

## U.S. SUPREME COURT TO HEAR HAWAII WRITE-IN CASE

### ONLY FOURTH TIME SINCE 1974 THAT COURT HEARS A PLAINTIFF'S APPEAL IN A VOTING RIGHTS CASE AFFECTING THIRD PARTIES

On December 9, the U.S. Supreme Court agreed to hear Alan Burdick's appeal in *Burdick v Takushi*, 91-535, the case over whether the U.S. Constitution protects a voter's right to cast a write-in vote. The case is from Hawaii, one of five states which bans write-in votes. The U.S. District Court had ruled that the state must permit write-in votes, but the U.S. Court of Appeals had disagreed, saying there is no constitutional right for a voter to vote for whom he or she wishes.

The hearing will be in March; the decision out by July.

The Court acted with surprising speed. It decided to hear the case only a week after receiving the final brief. By contrast, other important cases have been before the Court for months, with no indication from the Court whether they will be heard. One of these cases involves whether Ohio can make it a crime for a candidate for public office to tell a lie in a campaign ad; another is whether groups can ask for donations inside airports.

Burdick's brief is due January 23. This is also the deadline for any *amicus curiae* briefs on his side. The brief of the Hawaii Attorney General is due February 22, along with any other briefs on his side. The Hawaii Attorney General persuaded state officials in California, Arizona, Nevada and Washington to file a brief on his side when the case was in the 9th circuit, and now he is likely to solicit briefs on his side from state officials all over the nation.

If Burdick wins the case at the U.S. Supreme Court, it is likely that bans on write-in voting, at least in general elections, will be unconstitutional in all states. Hawaii, Oklahoma, South Dakota, Louisiana and Nevada ban all write-ins, and Virginia, South Carolina, Kentucky and Nebraska ban them for president in the general election. Certain other states permit write-in votes but never canvass them, and a victory in the *Burdick* case makes it likely that declared write-in candidates could insist that their write-ins be tallied.

If Burdick loses, it will be almost impossible to prevent state legislatures from curtailing or eliminating the right to cast a write-in vote. Louisiana banned all write-ins in 1976; Florida banned them all in 1977 (but the Florida Supreme Court ruled that unconstitutional); Kentucky and South Carolina banned them for president in 1982.

Write-in voting is important in the U.S. because ballot access restrictions are so severe. Except for Republican and Democratic presidential candidates, only three presidential candidates (John Anderson, Ed Clark, Lenora Fulani) have been on the November ballot of all jurisdictions which vote for president, in the last 75 years.

Even some major party presidential candidates have not been on all ballots. Lyndon Johnson wasn't on the ballot in Alabama in November 1964, nor was Harry Truman on in Alabama in November 1948. President Howard Taft, the Republican nominee in November 1912, wasn't on in California or South Dakota.

Four write-in candidates have been elected to Congress during the last 38 years. Three write-in candidates were elected to State Legislatures during the last four years, in Nebraska, Virginia and Rhode Island.

Since 1974, 43 voting rights cases which affect third political parties and independent candidates have lost in lower courts and have been appealed to the U.S. Supreme Court. Other than the Burdick case, the Supreme Court agreed to hear only three of those 43! (Eugene McCarthy's 1976 case against Texas; John Anderson's 1980 case against Ohio; and last year, the Court agreed to hear the Harold Washington Party's challenge to several Illinois ballot access laws). By contrast, virtually every time a case was won in the courts below, and the state government appealed, the Supreme Court has heard the state's appeal. Given this history, it is a rare victory just to get the Court to review a bad lower court decision, and thus the Burdick announcement is good news.

If Burdick wins, third party supporters will be better off because it should be possible for all of them to vote for their party's candidates, whether those candidates are on the ballot or not. Furthermore, it should be easier to persuade state elections officials to ease ballot access laws, if there is a constitutional right to cast a write-in vote. Write-in voting is a burden on officials who administer elections. They will help lobby for easier ballot access once they learn that easier ballot access means fewer write-in votes.

### NO DECISION YET IN ILLINOIS CASE

The U.S. Supreme Court heard the Illinois ballot access case, *Norman v Reed*, on October 7, 1991, the first day of the term, but there is still no decision. The Court will release decisions on January 13, so that may be the day.

The issues are the constitutionality of three Illinois laws: (1) a requirement that a new political party must submit a full slate of candidates; (2) a requirement that 50,000 signatures are needed to run a slate of county commissioner candidates in Cook County; (3) an interpretation that a party which is already established in part of the state, cannot get on the ballot in any other part of the state.

This will be the first U.S. Supreme Court ballot access opinion since 1986. The last one was from Washington.

## MIXED MASSACHUSETTS BILL PASSES

On December 4, the Massachusetts House passed HB 5502, after amending it from a helpful bill, to a bill which has a mixed effect. The Senate passed the bill December 21, and the Governor signed it December 31.

HB 5502 was initiated by the Secretary of State to clarify ambiguities in Question 4, the initiative to improve the ballot access laws which the voters passed in 1990. The most serious ambiguity was whether a party needs to meet the retention test every two years, or every four years. HB 5502 originally said, in effect, that a party only needs to poll 3% of the vote for any statewide race in gubernatorial election years. Massachusetts elects its governor every 4 years, in the even years between presidential election years. The state elects at least five statewide candidates in those years, so it is fairly easy for a party to poll 3% in those years. Every Massachusetts third party on the ballot in a gubernatorial election year for the past fifteen years has managed to poll 3% for some statewide office.

But as amended, the bill requires a party to poll 3% for a statewide race every two years. In 1992 there are no statewide races on the ballot except president, so a party which fails to poll 3% for president will be disqualified. During the last 50 years, no third party or independent presidential candidate has polled 3% in Massachusetts except for George Wallace and John Anderson.

The House also amended the bill to change the number of signatures needed for third party or independent candidates. The initiative passed in 1990 set them all at one-half of 1%. The bill dispenses with this percentage, and says that third party and independent candidates need the same number of signatures that Democrats and Republicans need to run in the September primary: 10,000 for most statewide office, 5,000 for three lesser statewide offices (Secretary of State, Treasurer and Auditor), 2,000 for U.S. House, and 150 for State House. The bill thus makes it more difficult for third party candidates to get on for U.S. House and state house, but easier for statewide office. The old requirements were 11,715 for statewide office, 1,172 for U.S. House, and 75 for the typical State House seat.

## PARTY SPENDING HEARING SET

On April 23, the D.C. circuit will hear *FEC v National Republican Senate Committee*, no. 91-5176. The issue is whether the Constitution protects a party's right to spend money on its own candidates. Federal law sets a ceiling on contributions from parties to their own candidates. The hearing will be before Judge Ruth Ginsburg, a Carter appointee, and two Bush appointees, Karen L. Henderson and A. Raymond Randolph. Common Cause filed an *amicus* brief on the side of the law and against the party.

## MISSOURI BILL TO BE INTRODUCED

The bill to improve Missouri ballot access for new parties and independent candidates which almost became law last year, is about to be introduced again. The bill is being improved, by permitting a party to circulate a petition before it has chosen its candidates.

## INDIANA BILL TO BE INTRODUCED

Indiana State Senator Sue Landske has promised to introduce a bill to improve ballot access. It will lower the number of signatures for a statewide new party or independent candidate from approximately 30,000 signatures, to 10,000; will let a party circulate a petition before it has chosen its candidates; will make it easier for a party to remain qualified; and will let a voter sign more than one group's petition. Landske is the Republican leader of the State Senate. The bill has already been drafted and should be introduced any day.

## CALIFORNIA GREEN PARTY QUALIFIES

On December 31, the Green Party became the fifth party in California history to qualify using the registration method. The method, in existence since 1929, requires a new party to persuade voters equal to 1% of the last gubernatorial vote, to register into the new party on their voter registration forms.

The other parties which managed to comply with this law are Townsend in 1938, American Independent and Peace & Freedom in 1968, and Libertarian in 1980.

An alternate California procedure to qualify a new party is a petition signed by voters equal to 10% of the last gubernatorial vote. The petition has been 10% since 1937, and since then has been used only once, by the Independent Progressive Party in 1948.

The Greens needed 79,188 and obtained approximately 88,000. They were helped by a donation of \$20,000 from a Santa Barbara environmentalist in late November. The money was used to hire workers who were paid \$2 for each new member they signed up.

The party will meet in Sacramento on January 25-26 to plan its future. Many Green Party activists do not wish to run candidates in 1992 for president, or for more than a handful of congressional and legislative races.

## NEW HAMPSHIRE PRIMARY IS CROWDED

New Hampshire's presidential primary, the earliest in the nation, has the most crowded ballots in its history. The Democratic ballot will list 36 candidates; the Republican ballot will list 26 candidates; the Libertarian ballot lists only Andre Marrou (who has already been nominated by his party).

Anyone may qualify for the New Hampshire presidential primary by paying a filing fee of \$1,000. The state will recoup almost all of the costs of holding the election, from the proceeds of this fee.

Before 1984, New Hampshire required candidates in its presidential primary to submit 1,000 signatures, in order to be on the ballot. Under that old law, there were never more than 16 candidates in any one year. Since the state started letting candidates qualify by filing fee, there have been many more candidates: 27 in 1984, 39 in 1988, and 63 in 1992. This shows how much easier it is for candidates to pay a filing fee than to gather signatures.

## MARROU CAMPAIGN

Andre Marrou was invited to appear on a special PBS TV show hosted by Bill Moyers, on the same platform with Pat Buchanan and the leading Democratic presidential candidates. The entire show was to be two hours long; it was to be aired on January 8. Unfortunately, on December 24, the entire show was cancelled. The reason is unknown.

This would have been the first time any third party presidential candidate has ever been invited to appear on the same platform with leading presidential candidates from the major parties (although independent presidential candidate John B. Anderson debated Ronald Reagan in 1980).

Marrou, who has already been nominated for president by the Libertarian Party, continues to campaign in the New Hampshire Libertarian primary. There were only 191 registered Libertarians in the state as of September, 1991; the next tally will be in February.

The small number of registered Libertarians will not limit Marrou's vote total. Any registered voter who registered before November 1990 may vote for Marrou by choosing to vote in the Libertarian primary. Such voters will then be listed as registered Libertarians. The Libertarian Party is the first third party to hold its own presidential primary in New Hampshire. The state's presidential primary has existed since 1952.

The Libertarian Party National Committee met December 14-15 and voted to commit \$155,000 toward ballot access in 1992. However, the money must first be raised. The Marrou campaign pledged an additional \$75,000.

## ANOTHER LIBERTARIAN LEGISLATOR

On December 12, 1991, another New Hampshire legislator left the Republican Party and joined the Libertarian Party. The newest Libertarian legislator is Finlay Rothhaus, a 34-year-old from Merrimack, a town in Hillsborough County near the Massachusetts line.

Rothhaus said he switched to the Libertarian Party because the Republican Party "has added more and more government to our lives, raised our taxes, limited our right to keep and bear arms, and spent our hard-earned dollars on a binge of global gamesmanship." He is the second Libertarian legislator in the state.

Rothhaus is now serving his first term. His district elects six members of the House. In November 1990, all six Republican nominees, including Rothhaus, defeated five Democratic nominees. Rothhaus polled 2,695 votes and the strongest Democrat polled 2,451. Rothhaus plans to run for re-election as a Libertarian this year.

## OGLESBY RUNS FOR CONGRESS

Carl Oglesby, former president of Students for a Democratic Society (SDS) in the 1960's, will run for Congress as a Libertarian in Cambridge, Massachusetts. Oglesby's campaign focus will be that much of federal policy is set secretly by people who do not hold elected or cabinet-level office.

## FULANI IN N.H. PRIMARY & DEBATE

On December 12, Lenora Fulani announced that she would run in the Democratic presidential primary in New Hampshire, which is held on February 18. She will not run in any other Democratic presidential primaries. She is already campaigning full time in the state, and is about to file a complete slate of delegate candidates.

Fulani is an independent presidential candidate and the likely nominee of the New Alliance Party. She was also the presidential nominee of that party in 1988. She has never before run in a major party presidential primary, but decided to do so, in hopes of getting into the Democratic presidential candidate debates, and generally advancing her campaign.

On December 19, Fulani did participate in one of the Democratic debates. Although she was barred from the debates by a rule which said that only Democrats who have held statewide office could be invited, she nevertheless seated herself on the platform after the debate had started. She was allowed to stay there, and Virginia Governor Douglas Wilder loaned her some of his time, so she spoke for a few minutes. The debate was live on radio and was televised on C-SPAN on December 27 & 30.

Fulani filed a complaint with the Democratic National Committee on December 18, arguing that the state Democratic Party is violating national party rules by refusing to invite her into its debates. The Committee hasn't responded yet. She may sue the state party.

As expected, Fulani received \$624,497 in federal primary season matching funds from the FEC on January 2, 1992. This amount is larger than the amount given to any other presidential candidate, except for President Bush and U. S. Senator Tom Harkin. Fulani was the only non-major party candidate to apply for matching funds. As the primary season goes on, additional disbursements will be made to candidates who continue raising money.

The announcement that the FEC had certified the money to Fulani caused the New York *Daily News* to devote its entire front page to her on December 28. Certain other major newspapers also wrote lengthy stories. The December 27 *New York Times* national and local early editions wrote a paragraph about Fulani (within the article about the matching funds). However, later editions of the *Times* deleted that paragraph, leaving readers to wonder (if they didn't already know) who Lenora Fulani is and why she is receiving the third largest matching funds check from the Treasury of any presidential candidate. But on December 31, the *Times* carried a 4-column story on the New Alliance Party with a picture of Fulani.

## AMERICAN PARTY NOMINATES

On December 5-7, the American Party held a convention in Pensacola, Florida, and nominated Robert J. Smith of Taylorsville, Utah for president and Doris Feimer of Bismarck, North Dakota for vice-president. Smith, 58, a retired physicist, ran for Congress in 1990 and polled 4.8% against a Democrat and a Republican.

## BUCHANAN KEPT OFF S.D. BALLOT

Pat Buchanan has been barred from the South Dakota Republican primary ballot. South Dakota law is vague, but says that a candidate who enjoys any support at the state party convention should be on the primary ballot.

Originally Buchanan was told that the party would ask the Secretary of State to list him, if he obtained one delegate at the State Convention. He did meet this requirement, but was then told that he needed at least three delegates. It was too late for him to woo any more delegates, and he was barred from the ballot. However, in response to complaints, the Republican Party then put an unpledged slate on its ballot, so that Buchanan can indirectly receive votes by asking voters to vote for the unpledged slate.

In Rhode Island, where the law says "bona fide" candidates should be automatically put on the ballot, the Republican Party asked the Secretary of State to keep Buchanan off the ballot. The Secretary of State, threatened with a lawsuit, disregarded the Republican Party request.

## MASS. THIRD PARTY PRIMARY

The Independent Voters Party of Massachusetts has placed these candidates in its March presidential primary: (1) Bo Gritz, the likely Populist Party nominee; (2) Earl Dodge, Prohibition Party nominee; (3) Michael Levinson, a Republican from Buffalo, New York who didn't qualify for the state's Republican ballot; (4) Howard Phillips of the U.S. Taxpayers Party; (5) Eric Thompson, an anti-nuclear weapons activist. It is possible other names will be added on January 3. Candidates may withdraw until January 10.

## VIRGINIA RELIEF DEMANDED

Virginia law specifies that third party and independent candidate petitions may not begin before January 1 of an election year. The law also requires statewide petitions to be circulated in each congressional district of the state, and forbids anyone from circulating a petition outside of his or her home congressional district.

The 1992 Virginia congressional districts are still undetermined. A reapportionment bill has been signed into law, but the Voting Rights Act requires Virginia to obtain clearance from the U.S. Justice Department before any election law change can be made. The Justice Department won't approve Virginia's reapportionment plan until mid-February at the earliest, and the districts may not be known for months beyond that.

The Libertarian Party has demanded that the Board of Elections reduce the number of signatures required to get a statewide candidate on the ballot, since it is impossible for the party to be petitioning until the districts are known. Two U.S. Courts of Appeals circuits, the 10th and 11th, have ruled in the past that when a government prevents a group from petitioning during the normal legal petitioning period, the number of signatures must be reduced, or the deadline must be extended, to make up the lost time.

The Virginia Board of Elections hasn't responded yet. If the demand is refused, the party will sue.

## DUKE OFF SOME PRIMARY BALLOTS

The Republican Party is trying to keep David Duke off its ballots. In some states, access to the presidential primary is by paying a filing fee, or by a petition. In these states, there is little the party can do to keep Duke off the ballot.

In other states, the law says that candidates mentioned by the media should be put on the ballot, with no need for a petition or a filing fee. Generally, in these states, a committee composed of the Secretary of State, state party leaders, and legislative leaders, decide which candidates are mentioned by the media. Typically, candidates not chosen by the committee can also get on the ballot by petition.

Republican leaders in states with the second type of law say that Duke is not covered in the media as a Republican, and therefore that he should not be on Republican ballots. Even in the face of Republican opposition to Duke, most state elections officials are putting Duke on the ballot without a petition, but in Massachusetts, Rhode Island, Florida and Georgia, they aren't (these states vote on March 10; Duke isn't entering earlier primaries).

In Massachusetts, Duke was not informed that the Secretary of State would not put him on the ballot, until one week before the filing deadline. He was unable to obtain the needed 2,500 signatures in that week. In Rhode Island, where he was also not put on the ballot automatically, he is collecting the needed 1,000 signatures.

In Florida and Georgia, the law doesn't even permit a candidate to get on the ballot by petition, if he or she wasn't chosen by the committee. Duke plans to sue them both, and may also sue Massachusetts and Rhode Island.

State laws which say that a presidential candidate should be put on a primary ballot with no need for a petition, if the candidate is mentioned in the media, are vague and arbitrary. But they have survived attacks in court, except that in 1980 a federal court struck down such a law in Kentucky. *Kay v Mills*, 490 F Supp 844. The Florida law (which doesn't mention the media, but merely gives total discretion to party leaders to decide whom to put on the ballot) was upheld by the 11th circuit in 1990 and again in 1991. *Kay v Smith*, no. 89-3518, and *Koczak v Smith*, no. 89-3665. Although it is good policy to permit political parties to decide for themselves who their *bona fide* members and candidates are, the Duke example shows that the Republicans (and Democrats too, for that matter) have no concise statement of principles to use in determining who is or is not a *bona fide* member. Instead, decisions are made on an *ad hoc* basis.

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## 1992 PETITIONING

STATE	REQUIREMENTS		SIGNATURES COLLECTED				DEADLINES	
	FULL PARTY	CAND.	LIBT	NAP	GREEN	POPULIST	PARTY	CAND.
Alabama	12,157	5,000	already on	2,700	0	0	Aug 31	Aug 31
Alaska	2,035	2,035	*finished	0	already on	*50	Aug 24	Aug 24
Arizona	14,072	10,555	already on	6,000	*9,000	*1,000	May 16	Sep 18
Arkansas	20,890	0	0	0	0	0	Jan. 2	Sep 15
California	(reg) 79,188	134,781	already on	0	*already on	0	Dec 31, 91	Aug 7
Colorado	no procedure	5,000	1,500	0	0	0	-	Aug 4
Connecticut	no procedure	14,620	0	0	0	0	-	Aug 14
Delaware	(reg.) 145	(es) 2,900	already on	141	0	0	Aug 22	Jul 15
D.C.	no procedure	(es) 2,600	can't start	can't start	can't start	can't start	-	Aug 18
Florida	180,935	60,312	*10,000	0	0	500	Jul 10	Jul 15
Georgia	26,955	27,009	already on	0	0	*3,500	Jul 14	Jul 14
Hawaii	4,534	4,177	already on	0	*4,200	*500	Apr 22	Sep 4
Idaho	8,180	4,090	already on	0	*350	*800	Aug 31	Aug 25
Illinois	no procedure	25,000	can't start	already on	can't start	can't start	-	Aug 3
Indiana	no procedure	29,890	*34,500	0	0	*800	-	Jul 15
Iowa	no procedure	1,000	0	0	0	0	-	Aug 14
Kansas	15,661	5,000	already on	0	0	0	Apr 11	Aug 4
Kentucky	no procedure	5,000	0	0	0	0	-	Aug 27
Louisiana	(reg) 110,000	0	approx 150	0	0	0	Jun 30	Sep 1
Maine	26,139	4,000	already on	0	0	0	Dec 12,91	Jun 2
Maryland	10,000	(es) 70,000	already on	4,100	0	1,200	Aug 3	Aug 3
Massachsts.	(reg) 33,000	*10,000	can't start	can't start	can't start	can't start	Jul 1	Jul 28
Michigan	25,646	25,646	already on	0	0	0	Jul 16	Jul 16
Minnesota	92,156	2,000	can't start	can't start	can't start	can't start	ap. May 1	Sep 15
Mississippi	just be org.	1,000	already on	0	0	400	ap. Jan. 2	Sep 4
Missouri	no procedure	20,860	*450	0	0	0	-	Aug 3
Montana	9,531	9,531	already on	0	0	*675	Mar 12	Jul 29
Nebraska	5,834	2,500	*8,734	0	0	*500	Aug 1	Aug 25
Nevada	9,392	9,392	already on	0	0	400	June 10	June 10
New Hamp.	no procedure	3,000	already on	0	0	0	-	Aug 5
New Jersey	no procedure	800	0	0	0	0	-	Jul 27
New Mexico	2,069	12,409	already on	already on	0	0	Jul 14	Sep 8
New York	no procedure	20,000	can't start	can't start	can't start	can't start	-	Aug 18
North Carolina	43,601	(es) 65,000	*68,000	1,000	0	0	Jul 9	Jun 26
North Dakota	7,000	4,000	0	0	0	0	Apr 10	Sep 4
Ohio	34,777	5,000	0	*100	0	*50	Jan 6	Aug 20
Oklahoma	45,566	35,132	0	0	0	0	Jun 1	July 15
Oregon	(es) 36,000	(att.) 1,000	already on	0	8,000	2,500	Aug 25	Aug 25
Penn.	no procedure	*37,216	can't start	can't start	can't start	can't start	-	Aug 1
Rhode Isl.	no procedure	1,000	can't start	can't start	can't start	can't start	-	Sep 4
South Carolina	10,000	10,000	already on	already on	0	0	May 2	Aug 1
South Dakota	6,419	2,568	already on	0	0	0	Apr 7	Aug 4
Tennessee	19,759	25	0	0	0	0	ap. May 1	Aug 20
Texas	38,900	54,269	already on	can't start	can't start	can't start	May 25	May 11
Utah	500	300	already on	finished	0	*already on	Mar 16	Sep 1
Vermont	just be org.	1,000	*already on	*already on	0	0	Dec 31,91	Sep 17
Virginia	no procedure	(es) 14,500	0	0	0	0	-	Aug 21
Washington	no procedure	200	can't start	can't start	can't start	can't start	-	Jul 25
West Va.	no procedure	6,534	0	0	0	*400	-	Aug 1
Wisconsin	10,000	2,000	already on	can't start	can't start	can't start	Jun 1	Sep 1
Wyoming	8,000	7,903	already on	0	0	0	May 1	Aug 24

LIBT = Libertarian; NAP = New Alliance; POP = Populist. Other qualified nat. parties: Amer. in S.C., Prohibition in N. M., Soc. Workers in N. M, and Workers World in Mich. & N.M. "FULL PARTY REQ." means a procedure by which a new party can qualify before it nominates its candidates. Not every state has such a procedure. "CANDIDATE REQ." means a procedure which names a candidate. \* entry has changed since the last issue. The Pacific Party in Oregon has 7,200. The Taxpayers Party has 350 in Idaho and 500 in Maryland. The North Carolina Libertarians had thought they were done, but need 5,600 more signatures.

### MONTANA CASE TO SUPREME COURT

On December 16, the U.S. Supreme Court agreed to hear the appeal of the federal government in *U.S. Dept. of Commerce v State of Montana*, no. 91-860, the case over how many seats in the U.S. House should be given to each state. The hearing will be in February. Presumably, if Montana wins, the decision will take effect in time for the 1992 election. Massachusetts filed a similar lawsuit which is dormant pending the Supreme Court decision.

### DEMOCRATIC PARTY SUES TREASURY

On December 11, the Democratic National Committee sued to overturn Treasury regulations which apportion how a shortfall in public funds for presidential candidates is handled. *Democratic National Committee v Brady*, no. 91-3143, U.S. Dist Ct., D.C. The case was assigned by Judge Stanley S. Harris, a Reagan appointee.

Treasury regulations say that if there isn't enough money from the \$1 tax check-off to meet all obligations to public funding for the presidential campaign, the primary fund must bear all the cutbacks. Only after the primary funds are totally depleted, would the general election funds and the national convention funds be affected.

Democrats feel that if there is going to be a shortfall (which they doubt, since more money will come in soon), the primary fund should not be the only fund to suffer cuts. Democrats feel the primary funding is more important for them than it is for Republicans this year, and charge that the regulations exist for partisan reasons.

### CALIFORNIA LEGISLATURE APPEALS

The California legislature will ask the U.S. Supreme Court to hear its appeal in *Legislature v Eu*, the case over whether the California legislative term limits violate the U.S. Constitution. The term limits are part of the California Constitution and were passed by the voters in November 1990.

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### NOW PARTY TO BE "NEW PARTY USA"

On December 11, the six co-convenors of the commission founded by the National Organization for Women chose a tentative name for their new political party. The name is "New Party USA". The NOW convention to be held this summer is free to change that name, however. The six co-convenors also named Dolores Huerta of Bakersfield, California, chair of the group. Huerta is best known for co-founding the United Farm Workers of America.

### NAP BALLOT LAWSUITS DELAYED

Three ballot access lawsuits have been delayed this year because New Alliance Party lawyers have been too busy to deal with them. One of them, *Ybarra v Bayoud*, no. 442729, in Travis County district court, challenges the Texas May deadline for turning in new party petitions. It was filed in 1988 but has been on hold for three years because NAP lawyers have been too busy to pursue it.

A second case, *Perez v Bayoud*, no. 487974, also in Travis district court, Texas, challenges the January deadline for non-presidential independent candidates to file a declaration of candidacy, and also the requirement that signers of independent candidates petitions must show their voter registration affidavit numbers on the petition. The case has been dormant since 1990.

A third case, which hasn't been filed yet, will challenge an Illinois Attorney General ruling which says the Illinois Solidarity Party is no longer a qualified party (that party has functioned as the Illinois branch of the New Alliance Party since 1988). The ruling was made in May 1991 and the party's failure to file the case sooner will make it more difficult to win.

The reason the party's status is unclear is because Illinois elects three Trustees of the University of Illinois. The party's single candidate for University Trustee polled more than 5% of the number of voters who voted, but less than 5% of the total number of votes cast for that office. There are no precedents on how the percentage is to be determined.

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