

BALLOT ACCESS NEWS

San Francisco, California

August 4, 1989

Volume 5 Number 3

HR 1582 GAINS CO-SPONSORS

HR 1582 has gained fourteen co-sponsors during the last month. HR 1582 is the Conyers' ballot access bill. The new co-sponsors are: George E. Brown, Mervyn Dymally, Edward Roybal, Augustus Hawkins of California; Walter Fauntroy of the District of Columbia; John Lewis of Georgia; Charles Hayes of Illinois; Mike Espy of Mississippi; Floyd Flake, Major Owens, Charles Rangel and Edolphus Towns of New York; Louis Stokes of Ohio; and Robert W. Kastenmeier of Wisconsin. Congressman Brown of California has never before been a co-sponsor. He co-sponsored due to the energetic efforts of a constituent, Charles A. Szychowski, who not only wrote Congressman Brown about the bill, but who happened to see him on the street one day in Riverside, California, and was able to talk to him about it.

The other new co-sponsors were obtained by Congressman Conyers himself, who sent a letter to all of the former co-sponsors. The new co-sponsors join Congressmen Charles E. Bennett of Florida and Jim Bates of California, who became co-sponsors earlier this year.

On July 24, Congressman Conyers surprised his home city, Detroit, Michigan, by declaring his candidacy for Mayor. The election is September 12, with a run-off on November 7 if no one gets a majority in September. Conyers has a chance to win. If he does win, of course he will then resign from Congress, and it will be necessary to find another member of Congress to become the prime sponsor of HR 1582.

The Rainbow Lobby is actively working to find more co-sponsors, and various third party activists around the country are currently also trying to get more co-sponsors. Congress has recessed until September 6, so the month of August is an excellent chance to find your member of Congress at home. Anyone who succeeds in getting his or her member of Congress to co-sponsor HR 1582 for the first time wins a free one-year extension of his or her subscription to *Ballot Access News*, and anyone who sends in a letter from his or her member of Congress, commenting on the substance of HR 1582, wins a 3-month subscription extension.

OREGON BILL SIGNED

On August 3, Oregon Governor Neil Goldschmidt signed HB 2830, which contains the improvements in ballot access originally contained in HB 3230. Those improvements are: (1) the number of signatures for a new party to get on the ballot is reduced from 5% of the last vote, to 2.5% of the number of registered voters; (2) The requirement for a party to remain qualified is lowered from 5% of the vote, to 1%; and (3) if a party is qualified statewide, then it is deemed to be qualified within every district and county of the state. Oregon is the first state to voluntarily improve its ballot access laws this year.

CONGRESS

No election-related bills have made any progress during the last month in Congress. S. 377, which would impose a nationwide lottery in the year before a presidential election, to determine when each state would hold a presidential primary, is opposed by Republican Senators Mitch McConnell, Jesse Helms, Conrad Burns, Orrin Hatch, Charles Grassley, Warren Rudman, Gordon Humphrey and William Armstrong. They have circulated a letter to other Republican Senators, making the point that since Republicans have won 5 of the last 6 presidential elections, it would be foolish for Republicans to make any changes in the system. The Justice Department has issued a tentative opinion that the bill would violate states' rights. Senator Alan Dixon of Illinois (chief sponsor of S. 377) and the bill's 7 co-sponsors, are circulating a letter rebutting the Justice Department, citing four Supreme Court opinions, *U.S. v Classic*, *Oregon v Mitchell*, *Buckley v Valeo*, and *Burroughs v Cannon*.

HR 2190, the voter registration bill, still has not been voted on in the U.S. House, although proponents hope it will be voted on in September. The reason for the delay was that the Congressional Budget Office hadn't yet analyzed the fiscal impact of the bill. The Budget Office has now released its report, but Congress has now recessed.

S. 135, which would make it legal for federal government employees to engage in partisan political activity on their own time, passed the Senate Governmental Affairs Committee on July 23, 1989, by a vote of 14-0. Since virtually identical legislation has already passed the House, it seems very likely that the bill will become law this year. Although this issue is not directly related to ballot access, all restrictions on the right of people to engage in activity on behalf of a political party, are injurious to all political parties. Proponents of Hatch Act reform have been seeking this legislation for almost twenty years. As long ago as 1975, similar legislation passed Congress but was vetoed by President Gerald Ford. This time, there is substantial Republican as well as Democratic support for the reform.

NOW CONVENTION

On July 23, the national convention of the National Organization for Women, meeting in Cincinnati, passed a resolution declaring the two-party system a failure, and establishing a commission to investigate the formation of a new political party dedicated to equality for women and an enlarged Bill of Rights. In 1986, NOW refused to endorse HR 3230 (the John Conyers ballot access bill which was introduced in the 99th Congress). The Rainbow Lobby will be seeking NOW support for HR 1582, the current ballot access bill. The *Boston Globe* carried an editorial on July 25 criticizing NOW for passing its resolution. The editorial is reprinted on page 5.

STATE LEGISLATIVE NEWS

Alabama: the Alabama Libertarian Party plans to organize a committee to work for a reduction in the requirement for a party to remain qualified. Alabama requires a vote of 20%; no other state has a vote requirement higher than 10%. Contact Lonnie Burford, 8240 1/2 River Rd, Warrior Al 35180.

Arizona: Peter Schmerl, 1428 E. Elm St., Tucson Az 85719, is heading a committee of Arizona Libertarians (and others) to seek sponsors for a bill in the 1990 session of the legislature to reduce the number of signatures needed for new parties to get on the ballot. In 1969 the legislature increased the requirement by twenty times, and in 1979 increased it yet again.

California: The Senate Elections Committee passed AB 368 on July 19 by a vote of 5-1. The bill moves the presidential primary from June to March. The bill was amended to provide that in presidential election years the primary for candidates for other office would also be in March. This would have the effect of making the deadline to qualify a new political party, in presidential election years, in late October of the year before the election!

On June 30, the same committee passed AB 633, which expands the petitioning period for independent presidential candidates from 60 days to 105 days.

Florida: Paula Zimmer, 1560 Silver St., Jacksonville Fl 32206, is organizing a committee to lobby the 1990 session of the legislature for a better ballot access law. Florida has the most restrictive ballot access laws of any state. During the last 60 years, only one third party has appeared on the ballot (except for president, for which the requirements are different).

Georgia: Jim Yarbrough, 627 Simmons St NW, Gainesville Ga 30501, national ballot access director of the Populist Party, is working to get a bill introduced in the 1990 session of the legislature to make it easier for third party and independent candidates for congress and state legislature to get on the ballot. Although the 1986 legislature eased ballot access for statewide candidates, the requirements for other office remain at 5% of the number of registered voters.

Indiana: A committee headed by Nadine Dillon, 3601 N. Pennsylvania, Indianapolis In 46205, has been writing a proposed bill to ease ballot access and to provide for write-in voting. The committee hopes to finish the draft within the next few weeks, and then will begin looking for a legislative sponsor. The committee hopes to make use of the fact that Governor Birch Bayh has stated that he favors making it easier for third parties to get on the ballot.

Maryland: Robert E. Creager, 3819 Stepping Stone Lane, Burtonsville Md 20866, has written every member of the Maryland legislature who represents Montgomery County (one of the most populous counties in Maryland), seeking a sponsor for a bill to ease ballot access requirements. He believes that he will soon find a sponsor.

Massachusetts: no action has been taken on HB 3211 since it passed the House Committee on April 26. HB 3211 would lower the number of signatures for third party and independent candidates from 2%, to 1%, of the last vote cast. The sponsor, Representative John Businger, is not willing to bring the bill to a vote until he believes that it will pass. Because the bill has made so little progress, Massachusetts activists plan to qualify an initiative for the ballot, to lower the number of signatures to one-half of 1% of the last gubernatorial vote.

Although it will require even more signatures to get an initiative on the ballot, than it takes to get a third party candidate on the statewide ballot, (50,495 versus 33,663), the initiative may get on the ballot if several third parties work together on it. The petition period will run from September 20 to November 22, and it is possible that the Libertarian, New Alliance, Communist and Socialist Workers Parties will each collect a significant number of signatures. Each of these parties has the capacity to collect a large number of signatures. The Socialist and Prohibition Parties are definitely supporting the initiative, but they don't have as many activists and will probably not be able to get a large number of signatures.

Montana: Larry Dodge, P.O. Box 60, Helmville Mt 59843, is seeking a legislator who will introduce a bill in the next session of the legislature to provide that a party need only meet the vote test in gubernatorial election years (which are years divisible by four). Under existing law, parties must meet the vote test every two years. In 1990, there are no statewide races except U.S. Senator, and it's fairly difficult for a third party to poll the necessary 3% for that office. If the proposed bill passes, a party will only need to pass the vote test in years in which there are at least seven statewide races. Since a party can pass the vote test with its vote in any statewide race, it is much easier to poll the needed votes in years in which there are so many statewide races.

North Carolina: Phil Jacobson, Rt. 1, Bx 165, River Forest Rd, Pittsboro NC 27312, is working to organize a committee to support HB 1198, which would greatly ease ballot access restrictions.

Ohio: Milt Norris, 200 Talsman Dr, Canfield Oh 44406, has been visiting editorial page editors of major newspapers, seeking additional support for SB 137, the bill which would permit "independent" candidates to list the name of their political party on the ballot. He hopes for support soon from the Columbus and Youngstown newspapers. The *Cincinnati Enquirer* ran a somewhat hostile editorial about third parties in general, but has agreed to carry an op-ed piece written in favor of SB 137 within a week or so. The editorial itself is reprinted on page 4 of this issue.

South Carolina: On June 6, South Carolina Governor Carroll A. Campbell signed House bill 3300, which requires every qualified political party in the state to maintain an office on three days in late April, so that candidates (seeking the nomination of that political party) can file declarations of candidacy. The office, which cannot be a private residence, must be open at least 4 hours during

each of those three days. Since South Carolina is covered by the Voting Rights Act, the Justice Department must approve the bill before it can take effect, and the Justice Department hasn't responded yet.

Wyoming: Craig McCune has persuaded the Advisory Committee on Election Laws to recommend to the legislature that the petition requirement for new parties be lowered from 8,000 signatures, to either 500 signatures, or 1,000 signatures. The Committee has also agreed to recommend that the vote requirement for a party to remain qualified be lowered from 10% for Congress, to 3% for any statewide office. Finally, the Committee will recommend that political parties polling less than 10% of the vote nominate by convention, instead of by primary. Any legislative action will occur in 1990.

FREE SPEECH WIN AND LOSS

1. On May 1, 1989, the Louisiana Supreme Court ruled unanimously that a Louisiana election law outlawing anonymous campaign leaflets is unconstitutional. *State v Burgess*, 543 So 2d 1332.

2. On July 24, 1989, the U.S. Court of Appeals, 9th circuit, ruled 2-1 that political parties have no right to endorse, support, or oppose candidates for non-partisan office. *Geary v Renne*, no. 88-2875. Plaintiffs' attorney Arlo Hale Smith is filing for a rehearing *en banc* and the the Democratic Party of California and the Libertarian Party of California are filing amicus briefs in support of the rehearing request.

The decision was surprising, given that the U.S. Supreme Court earlier this year ruled unanimously that political parties do have free speech rights, and in particular that they may endorse or oppose candidates running in their own primaries. The *Geary* opinion was written by Judge Stephen S. Trott of Idaho, age 49, a Republican who was appointed last year by President Reagan. Before his appointment, he was a U.S. attorney. He had never before had a case involving ballot access or political party rights. His opinion was co-signed by Judge Joseph T. Sneed, a Nixon appointee who has a bad record in voting rights cases. The third judge on the panel, William C. Canby, a Carter appointee, dissented and labelled the majority opinion "impermissible paternalism".

The majority opinion states that if political parties can endorse candidates in non-partisan elections, such candidates will be "accountable to voters, not parties". Of course, if there were a law making it illegal for a church to endorse or oppose candidates, or for a labor union to endorse or oppose candidates, one could argue that such a law is necessary to insure that candidates are "accountable to voters, not to priests and/or union bosses". For over fifty years, the U.S. Supreme Court has stated that the First Amendment's primary original purpose is to protect political speech, and the Supreme Court has almost never upheld restrictions on political speech, other than "time, place and manner" restrictions. It is likely that the 9th circuit will grant a rehearing. If a rehearing is granted, eleven judges chosen at random will rehear the case.

FLORIDA HEARING

On August 4, a hearing was held in federal court in Gainesville, in *Migalla v Martinez*, no. 89-40168, the case filed by the Libertarian Party against the extremely short petitioning period permitted for independent candidates in special congressional elections. The state demanded that 5,525 valid signatures be collected in only 13 days, for an independent candidate for Congress to appear on the August 29 ballot. Judge Maurice M. Paul, a Reagan appointee who has never before had a ballot access case, will probably rule in a few days.

LIBERAL PARTY

No primary will be held for the Liberal Party in New York city this year, since there is no race in which more than one candidate filed to be on the Liberal Party primary ballot. This outcome is ironic, since a court case was fought over the issue of whether the Liberal Party could invite registered independents to vote in its primary. It had been expected that there would be a primary contest for Mayor, but only one candidate, Ralph Giuliani, was able to meet the severe petition requirement to appear on the primary ballot (the law requires that 5% of the registered voters sign the petition, if the party has fewer than 200,000 registered members).

OKLAHOMA

Back in April 1988, the U.S. Court of Appeals ruled that Oklahoma need not permit voters to register as members of parties other than the Democratic and Republican Parties, because it would be too burdensome for county elections officials to keep track of such registrations. Specifically, the judges mentioned that most Oklahoma counties don't have computerized lists of registered voters. By contrast, the same court had ruled in 1984 that Colorado must permit voters to register as members of parties other than the two major parties, since Colorado records are computerized.

Recently, the Oklahoma State Election Board announced that it plans to install computers in every county in the state, for the purpose of managing the voter registration records. After the computers are installed, presumably a new lawsuit to win the right of voters to register into any political party will succeed.

BALLOT ACCESS NEWS (ISSN 10436898) is published by Richard Winger, Field Representative of the Coalition for Free and Open Elections, \$6 per year, thirteen times per year, every 4 weeks, at 3201 Baker St., San Francisco CA 94123. Second class postage paid at San Francisco CA. © 1989 by Richard Winger. Permission is freely granted for reprinting *Ballot Access News*, in whole or in part.

POSTMASTER: Send address changes to *Ballot Access News* at 3201 Baker St, San Francisco Ca 94123.

Cincinnati Enquirer, Editorial, Sunday 7/16/89

Keeping the two-party system

Milton Ross Norris is an investment counselor in Canfield, Ohio, who is hard at work at the moment challenging what he calls Ohio's political duopoly.

Americans, he observes, have been celebrating the arrival of freer, more open elections in such distant parts of the world as Poland and the Philippines. But Ohioans remain content with election laws that effectively preclude anyone but Democrats and Republicans from winning places on the ballot. Other parties, to be sure, occasionally qualify for ballot positions, but only after herculean petition campaigns.

Independents shut out

The upshot, in his estimation, is that Ohioans who regard themselves as neither Democrats nor Republicans are effectively shut out of the political process.

He is, of course, correct. You don't go far, and you don't go for long, in Ohio politics unless you are identified with one of the two parties. Ohio is a two-party state, and so long as the election laws are controlled by legislators who are themselves either Democrats or Republicans, that's the way it's likely to remain.

But is that so bad?

The Founding Fathers deplored the idea of any political parties. They hoped that Americans would somehow manage to elevate the best men (and eventually women) to public office without partisan labels.

As matters turned out, the United States had two political parties from the moment the ink on the Constitution had



Thomas Gephardt

dried, and so, with notably few exceptions, it has remained.

But before you leap to the conclusion that there's something outrageous about locking out everyone but Democrats and Republicans, consider what's happening at the moment in Israel.

In Israel's parliamentary elections last year, no one party won a majority; no one party, as a result, could organize a government. The result was a coalition formed principally by the two major parties, Likud and the Labor Party. On most issues, the Laborites and the Likudites are miles apart — particularly on the crucial issue of making peace with the Palestinians.

At the moment, the Labor Party is so disenchanted with the policies pursued by Prime Minister Yitzhak Shamir, the Likud leader, that it is threatening to pull out of the governing coalition. That would mean another election, which would probably mean another deadlock.

If Israel had only two parties, that wouldn't happen. One party or the other would have a mandate to govern.

But because every Israeli reserves the right to be his own political party, Israel has a multitude of parties. The process is

further complicated by proportional representation, which tries to give each party a governmental voice equal to its popular support.

The theory couldn't be better. And if the issues with which the Israeli government has to grapple were trivialities, there'd probably be no problem. But the reality is that Israel's government deals with issues of war or peace, survival or destruction. Yet it has an electoral system that produces near-paralysis.

The parties change

As matters have turned out in the United States, the two-party system has been far less rigid than it may seem to detached onlookers. Each party, in effect, is a coalition of varied economic, social and geographic interests. Each has changed over the years, responding to specific issues, coping with specific crises. There have been third-party movements from time to time to challenge them and, in some cases, to force change.

But through it all, the Democrats and the Republicans survive as the cornerstones of a stable system because they are attuned to the aspirations and concerns of the great majority of their constituents. There's merit in keeping it that way.

Thomas Gephardt is associate editor of The Enquirer and editor of its editorial page.

THE BOSTON GLOBE TUESDAY, JULY 25, 1989

The Boston Globe

Founded 1872

WILLIAM O. TAYLOR, *Chairman of the Board and Publisher*
 JOHN P. GIUGGIO, *Vice Chairman* JOHN S. DRISCOLL, *Editor*
 RICHARD C. OCKERBLOOM, *President* BENJAMIN B. TAYLOR, *Executive Editor*
 MARTIN F. NOLAN, *Editor, Editorial Page*

DAVID STANGER, *Executive VP & General Manager* THOMAS F. MULVOY JR., *Managing Editor*
 ARTHUR KINGSBURY, *VP & Treasurer* ALFRED S. LARKIN JR., *Sunday Managing Editor*
 MILLARD G. OWEN, *Senior VP Marketing & Sales* HELEN W. DONOVAN, *Deputy Managing Editor*
 JOHN F. REID JR., *VP Advertising* KIRK SCHARFENBERG, *Deputy Managing Editor*
 FRANK E. GRUNDSTROM JR., *VP Human Resources* S.J. MICCICHE, *Assistant Executive Editor*
 STEPHEN E. TAYLOR, *Business Manager* H.D.S. GREENWAY, *Assistant to the Editor*
 GREGORY L. THORNTON, *VP Employee Relations* LORETTA McLAUGHLIN, *Deputy Editor, Editorial Page*

Publishers.

| | | |
|------------------------------|------------------------------|-----------------------------|
| CHARLES H. TAYLOR, 1873-1922 | WILLIAM O. TAYLOR, 1922-1955 | WM. DAVIS TAYLOR, 1955-1977 |
| <i>President</i> | <i>Editor</i> | <i>Editor</i> |
| JOHN I. TAYLOR, 1963-1975 | L.L. WINSHIP, 1955-1965 | THOMAS WINSHIP, 1965-1984 |

Third parties then and NOW

In Cincinnati over the weekend, at a meeting of the National Organization for Women, many of the 600 delegates and 1,000 attendees started chanting, "Third party, third party." Someone should have started a counter-chant, "Bad idea, bad idea."

No one did, and the leaders of NOW caught up to their delegates' stampeding sentiment by endorsing the possibility of a new party "dedicated to equality for women" because of "the failure of both major political parties to address women's needs." Molly Yard said the sentiment displayed the membership's "total disgust" with Democrats and Republicans.

If NOW follows such a path, history suggests that the women's movement is doomed to irrelevance. The frustration propelling NOW members toward this dead end should be rechanneled into running for office. If enough women are elected state legislators, members of Congress, governors and mayors, issues of women's equality will command wide attention. If they are concentrated in a third party, they will be a sideshow.

An old saying likens American third parties to bumblebees: they sting, then they die. Third parties have had a gradual influence over regional trends. In 1948, Strom Thurmond won four Southern states, and in 1968, George Wallace won five former Confederate bastions, harbingers of today's Republican dominance in the South.

But women have no geographical base. Moreover, as the last three presidential land-slides suggest, women are taxpayers, too. The millions of women who voted for Ronald Reagan and George Bush knew about their positions on abortion, but found other issues equally compelling or more so. The way to make reproductive rights, pay equity and other issues more compelling is campaigning for them within the structures, however fetid and ramshackle, of the two major parties.

Populist, Prohibition, Progressive and Bull Moose are curios today, not causes. If NOW follows a similar righteous path, feminism will not signify a strong political movement, but a faded label of self-indulgent eccentricity.

1990 PETITIONING

The Maryland Libertarian Party has completed its petition to qualify the party. 10,000 signatures are required; 15,000 have been collected. It is not clear whether the party will use the petition to qualify for the 1990 ballot, or the 1992 ballot. If the party decides to use the petition to qualify for the 1992 ballot, it will simply keep them in a safe place, and turn them in after the November 1990 election is over. The Libertarian Party of Nevada has 2,500 signatures on its petition; 10,326 are required. The New Alliance Party has about 1,300 signatures on its party petition in North Carolina (43,601 are required). The New Alliance Party has about 700 signatures on its Georgia petition (29,414 are required). No Libertarian Party petitioning has begun in North Carolina yet, but Project 51-'92 is now negotiating with a professional signature-gathering firm, so that petitioning can start.

COFOE

Readers are urged to join COFOE, which works on ballot access problems. Dues of \$10 entitles one to membership with no expiration date; it also includes a one-year subscription to *Ballot Access News* (or a one-year renewal). Organizations which are members of COFOE include the Libertarian, New Alliance, Communist, Socialist and Prohibition Parties, the Green Party of New York, the Peace & Freedom Party of California, Liberty Union Party of Vermont; also the Long Island Progressive Coalition. The Populist Party has also decided to join COFOE. Address: Box 355, Old Chelsea Sta., New York NY 10011. Membership applications can also be sent to 3201 Baker St., San Francisco Ca 94123. "COFOE" is an acronym which stands for "Coalition for Free and Open Elections".

NOTE: *B.A.N.* editor Richard Winger will be away (in Pennsylvania) August 17-September 2.

RENEWALS: If this block is marked, your subscription is about to expire. Please renew. Post office rules do not permit inserts in second class publications, so no envelope is enclosed. Use the coupon below.

CANDIDACY LOSS

The May 12, 1989 *B.A.N.* reported that a U.S. District Court in New York had struck down New York election laws which forbade school district employees, public officeholders, and party officials, from running for New York City Boards of Education. On June 20, the U.S. Court of Appeals reversed that ruling and upheld the restrictions. *Fletcher v Marino*, no. 89-7457. The Court of Appeals said that it would issue a memorandum explaining its reasoning, but it has not yet been released.

OREGON INITIATIVE

Jaka M. Okorn, 1878 S. Myrtle St., Myrtle Creek Or 97457, is heading a drive to qualify an initiative which would require that all ballots give the voter a chance to vote "Yes" or "No" for each candidate. The winner would be the candidate with the greatest excess of "Yes" votes over "No" votes.

WRITE-INS

The July 7 issue of *B.A.N.* mentioned the Fourth Circuit decision of June 28, 1989, which states that it is unconstitutional for a state to charge write-in candidates a filing fee. *Dixon v Maryland State Adm. Board of Election Laws*, no. 88-1735. The Maryland Attorney General did not file a petition for a rehearing, and does not plan to ask for U.S. Supreme Court review, so the decision will stand. The decision has ramifications for other states in the 4th circuit, particularly Virginia and West Virginia. Those two states never canvass write-in votes, a practice that the ruling condemned. Since Virginia and West Virginia also have burdensome ballot access procedures, third party activists in those two states should demand that future write-in candidates' votes be counted and included in the official election returns. If elections officials realize that restrictive ballot access laws are causing many third party candidates to run write-in campaigns, and these officials get tired of coping with write-ins, they may ask their state legislators to relax ballot access procedures.

SECOND CLASS PAID AT SAN FRANCISCO CA

I want to receive **BALLOT ACCESS NEWS**.
I enclose \$6.00 for 1 year (overseas: \$10)
Make check out to "Ballot Access News".

I want to join COFOE. Enclosed is \$_____
(includes one-year subscription to this newsletter, or one-year renewal).
Make check out to "COFOE". Minimum dues are \$10.

Name _____

Address _____

City _____

State _____

Zip _____