

BALLOT ACCESS NEWS

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CONYERS TO RE-INTRODUCE BILL

Congressman John Conyers, Democrat of Michigan, has said he will again introduce the bill to help solve ballot access problems. The bill was known as HR 2320 in 1985-6, and HR 1582 in 1987-8. The new bill won't get a number until it is introduced. Nevertheless, it should be possible to contact your member of Congress now, and ask that the member co-sponsor it after it is introduced. Point out that voter turnout this year was the lowest for a presidential election (50.2%) since 1924. Ask if it wouldn't be sensible to include more people in the process. Also, point out that ballot access in 1990 will be approximately 50% more difficult than it was in 1988, unless Congress steps in (see the chart on page 2). Also point out that 76 members of Congress had no major party opposition on the November ballot, a record number.

VOTE FRAUD

Election officials in New York City, Boston, North Dakota and West Virginia, illegally refused to count valid write-in votes for president in the November 1988 election.

In North Dakota, the Prohibition Party printed "stickers" and had them approved by the Secretary of State. "Stickers" are a form of write-in voting, in which the voter obtains a pre-printed, sticky label from his or her candidate in advance of the election, and pastes it on the ballot. The Secretary of State's office approved them, but after the election, told the Prohibition Party that no county auditor had reported any write-in or sticker votes for the party's presidential nominee. The party knows of at least twelve people who did cast such votes and is investigating further. The North Dakota incident is particularly galling, since on July 8, 1988, the U.S. Court of Appeals, 8th circuit, ruled in a North Dakota case that failure to count a valid write-in vote is a violation of the U.S. Constitution. *McLain v Meier*, 851 F 2d 1045 (1988).

In New York city, not a single write-in vote was cast, according to the Board of Elections. The Socialist Party and Workers League presidential nominees were declared write-in candidates, and they know that some voters did write them in. The Socialist Party plans to protest. Similarly, in Boston, the Prohibition Party knows of several voters who wrote in that party's nominee, but the city Board of Elections reported no such votes, even though the nominee was an official, declared write-in candidate. In West Virginia, the Secretary of State has told the Libertarian Party that some counties failed to count any write-in votes, despite instructions to the contrary, and that there is nothing that can be done. West Virginia is in the 4th circuit, which ruled in 1983 that failure to count any valid vote violates the U.S. Constitution. *Hendon v North Carolina Board of Elections*, 710 F 2d 177 (1983).

INDIANA, MISSOURI ELECTORS

The request for a rehearing is still pending in Missouri in *Manifold v Blunt*, no. 88-2394 WM, 8th circuit. This is the case over whether Missouri can constitutionally require new parties to submit their presidential elector candidates on August 1, when old parties need not submit them until mid-October. On December 14, the 3 Eighth Circuit judges released an opinion explaining the reasons for their earlier orders. The two judges who voted to uphold the Missouri law did not mention the Indiana incident (in which the major parties were late submitting their elector candidates). Instead, the two judges stated that the state has a compelling interest in requiring new parties to submit their electors by August 1, and no similar interest in requiring established parties to submit them until after the ballots have been printed, because, "With an established party, the Secretary of State has assurance that there will be presidential electors for their candidate, and there is no risk in printing the names on the ballot." There is no further discussion of *why* this is true!

The Indiana case brought by Lenora Fulani, attempting to establish that George Bush and Michael Dukakis should have been kept off the Indiana ballot because they handed in their elector candidates late, is still pending in the 7th circuit.

NEWS ELECTION SERVICE

On November 4, the Populist Party of New Jersey sued News Election System over that organization's plans to report only Democratic and Republican presidential votes, on election night television. *Schau v Flaherty*, no. 88-4754, U.S. District Court, Trenton, N.J. NES is owned by the television networks and the wire services and has existed since 1976. 1988 was the first time it limited its collection of data to the Democrats and Republicans.

On November 4, federal Judge John C. Lifland, a recent Reagan appointee, issued a temporary restraining order against NES. However, on November 7, after a further hearing, he lifted the restraining order. The case continues. Since NES is not a governmental entity, the First Amendment protects it, unless plaintiffs can show that NES defamed and/or libelled them.

The lawsuit was accompanied by an energetic campaign against NES. Various newspaper articles and talk show radio programs publicized the issue. However, virtually all media stated after the election that the results were Bush 54%, Dukakis 46%. It was over a month later before the media started reporting the truth: Bush 53%, Dukakis 46%, "other" 1%.

The NES lawsuit came to be filed because of the extraordinary energy and talent of Sylvia Benitez, a member of the New Jersey Populist Party.

NEW PARTY REQUIREMENTS

STATE	1988	1990
Alabama	12,345	12,345
Alaska	2,068	2,032
Arizona	17,340	23,438
Arkansas	0	24,833
California	reg 76,172	reg 76,172
Colorado	5,000	1,000
Connecticut	14,910	9,937
Delaware	reg 142	(est) reg 145
Dist of Columbia	2,700	3,000
Florida	56,318	181,421
Georgia	25,759	29,414
Hawaii	3,493	4,438
Idaho	8,224	8,180
Illinois	25,000	25,000
Indiana	30,950	30,950
Iowa	1,000	1,000
Kansas	16,813	16,813
Kentucky	5,000	5,000
Louisiana	0	(est) reg 108,000
Maine	4,000	4,000
Maryland	10,000	(est) 69,500
Massachusetts	33,682	33,682
Michigan	16,313	23,953
Minnesota	2,000	2,000
Mississippi	0	0
Missouri	21,083	20,860
Montana	13,329	9,531
Nebraska	5,635	5,635
Nevada	7,717	10,326
New Hampshire	3,000	3,000
New Jersey	800	800
New Mexico	500	2,475
New York	20,000	20,000
North Carolina	44,535	43,601
North Dakota	4,000	1,000
Ohio	30,667	43,934
Oklahoma	37,671	58,552
Oregon	51,578	51,157
Pennsylvania	25,568	(est) 30,000
Rhode Island	1,000	1,000
South Carolina	10,000	10,000
South Dakota	7,361	7,361
Tennessee	30,259	30,259
Texas	34,424	34,424
Utah	500	500
Vermont	0	0
Virginia	12,963	(est) 13,300
Washington	188	187
West Virginia	7,358	6,346
Wisconsin	2,000	2,000
Wyoming	8,000	8,000
TOTAL SIGNATURES	673,051	926,684
TOTAL REGISTRANTS	76,314	184,317
GRAND TOTAL	749,365	1,111,001

This chart shows the number of petition signatures, or registrants, needed for a new party to qualify its most important statewide candidate for the ballot of each state, (president in 1988, usually governors in 1990). All procedures shown permit the party name to be printed on the ballot as well. Note that the number of signatures needed in 1990 is about 50% greater than the number needed in 1988. This is because some states have easier requirements to get on for president than for other office.

SOVIET UNION

The government of the Soviet Union has announced that voters will be given a choice of candidates in the next elections for the national legislative bodies. Also, in Hungary, an opposition political party called "Alliance of Free Democrats" was formed in November, 1988.

WHO VOTES FOR THIRD PARTIES?

The November 10 *New York Times* published the results of exit polling of voters. The data show that these categories of people were more likely to vote for third party presidential candidates in 1988: men, blacks, voters with a post-graduate education, voters whose family income is \$35,000-\$49,999, voters whose family income is over \$100,000, Westerners, political independents, full-time students, teachers, Republican primary voters, first-time voters, black men (4% of them voted for third party candidates), unmarried men.

Categories of people least likely to vote for third party presidential candidates were voters whose family income is \$25,000-\$34,999, women age 45-59, women age 60 and over, married women, Democratic women, white Democrats, women with less than a high school education, female high school graduates, and female college graduates.

The data is based on questionnaires compiled by 11,645 voters.

PRESIDENTIAL ELECTION RETURNS

The charts on pages 3 and 4 give the vote and percentage for all third party presidential candidates. The next issue of *Ballot Access News* will give an analysis of these votes, and also report on third party totals for other office.

The best county showing for any third party presidential ticket was the 5.58% received by the Paul-Marrou team in Kenai Peninsula, Alaska (the site of Marrou's old legislative district).

LENDALL ELECTED

Jim Lendall, independent candidate for the legislature of Arkansas, won by a huge 64-36 margin against his only opponent, a Democrat. Lendall only obtained a place on the ballot because he won a lawsuit against the early filing deadline. Lendall has a special interest in fair ballot access laws, and plans to work for a better election code.

PRESIDENTIAL VOTE

<u>STATE</u>	<u>PAUL</u>	<u>FULANI</u>	<u>DUKE</u>	<u>McCARTHY</u>	<u>LaROUCHE</u>	<u>WINN</u>	<u>WARREN</u>	<u>LEWIN</u>	<u>DODGE</u>
Alabama	8,460	3,311	*	*	*	461	656	*	*
Alaska	5,459	1,015	*	*	804	*	*	*	*
Arizona	13,351	1,662	113	159	0	0	0	0	0
Arkansas	3,297	2,161	5,146	0	0	0	0	0	1,319
California	70,105	31,181	483	234	0	0	0	58	0
Colorado	15,483	2,539	137	0	0	0	0	0	4,604
Connecticut	14,071	2,491	0	0	0	0	0	0	0
Delaware	1,159	443	*	*	*	*	*	*	*
D.C.	554	2,901	0	0	163	208	123	0	0
Florida	19,781	6,644	249	0	0	0	0	0	0
Georgia	8,435	5,099	0	0	0	0	0	0	0
Guam	129	75	0	0	0	0	0	0	0
Hawaii	1,999	1,003	0	0	470	0	0	0	0
Idaho	5,313	2,502	0	0	0	0	0	0	0
Illinois	14,944	10,276	0	0	0	7,021	0	0	0
Indiana	0	10,215	0	0	0	0	0	0	0
Iowa	2,494	539	755	*	3,526	235	205	*	*
Kansas	12,533	3,806	0	0	0	0	0	0	0
Kentucky	2,118	1,256	4,494	0	0	0	0	0	0
Louisiana	4,115	2,355	18,612	0	1,958	0	0	0	0
Maine	2,700	1,405	*	*	*	*	*	*	*
Maryland	6,748	5,115	0	0	0	0	0	0	0
Massachusetts	24,251	9,561	0	0	0	0	0	0	16
Michigan	18,336	2,513	60	2,497	0	1,958	819	0	5
Minnesota	5,109	1,734	1,529	5,403	1,702	489	2,155	*	*
Mississippi	3,329	2,155	4,232	0	0	0	0	0	0
Missouri	523	6,656	42	0	0	0	0	0	0
Montana	5,047	1,279	*	*	*	*	*	*	*
Nebraska	2,534	1,740	0	0	0	0	0	0	0
Nevada	3,520	835	0	0	0	0	0	0	0
New Hampshire	4,502	790	*	*	*	*	*	*	*
New Jersey	8,413	5,138	2,445	3,452	*	691	2,297	9,953	*
New Mexico	3,268	2,237	0	0	0	0	344	0	249
New York	12,109	15,845	0	0	0	10	3,287	0	0
North Carolina	1,263	5,682	0	0	0	0	0	0	0
North Dakota	1,315	396	*	*	905	*	347	*	*
Ohio	11,926	12,017	0	0	7,713	5,401	0	0	0
Oklahoma	6,261	2,985	0	0	0	0	0	0	0
Oregon	14,811	6,487	90	0	0	0	0	0	0
Pennsylvania	12,051	4,379	3,444	19,158	*	2,188	*	*	*
Rhode Island	825	280	159	*	*	*	130	195	*
South Carolina	4,935	4,077	0	0	0	0	0	0	0
South Dakota	1,060	730	0	0	0	0	226	0	0
Tennessee	2,041	1,334	1,807	0	873	0	718	0	1,807
Texas	30,355	7,208	0	0	0	0	110	0	0
Utah	7,473	455	0	0	427	0	209	0	0
Vermont	1,000	205	189	*	275	*	113	164	*
Virginia	8,336	14,312	0	0	0	0	0	0	0
Washington	17,240	3,520	*	*	4,412	*	1,290	*	*
West Virginia	*	2,230	*	*	*	*	*	*	*
Wisconsin	5,157	1,953	3,056	0	2,302	0	2,574	0	0
Wyoming	2,026	545	*	*	*	*	*	*	*
TOTAL	432,264	217,272	47,042	30,903	25,530	18,662	15,603	10,370	8,000

Paul is Libertarian, Fulani is New Alliance, Duke is Populist, McCarthy is Consumer, LaRouche is independent, Winn is Workers League, Warren is Socialist Workers, Lewin is Internationalist Workers (on the ballot as Peace & Freedom), Dodge is Prohibition. The asterisk in the chart above means that the candidate received a number of write-in votes which is unknown, since no one has yet tallied them.

PRESIDENTIAL VOTE PERCENTAGES

<u>STATE</u>	<u>PAUL</u>	<u>FULANI</u>	<u>DUKE</u>	<u>McCARTHY</u>	<u>LaROUCHE</u>	<u>WINN</u>	<u>WARREN</u>	<u>LEWIN</u>	<u>DODGE</u>
Alabama	.61	.24	0	0	0	.03	.05	0	0
Alaska	2.75	.51	0	0	.41	0	0	0	0
Arizona	1.14	.14	0	0	0	0	0	0	0
Arkansas	.31	.18	.56	0	0	0	0	0	.14
California	.71	.32	0	0	0	0	0	58	0
Colorado	1.13	.19	0	0	0	0	0	0	.34
Connecticut	.97	.17	0	0	0	0	0	0	0
Delaware	.47	.18	0	0	0	0	0	0	0
D.C.	.29	1.52	0	0	.09	.11	.06	0	0
Florida	.46	.15	0	0	0	0	0	0	0
Georgia	.47	.28	0	0	0	0	0	0	0
Guam	.53	.31	0	0	0	0	0	0	0
Hawaii	.56	.28	0	0	.13	0	0	0	0
Idaho	1.30	.61	0	0	0	0	0	0	0
Illinois	.33	.23	0	0	0	.15	0	0	0
Indiana	0	.47	0	0	0	0	0	0	0
Iowa	.20	.04	.06	0	.29	.02	.02	0	0
Kansas	1.26	.38	0	0	0	0	0	0	0
Kentucky	.16	.09	.34	0	0	0	0	0	0
Louisiana	.25	.14	1.14	0	.12	0	0	0	0
Maine	.49	.25	0	0	0	0	0	0	0
Maryland	.39	.30	0	0	0	0	0	0	0
Massachusetts	.92	.36	0	0	0	0	0	0	0
Michigan	.50	.07	0	.07	0	.05	.02	0	0
Minnesota	.24	.08	.07	.26	.08	.02	.10	0	0
Mississippi	.36	.23	.45	0	0	0	0	0	0
Missouri	0	.32	0	0	0	0	0	0	0
Montana	1.38	.35	0	0	0	0	0	0	0
Nebraska	.38	.26	0	0	0	0	0	0	0
Nevada	1.03	.24	0	0	0	0	0	0	0
New Hampshire	1.00	.18	0	0	0	0	0	0	0
New Jersey	.27	.17	.08	.11	0	.02	.07	.32	0
New Mexico	.63	.43	0	0	0	0	.07	0	.05
New York	.19	.24	0	0	0	0	.05	0	0
North Carolina	0	.27	0	0	0	0	0	0	0
North Dakota	.44	.13	0	0	.30	0	.12	0	0
Ohio	.27	.27	0	0	.18	.12	0	0	0
Oklahoma	.53	.25	0	0	0	0	0	0	0
Oregon	1.24	.54	0	0	0	0	0	0	0
Pennsylvania	.27	.10	.08	.42	0	.05	0	0	0
Rhode Island	.20	.07	.04	0	0	0	.03	.05	0
South Carolina	.50	.41	0	0	0	0	0	0	0
South Dakota	.34	.23	0	0	0	0	.07	0	0
Tennessee	.12	.08	.11	0	.05	0	.04	0	.11
Texas	.56	.13	0	0	0	0	0	0	0
Utah	1.16	.07	0	0	.07	0	.03	0	0
Vermont	.41	.08	.08	0	.11	0	.05	.07	0
Virginia	.38	.65	0	0	0	0	0	0	0
Washington	.92	.19	0	0	.24	0	.07	0	0
West Virginia	0	.34	0	0	0	0	0	0	0
Wisconsin	.24	.09	.14	0	.11	0	.12	0	0
Wyoming	1.15	.31	0	0	0	0	0	0	0
NAT. %	.47	.24	.05	.03	.03	.02	.02	.01	.01

Paul is Libertarian, Fulani is New Alliance, Duke is Populist, McCarthy is Consumer, LaRouche is independent, Winn is Workers League, Warren is Socialist Workers, Lewin is Internationalist Workers (on the ballot as Peace & Freedom), Dodge is Prohibition. "0" means that the candidate wasn't on the ballot. Write-in votes were not converted to percentages.

OTHER PRESIDENTIAL CANDIDATES

Other presidential candidates received these votes: Larry Holmes, Workers World, Calif. 11, Michigan 804, New Jersey 1,020, New Mexico 258, New York 4,179, Ohio 134, Washington 1,440, total 7,846. Willa Kenoyer, Socialist, D.C. 142, Fla. 14, Iowa 334, Mass. 13, N.J. 2,585, New York 3, Rhode Island 96, Tenn. 358, Texas 62, Utah 129, Vermont 142, total 3,878. Delmar Dennis, American, Ariz. 20, Minn. 1,298, Mo. 1, Utah 2,158, total 3,477. James Griffin, American Independent, 27,818 in California. William Marra, Right to Life, Ct. 7, New York 20,497, total 20,504. Jack Herer, Grassroots, Minnesota 1,949. Louie Youngkeit, independent, Utah 372. John Martin, Third World Assembly, D.C. 236.

ERNIE ELECTED

Ernie Chambers, a registered member of the New Alliance Party, was re-elected to the Nebraska Senate, even though he was a write-in candidate (the State Supreme Court had kept him off the ballot, since he was also running for U.S. Senate as the New Alliance Party candidate). The vote was 2,084 for Chambers, to 464 for all his write-in opponents combined.

This is the third election in a row at which third party candidates have been elected to state legislatures. Andre Marrou, Libertarian, was elected to the Alaska legislature in 1984; and two Liberal Party candidates defeated their Democratic and Republican opponents and were elected to the New York state legislature in 1986.

BERNIE ALMOST ELECTED

Bernie Sanders, Mayor of Burlington, Vermont, came close to being elected to Congress as an independent. If he had won, he would have been the first independent elected to either house of Congress since 1976, when Harry F. Byrd, Jr., was elected to the Senate as an independent. The 1988 Vermont vote was Smith (Republican) 41.2%, Sanders 37.5%, Poirier (Democrat) 18.9%, Hedbor (Libertarian) 1.3%, Diamondstone (Liberty Union) .6%, Earle (independent) .4%. Sanders carried five of Vermont's 14 counties; the Democrat didn't carry any counties.

CONGRESSIONAL PAY RAISE

On January 9, President Reagan will either authorize, alter, or reject, a recommendation from the Commission on Executive, Legislative and Judicial Salaries, that congressional pay should be raised from \$89,500 to \$135,000, a 51% increase. Since over half the states have filing fees which are based on the salary of the office being sought, the proposed increase will be responsible for a 51% increase in such filing fees, and make it even more difficult for challengers to run for Congress.

U S SUPREME COURT HEARING

On December 5, the U. S. Supreme Court heard arguments in *San Francisco County Democratic Central Committee v Eu*, the case over First Amendment protections for political parties. Observers said they had never seen the justices "go after" any attorney as ferociously as they went after the California Assistant Attorney General who was defending California law. A decision is expected by the end of February or perhaps early March. It seems very likely that the lower court decisions will be upheld, and parties will be free to endorse candidates and to structure themselves as they wish.

ONGOING BALLOT STATUS

Changes during 1988: the Libertarian Party gained Georgia, Oregon, Michigan, and parts of Missouri, by high vote totals, and gained Idaho by running at least 3 candidates. The Libertarian Party lost Nevada and presidential status in Alaska. The New Alliance Party gained Vermont by organization and Delaware by registering the required number of voters. The Consumer Party gained Pennsylvania (which it had lost in 1986) by its high vote for State Auditor. The Liberty Union Party of Vermont lost major party status but can easily retain minor party status.

VOTE-COUNTING

Ronnie Dugger, editor of the *Texas Observer*, a well-known weekly, had an article in *The New Yorker* of November 7, and also in his own publication of November 11, about the ease by which computer experts could commit vote fraud. The articles have already had an effect. One of the companies which manufactures and services vote-counting computers, the Shoup Company, just announced that it will make public its computer programs. Dugger had pointed out that local governments cannot adequately check the machines for fraud because the companies refuse to release copies of their programs.

PROPORTIONAL REPRESENTATION

On November 8, the voters of Cincinnati rejected a proposal to elect city council members by proportional representation. The "Yes" vote was 45.4%, so proponents plan to try again.

A new book about proportional representation has just been published by Princeton University Press. It is *Making Multicandidate Elections More Democratic*, by Samuel Merrill. It sells for \$29.50.

COMING NEXT ISSUE: The next issue will report on how the LaRouche Democratic Party nominees for congress and legislature did in the general election.

SUNUNU

John Sununu, President-elect Bush's chief of staff, once brought a lawsuit against New Hampshire law which kept him from being a candidate for the State Senate. The law required that candidates have lived in the state for seven years. Sununu wanted to run even though he had not lived in New Hampshire that long. However, the judges upheld the law, and the U.S. Supreme Court refused to hear Sununu's appeal. *Sununu v Stark*, 383 F Supp 1287 (1974).

POLITICAL PRIVACY

In 1982, the U.S. Supreme Court ruled that the Socialist Workers Party need not reveal the names of its campaign contributors, since supporters of that party who are publicly identified, are likely to be harassed. Nevertheless, the cities of Miami, Florida, and San Francisco, California, are both trying to force disclosure. In Miami, the issue is in federal court, and there will be a hearing on January 31, 1989. *McArthur v Firestone*, no. 85-3070. In San Francisco, the issue is not yet in court, but the ACLU has promised to defend the candidates, who are former members of the Socialist Workers Party, and now part of another group, Socialist Action. Both cities claim that the Supreme Court decision does not apply because city elections are technically non-partisan.

KANSAS LOSS

On December 12, 1988, U.S. District Court judge Richard D. Rogers upheld Kansas law which makes it impossible for anyone to circulate a petition among voters who do not live in the circulator's home county. He also upheld the requirement that petitions be notarized. The Kansas Libertarian Party has not yet decided whether to appeal. *Merritt v Graves*, 88-4093-R.

NEW MEXICO

The New Mexico Secretary of State has decided not to appeal the decision in *Workers World Party v Vigil-Giron*, 693 F Supp 989 (1988), which said that it is unconstitutional to force a new party to have any particular number of registrants, as a condition for being on the ballot.

PETITIONING AT POLLING PLACES

On June 13, 1988, a U.S. District Court judge, Robert H. Hall, struck down Georgia's law which prohibited exit polling, petitioning, etc., within 250 feet of a polling place. *NBC v Cleland*, 697 F Supp 1204 (1988).

MASSACHUSETTS

The Massachusetts legislature adjourned without taking any action on the bills to improve ballot access. Even the bill sponsored by the Secretary of State, SB 281, which would merely conform the filing deadlines to those already mandated by a court in 1985, failed to pass.

RENEWALS

If your mailing label indicates that your subscription to *Ballot Access News* expires on January 1, 1989, there is an envelope enclosed to make it easier for you to renew your subscription.

COFOE

The Coalition for Free and Open Elections works for fair election laws. Write: PO Box 355, Old Chelsea Sta., New York NY 10011. Dues are \$10 per year. Individuals who joins receive minutes of board meetings, the brochure, press releases, information about HR 1582, and a free subscription to this newsletter (or free renewal).

NOTE: The chart in the November 1, 1988 *Ballot Access News* on page three, showing the number of state legislative seats with no major party contest, erroneously showed that Illinois had 216 seats to fill. It should have showed 157. Also, the list of uncontested congressional races omitted one from Washington state. There were actually 76 congressional races with no major party contest, not 75.

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