the state makes is that it's OK to violate the constitutional rights of qualified political parties in California, because if the parties don't like losing their rights, they can always choose to become disqualified and run all their candidates under the independent procedure! Of course, this would mean that the party label couldn't be printed on the ballot, and it would also mean collecting 1,218,000 valid signatures in 1988 .Furthermore, there is no method for a California ballot-qualified party to voluntarily give up qualified status.

DEMOCRATIC CONVENTION

The 1988 national platform of the Democratic Party states, "We further believe that the voting rights of all minorities should be protected...". This clause is included in the paragraph on civil rights, on page three of the platform.

The Rainbow Lobby decided at the last minute that it couldn't afford to have a table at the convention, so very little opportunity was presented to publicize HR 1582.

NORTH CAROLINA

On June 8, 1988, the New Alliance Party filed a lawsuit in federal court against a North Carolina law which makes it illegal for a *new* political party to nominate candidates for county office. The lawsuit is *New Alliance Party v North Carolina Board of Elections,* no. 88-553-CIV-5, filed in the Eastern District, Raleigh division. It has been assigned to Judge W. Earl Britt, a Carter appointee.

TEXAS

In June 1988, the Republican Party of Texas dropped its requirement that candidates in its presidential primary must submit 5,000 signatures, to be on the ballot. Instead, now they can pay a filing fee of $5,000 and forget petitioning.

PETITIONING

STATE	REQUIRED	SIGNATURES COLLECTED						DEADLINE
		NAP	LIBT	WKRS LGE	POPULIST	CONSUMER	SOCIALIST	
Alabama	5,000	finished	already on	already on	700	0	0	Aug 31
Alaska	2,068	already on	already on	0	2,000	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	already on	no need	no need	Sep 1
California	128,340	44,800	already on	0	0	nom	nom	Aug 12
Colorado	5,000	finished	finished	too late	too late	too late	too late	Aug 2
Connecticut	14,910	18,315	6,500	100	0	0	0	Aug 12
Delaware	(reg.) 142	finished	136	0	0	5	0	Aug 20
D.C.	2,700	2,501	400	0	0	25	800	Aug 16
Florida	56,318	finished	finished	too late	too late	too late	too late	Jly 15
Georgia	25,759	finished	finished	too late	too late	too late	too late	Aug 2
Hawaii	3,493	finished	already on	0	0	500	0	Sep 9
Idaho	4,112 / 8,224	4,237	2,800	0	0	0	0	Aug 30
Illinois	25,000	already on	30,000	finished	200	0	0	Aug 8
Indiana	30,950	finished	too late	too late	too late	too late	too late	Jly 15
Iowa	1,000	300	finished	75	700	600	finished	Sep 2
Kansas	2,500	already on	finished	too late	too late	too late	too late	Aug 2
Kentucky	5,000	already on	1,750	100	200	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	too late	too late	too late	too late	Aug 1
Massachusetts	33,682	finished	finished	too late	too late	too late	too late	Aug 2
Michigan	16,313	in court	already on	already on	to be in court	in court	in court	Jly 20
Minnesota	2,000	793	25	1,500	200	500	300	Sep 13
Mississippi	1,000	finished	already on	0	100	0	0	Sep 9
Missouri	21,083	finished	finished	too late	too late	too late	too late	Aug 1
Montana	13,329	already on	already on	too late	too late	too late	too late	Aug 3
Nebraska	2,500	already on	2,800	0	0	0	0	Aug 30
Nevada	7,717	already on	already on	0	0	0	0	Sep 1
New Hampshire	3,000	finished	2,500	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	17,126	2,500	0	0	0	0	Aug 23
North Carolina	44,535	already on	too late	too late	too late	too late	too late	Jly 12
North Dakota	4,000	156	already on	0	0	0	0	Sep 14
Ohio	5,000	3,125	4,500	8,000	0	300	0	Aug 25
Oklahoma	37,671	finished	finished	too late	too late	too late	too late	July 15
Oregon	36,695 / 51,578	24,000	45,000	0	0	0	0	Aug 30
Pennsylvania	25,568	finished	finished	finished	finished	finished	0	Aug 1
Rhode Island	1,000	already on	already on	0	already on	0	700	Jly 18
South Carolina	10,000	already on	already on	too late	too late	too late	too late	Aug 1
South Dakota	2,945	finished	finished	too late	too late	too late	too late	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	12,064	6,500	0	400	0	0	Aug 26
Washington	188	already on	already on	too late	too late	too late	too late	Jly 23
West Virginia	7,358	finished	too late	too late	too late	too late	too late	Aug 1
Wisconsin	2,000	0	0	0	0	0	50	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 seekin nomination of a one-state party which is already qualified for the ballot in that state. "Already on" means the state acknowledges that the or the candidate is on the November 1988 ballot. "Finished" means that the signatures have been collected. DEADLINE refers to the procedure available for qualifying a third party or independent presidential candidate. Oregon and Idaho "required" column shows both the 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, Washington, Iowa, Nebraska, Alabama, and is working in Minnesota, New York, South Dakota and D.C. The Internationalist Workers Party is certified in Rhode Island, has completed petitioning in New Jersey and Vermont, and is petitioning in Utah. The Workers World Party is certified in New Jersey, has completed petitioning in New Mexico and Washington , and is working in Ohio and New York.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.and South Carolina.

WRITE-INS

On July 8, 1988, the U. S. Court of Appeals, 8th circuit, upheld the North Dakota ballot access laws, in *McLain v Meier,* no. 86-5290. This outcome wasn't surprising. There are two methods to qualify a new party in North Dakota. If the new party wants its own primary, it must submit 7,000 signatures by April of the election year. 7,000 signatures is less than two percent of the number of eligible signers. Furthermore, a party can also qualify its candidates for the general election, with the party label, by submitting 4,000 signatures by September (for president) or 1,000 signatures (for other statewide office).

But the 8th circuit remanded the case back to the U. S. District Court to permit the plaintiffs challenge the state's refusal to count their write-in votes. The 8th circuit said that the write-in issue "is unaffected by our conclusion that North Dakota's ballot access laws are reasonable, *because the State has an obligation to count all votes properly cast."* (emphasis added).

Although most states permit write-ins for president, many refuse to count or canvass them. In 1984, many large cities, including New York city, Philadelphia, Washington DC, and Boston, reported no presidential write-ins. The new *McLain* decision will help any third party to insist that its write-ins be counted and canvassed. This, in turn, may help to persuade elections officials that ballot access should be eased, because elections officials hate to deal with write-ins.

MATCHING FUNDS

During July, Lenora Fulani received another $111,466.38 in federal matching funds from the Federal Election Commission, for a total of $730,805.64 this year.

NEW MEXICO

The ACLU has agreed to sue New Mexico over its requirement that no one can sign the petition to qualify a new party, unless that person had previously registered as a member of the party.

The subscription price for *Ballot Access News* is $6 per year.

RHODE ISLAND

The Rhode Island Secretary of State's office has orally told the Socialist Party that they acknowledge the state's July 18 deadline is unconstitutionally early, and seemed to indicate that they would accept the petitions beyond the deadline. None of this is in writing yet. In 1976 a U. S. District Court ruled that Rhode Island's then-deadline of August 10 was too early, and the legislature changed it to late August. However, in 1987 they changed it back to July, having forgotten all about the 1976 decision.

NATIONAL CONVENTIONS

August 1988 is the month for presidential nominating conventions of 5 political parties: (1) Peace and Freedom (a party only in California), August 13-14, Oakland; (2) Republican, August 15-18, New Orleans; (3) New Alliance, August 20-21, New York city; (4) Right to Life (a party only in New York), August 20, Albany; (5) American Independent (a party only in California), August 27-28, Sacramento.

The Illinois Solidarity Party had its national convention in Chicago on May 14, 1988, and chose Lenora Fulani for president and Mamie Moore of New Jersey for vice-president. In September, the Liberal and Conservative Parties of New York will almost certainly endorse the Democratic and Republican tickets, respectively.

CALIFORNIA INDEPENDENT LAW

Ballot Access News of July 8, 1988, stated that California election code section 6833 had been declared unconstitutional and that there would be a hearing on July 13 to determine what the relief should be. Section 6833 sets the petitioning period for presidential independent candidates at 60 days, whereas independent candidates for other office have 105 days.

No hearing was held on July 13, because Judge Marilyn Patel refused to permit one. Consequently, her order of June 22 still stands, and any independent presidential candidate in California has until September 22 to submit the necessary 128,340 signatures. By this date, the ballot-printing has already begun, so the California Secretary of State then offered to settle out of court, by reducing the number of signatures to 73,320 for anyone who waives his or her right to obtain signatures after August 12. Fulani, the only independent presidential candidate petitioning in California, declined that offer, because her campaign felt unable to submit that many by August 12. Further negotiations are proceeding.

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