

BALLOT ACCESS NEWS

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BALLOT ACCESS BILL IS HR 1755

On April 20, Congressman Timothy Penny of Minnesota introduced his bill to outlaw restrictive ballot access procedures for third party and independent candidates for federal office. It is H.R. 1755.

A similar bill was introduced in 1985, 1987 and 1989, by Congressman John Conyers of Michigan. They never received a hearing from Congressman Al Swift, chairman of the House Elections Subcommittee. Swift indicated in 1991 that he would hold a hearing on ballot access, but in 1991 no member of Congress would introduce such a bill. Now, for the first time, there is a federal ballot access bill and a hope that hearings will be held on it.

Please write your member of Congress and ask him or her to co-sponsor H.R. 1755. The address is Washington, D.C. 20515. Also, write Congressman Al Swift, same address, and ask him to hold a hearing on the bill.

Other members of the House Elections Subcommittee are Martin Frost of Texas, Steny Hoyer of Maryland, Gerald Kleczka of Wisconsin, Benjamin Cardin of Maryland, Bob Livingston of Louisiana, Pat Roberts of Kansas, and Jennifer Dunn of Washington.

The text of H.R. 1755 is on page 3. Anyone who sends *B.A.N.* a copy of a letter from any member of Congress (except one of the members who is already co-sponsoring H.R. 1755), may receive a free 3-month extension of his or her subscription. However, the letter from the member of Congress must contain some hint of the Member's attitude toward the bill; it can't be a letter which merely says "Thank you for writing; I will consider your views".

Members of Congress who are already co-sponsoring H.R. 1755 are Steve Gunderson (Republican from Wisconsin), and these Democrats: Floyd Flake and Edolphus Towns of New York, Lucien Blackwell of Pennsylvania, and Alcee Hastings of Florida.

The bill was launched at a press conference in the Capitol. Representatives of the Libertarian, New Alliance, and Patriot Parties spoke (the Patriot Party is one of the nationally-organized political parties which hopes to represent Perot voters; the other is the Independence Party).

See page 6 for a list of member of the U.S. House who have already voted in favor of the federal voter registration bill. If your member of Congress voted for the federal voter registration bill, the member cannot consistently say that he or she doesn't believe that Congress should not write legislation to regulate federal elections.

Article I, sec. 4 of the Constitution says "The times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

Here are some arguments for the bill:

(1) The right to vote, includes the right of choice for whom to vote. Yet many states have made it impossible for voters to choose to vote for parties other than the Democratic and Republican nominees. Examples:

Arkansas: no third party has been on the ballot since 1970 (except for president, for which the requirements are entirely different)

Florida: only one third party candidate for the U.S. Senate and only two third party candidates for the U.S. House have been on the ballot since 1924.

Georgia: no third party candidate for the U.S. House has been on the ballot since before 1943, the year the existing law was passed.

Louisiana: no third party candidate for either house of Congress has been on the ballot, with a party label, since the existing law was passed in 1976.

Maryland: no third party candidate for U.S. Senate has been on the ballot since the existing law was passed in 1967.

New Mexico: no third party candidate for U.S. Senate has been on the ballot since 1976.

Tennessee: no third party has been on the ballot since 1972.

Washington: no third party candidate for U.S. Senate has been on since the existing law was passed in 1977.

No third party has run candidates for a majority of seats in the U.S. House since 1920. Even in 1992, when voters were unusually eager to vote against both major parties, there were no independent or third party candidates for Congress on the ballot in 40% of the districts. Ballot access restrictions are far more stringent for Congress than they are for President.

There were no ballot access barriers in the U.S. before the 1890's, since there were no government-printed ballots until then. The election system worked far better in the 1870's, 1880's and 1890's, than it does now. Control of the U.S. House changed hands between the Democrats and Republicans almost every election back then. There were also many members of Congress who were members of third parties back then. Nowadays we have stagnation, with one-party control of the House having lasted for 40 years, the longest such period in the nation's history.

Furthermore, voter turnout was far better back then. The Census Bureau has calculated that at least 75% of all voters who were permitted to vote, did vote, in presidential elections 1876-1892. Sometimes over 80% of all possible voters voted. By comparison, in 1992 the figure was 55%, and in 1988 it was 50%.

LEGISLATIVE NEWS

1. Arizona: SB 1046, which changes procedures for independent candidates, was signed into law on April 14. It gets rid of some bad features of the old law, but substitutes some different bad features.

The old procedure for independents required that voters equal to 1% of the last vote cast, must sign for an independent candidate; and no one may sign who voted in the primary (except that there is no primary voter restriction for presidential candidates). Petitioning had to be completed in just 10 days in September.

Under SB 1046, independent candidates must submit their petitions in June, but they can start almost as early as they wish. No one can sign except voters who are not registered as members of the two biggest parties. The number of signatures is 3% of the number of such voters. Based on current registration figures, an independent candidate for statewide office will need about 7,000 signatures.

2. California (1): SB 165, which eliminates the need for candidates to submit petitions to get on a primary ballot, passed the Senate on April 29. Current law requires such candidates to submit 65 signatures for statewide office or 40 signatures for other office.

California (2): On April 21, a portion of SB 535 which would have provided that no write-in votes be counted, even for declared write-in candidates, unless the vote-counting computer showed that at least 1.5% of the voters had cast a write-in vote, was defeated in the Senate Elections Committee.

The Natural Law Party, the Socialist Party, and Socialist Action Party, all helped defeat this part of the bill.

California (3): AB 817 has been introduced by Assemblyman Gil Ferguson. It provides that any qualified party (other than the Democratic or Republican Parties) is free to nominate by convention or by primary, as it chooses.

California (4): SB 246 passed the Senate Elections Committee on April 7. It would provide that when there is a vacancy in the state legislature, there would no longer be a special election to fill the vacancy. Instead, the political party of the vacated member would nominate several people to fill the spot. The highest-ranking statewide constitutional officer who was a member of that party would then choose someone off the party list.

3. Connecticut: HB 7002, which provides that Democrats and Republicans could run for office in primaries, even if they had no support at conventions of their own parties, passed the Elections Committee and on April 20 was sent to Appropriations Committee.

4. Georgia: HB 802, which reduces the filing fee for third party candidates to only 25% of what it had been, was signed into law on April 9.

5. Louisiana: HB 1394 was introduced on April 12 by Rep. Sean Reilly. It would make it much easier for a party to appear on the ballot (for office other than president).

6. Iowa: HF 652, which lowers the number of signatures for a third party or independent candidate for U.S. House from 1,000 to 300 signatures, but increases the number needed for a statewide candidate from 1,000 to 1,500, passed the legislature on April 23, although there is a motion to reconsider. The bill makes many other unrelated election law changes.

7. Missouri: HB 512 passed the House on March 31, and passed the Senate Elections Committee on April 14. It contains all the ballot access improvements that were passed and vetoed in 1991 and 1992. It also includes provision for a presidential primary. The bill has been amended to provide that all qualified parties would participate in the presidential primary.

8. Nevada: SB 250, which eases ballot access and makes many other unrelated changes, is considered likely to pass, although it still hasn't reached the Senate floor.

9. New Hampshire: HB 531, which would make it impossible for anyone to be nominated by two parties, still hasn't been voted on in the Senate. Even if it does pass, the Libertarian Party (which would be damaged by the bill) hopes the Governor will veto it.

New Hampshire (2): HB 390, to provide term limits for the state's members of Congress, passed the House on March 16. On April 19, it had a hearing in the Senate Judiciary Committee; that Committee hasn't voted yet.

10. New York: AB 5631, which would make it legal to cast a write-in vote by means of a rubber stamp, passed the Assembly on April 19. The Senate bill to do the same thing is SB 4006, and it is expected to pass also.

11. North Carolina: HB 169, which would have eased independent candidate petition requirements, passed the House Judiciary Committee but was defeated on the floor on April 21 by a vote of 67-44. Most Democrats voted "No"; almost every Republican voted "Yes".

12. Rhode Island: H 5589 & 5591, which would have provided for a more orderly ballot listing for third parties, were defeated in the House Judiciary Committee April 8.

13. Texas: HB 1057, which eases ballot access, was sent to a Subcommittee of the House Elections Committee on April 21. Members of the full committee say they support the bill, but it appears unlikely that the bill can make enough headway to pass before the legislature adjourns.

14. Washington: HB 1594, to provide that the state's presidential electors should be selected proportionately, died in the State Government Committee in March.

15. West Virginia (1): SB 315, which provides that write-in candidates who wish their write-ins counted must file a declaration of candidacy one week before the election, was sent to the Governor on April 27.

West Virginia (2): HB 2146, which would have ended the prohibition on a voter both signing a petition and voting in the primary, died on April 3 in the Senate Elections Committee. The Committee chair, Senator William Wooton, a Democrat, refused to hold a hearing on it.

TEXT OF FEDERAL BALLOT ACCESS BILL:

Sec. 1. Short Title: "Fair Elections Act of 1993".

Sec. 2. Findings & Purposes: (a) Findings-

(1) Voting participation in the United States is lower than in any other advanced industrialized democracy.

(2) The rights of eligible citizens to seek election to office, vote for candidates of their choice and associate for the purpose of taking part in elections, including the right to create and develop new political parties, are fundamental in a democracy. The rights of citizens to participate in the election process, provided in and derived from the First and Fourteenth Amendments to the Constitution, having consistently been promoted and protected by the Federal Government. These rights include the right to cast an effective vote and the right to associate for the advancement of political beliefs, which includes the "constitutional right...to create and develop new political parties". *Norman v Reed*, 502 U.S. __, 112 S.Ct. 699 (1992). It is the duty of the Federal Government to see that these rights are not impaired in elections for Federal office.

(3) Certain restrictions on access to the ballot impair the ability of citizens to exercise these rights and have a direct and damaging effect on citizens' participation in the electoral process.

(4) Many States unduly restrict access to the ballot by nonmajor party candidates and nonmajor political parties by means of such devices as excessive petition signature requirements, insufficient petitioning periods, unconstitutionally early petition filing deadlines, petition signature distribution criteria, discriminatory petition signature fees, and limitations on eligibility to circulate and sign petitions.

(5) Many States require political parties to poll an unduly high number of votes or to register an unduly high number of voters as a precondition for remaining on the ballot.

(6) In 1983, the Supreme Court ruled unconstitutional an Ohio law requiring a nonmajor party candidate for President to qualify for the general election ballot earlier than major party candidates. This Supreme Court decision, *Anderson v Celebrezze*, 460 U.S. 780 (1983) has been followed by many lower courts in challenges by nonmajor parties and candidates to early petition deadlines. See, e.g., *Stoddard v Quinn*, 593 F. Supp. 300 (Me. 1984); *Cripps v Seneca Co. Bd. of Elections*, 629 F. Supp. 1335 (Ohio 1985); *Libertarian Party of Nevada v Swackhamer*, 638 F Supp. 565 (Nev. 1986); *Cromer v State of South Carolina*, 917 F. 2d 819 (4th Cir. 1990); *New Alliance Party of Alabama v Hand*, 993 F. 2d 1568 (11th Cir. 1991).

(7) In 1992, 26 States still required nonmajor party candidates for President to qualify for the ballot before the second major party national convention (California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Maine, Maryland, Michigan, Missouri, Montana, North Carolina, Nevada, New Hampshire, New Jersey, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Washington, West Virginia).

Nine of these states required nonmajor party candidates to qualify before the first major party national convention (Florida, Georgia, Indiana, Maine, Michigan, Nevada, North Carolina, Oklahoma, Texas).

(8) In 1992, nonmajor party candidates for President had to obtain 806,401 petition signatures to be listed on the ballots of all 50 States and the District of Columbia - 32 times more signatures than the 25,500 required of Democratic Party candidates and 15 times more signatures than the 54,250 required of Republican Party candidates. To be listed on the ballot in all 50 States and the District of Columbia with a party label, nonmajor party candidates for President had to obtain approximately 649,092 petition signatures and 79,136 registrants. In 1992, 32 of the 41 states that held Presidential primaries required no signatures of major party candidates for President (Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin). Only two States required no signatures of nonmajor party candidates for President (Arkansas and Louisiana; Louisiana, however, requires a \$500 filing fee).

(9) The number of petition signatures required by the States to list a major party candidate for Senate on the ballot in 1992 ranged from zero to 15,111. The number of petition signatures required to list a nonmajor party candidate for Senate ranged from zero to 180,935. Thirty-one States required no signatures of major party candidates for Senate (Alabama, Alaska, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, Texas, Utah, Washington, West Virginia, Wyoming). Only one State required no signatures of nonmajor party candidates for Senate, provided they were willing to be listed on the ballot without a party label (Louisiana, although a \$600 filing fee is required, and to run with a party label, a candidate must register 106,146 voters into his or her party).

(10) The number of petition signatures required by the States to list a major party candidate for Congress on the ballot in 1992 ranged from zero to 2,000.

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TEXT OF HR 1755 (continued)

The number of petition signatures required to list a nonmajor party candidate for Congress ranged from zero to 12,252. Thirty-one States required no signatures of major party candidates for Congress (Alabama, Alaska, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, Texas, Utah, Washington, West Virginia, Wyoming). Only one State required no signatures of nonmajor party candidates for Congress, provided they were willing to be listed on the ballot without a party label (Louisiana, although a \$600 filing fee is required).

(11) Eight States required additional signatures to list a nonmajor party candidate for President on the ballot with a party label (Alabama, Arizona, Idaho, Kansas, Nebraska, North Dakota, Ohio, Tennessee). Thirteen States required additional signatures to list a nonmajor party candidate for Senate or Congress on the ballot with a party label (Alabama, Arizona, Arkansas, California, Idaho, Hawaii, Kansas, Louisiana, Nebraska, North Dakota, Ohio, Oregon, Tennessee). Two of these States (Ohio and Tennessee, respectively) required 5,000 signatures and 25 signatures, respectively, to list a nonmajor party candidate for President or Senate on the ballot in 1992, but required 34,777 signatures and 19,759 signatures, respectively, to list the candidates on the ballot with her or his party label. One State (California) required a nonmajor party to have 78,992 registrants in order to have its candidate for President listed on the ballot with a party label.

(12) In 1992 one State (Arizona) required nonmajor party candidates for President or Senate to obtain 10,555 signatures in 10 days, but allowed major party candidates for Senate 45 days to obtain approximately half that number of signatures, and required no signatures of major party candidates for President. Another State (California) required nonmajor party candidates for President or Senate to obtain 134,781 signatures in 105 days, but required major party candidates for Senate to obtain only 65 signatures in 105 days, and required no signatures of major party candidates for President. Another State (Texas) required nonmajor party candidates for President or Senate to obtain 38,900 signatures in 75 days, and required no signatures of major party candidates for President or Senate.

(13) Two States required all nonmajor party candidates to pay fees of ten and five cents per signature signature, while requiring no fees or signatures of major party candidates (Florida and North Carolina, respectively).

(14) Seven States require nonmajor party candidates for President or Senate to collect a certain number of percentage of their petition signatures in each congressional district or in a specified number of congressional districts (Michigan, Missouri, Nebraska, New Hampshire, New York, North Carolina, Virginia). Only three of these States impose a like requirement on major party candidates for President or Senate (Michigan, New York, Virginia).

(15) Twenty States restrict the circulation of petitions for nonmajor party candidates to residents of those States (California, Colorado, Connecticut, District of Columbia, Idaho, Illinois, Kansas, Michigan, Missouri, Nebraska, Nevada, New Jersey, New York, Ohio, Pennsylvania, South Dakota, Texas, Virginia, West Virginia, Wisconsin). Three States restrict the circulation of petitions for nonmajor party candidates to the county or congressional district where the circulator lives (Kansas, Nebraska, Virginia).

(16) Four States prohibit people who voted in a primary election from signing petitions for nonmajor party candidates (Nebraska, New York, Texas, West Virginia). Twelve States restrict the signing of petitions to people who indicate intent to support or vote for the candidate or party (California, Delaware, Hawaii, Illinois, Indiana, Maryland, New Jersey, New York, North Carolina, Ohio, Oregon, Utah). Five of these 12 States require no petition of major party candidates (Delaware, Maryland, North Carolina, Oregon, Utah), and only one of the six remaining States restricts the signing of petitions for major party candidates to people who indicate intent to support or vote for the candidate or party (New Jersey).

(17) Restrictions on the ability of citizens to exercise the rights identified in this subsection have disproportionately impaired participation in the electoral process by various groups, including racial minorities.

(18) The establishment of fair and uniform national standards for access to the ballot in elections for Federal office would remove barriers to the participation of citizens in the electoral process and thereby facilitate such participation and maximize the rights identified in this subsection.

(19) The Congress has authority, under the provisions of the Constitution of the United States in sections 4 and 8 of article I, section 1 of article II, article VI, the thirteenth, fourteenth, and fifteenth amendments, and other provisions of the Constitution of the United States, to protect and promote the exercise of the rights identified in this subsection.

(b) PURPOSES - The purposes of this Act are -

(1) to establish fair and uniform standards regulating access to the ballot by eligible citizens who desire to seek election to Federal office and political parties, bodies and groups which desire to take part in elections for Federal office; and (2) to maximize the participation of eligible citizens in elections for Federal office.

SEC. 3. BALLOT ACCESS RIGHTS.

(a) An individual shall have the right to be placed as a candidate on, or to have such individual's political party, body, or group affiliation in connection with such candidacy placed on, a ballot or similar voting materials to be used in a Federal election, if such individual presents a petition stating in substance that the signatories desire such individual's name and political party, body or group affiliation, if any, to be placed on the ballot or other similar voting materials to be used in the Federal election with respect to which such rights are to be exercise, and

(1) with respect to a Federal election for the office of President, Vice President, or Senator, such petition has a number of signatures of persons qualified to vote for such office equal to one-tenth of one percent of the number of persons who voted in the most recent previous Federal election for such office in the state, or 1,000 signatures, whichever is greater.

(2) with respect to a Federal election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, such petition has a number of signatures of persons qualified to vote for such office equal to one-half of one percent of the number of persons who voted in the most recent previous Federal election for such office, or, if there was no previous Federal election for such office, 1,000 signatures;

(3) with respect to a Federal election the date of which was fixed 345 or more days in advance, such petition was circulated during a period beginning on the 345th day and ending on the 75th day before the date of the election;

(4) with respect to a Federal election the date of which was fixed less than 345 days in advance, such petition was circulated during a period established by the State holding the election, or, if no such period was established, during a period beginning on the day after the date the election was scheduled and ending on the tenth day before the date of the election, provided, however, that the number of signatures required under paragraph (1) or (2) shall be reduced by 1/270th for each day less than 270 in such period.

(b) An individual shall have the right to be placed as a candidate on, or to have such individual's political party, body, or group affiliation in connection with such candidacy placed on, a ballot or similar voting materials to be used in a Federal election, without having to satisfy any requirement relating to a petition under subsection (a), if that or another individual, as a candidate of that political party, body, or group, received one percent of the vote cast in the most recent general Federal election for President or Senator in that State.

Sec. 4. RULEMAKING. The Attorney General shall make rules to carry out this Act.

Sec. 5. GENERAL DEFINITIONS. As used in this Act - (1) the term "Federal election" means a general or special election for the office of (A) President or Vice President; (B) Senator; or (C) Representative in, or Delegate or Resident Commissioner to, the Congress; (2) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States; and (3) the term "individual" means an individual who has the qualifications required by law of a person who holds the office for which such individual seeks to be a candidate.

INITIATIVE BILLS STALL

Bills in New Hampshire, North Carolina, and South Carolina, to enact provision for initiatives, have not advanced. In New Hampshire, however, the legislature has voted to study the issue in 1994.

MEMBERS OF THE HOUSE WHO VOTED FOR THE VOTER REGISTRATION BILL

Below are the members of the House of Representatives who voted for HR 2 on February 4, 1993. This is the bill which requires the states to provide postcard voter registration forms, and also to ask Drivers License applicants if they wish to register to vote. If your member of Congress voted for HR 2, he or she cannot consistently tell you that he or she opposes HR 1755 on the grounds that Congress shouldn't tell states how to run their elections for federal office.

Abercrombie, Ackerman, Andrews (ME), Andrews (NJ), Andrews (TX), Applegate, Bacchus (FL), Baesler, Barcia, Barlow, Barrett (WI), Becerra, Berman, Bilbray, Bilirakis, Bishop, Blackwell, Boehlert, Bonior, Borski, Boucher, Brooks, Brown (CA), Brown (FL), Brown (OH), Bryant, Byrne, Cantwell, Cardin, Carr, Chapman, Clay, Clayton, Clement, Clyburn, Coleman, Collins (IL), Collins (MI), Conyers, Cooper, Coopersmith, Costello, Coyne, Danner, Darden, de la Garza, DeFazio, DeLauro, Dellums, Derrick, Deutsch, Diaz-Balart, Dicks, Dingell, Dixon, Dooley, Durbin, Edwards (CA), Edwards (TX), Engel, English (AZ), English (OK), Eshoo, Evans, Fazio, Fields (LA), Filner, Fingerhut, Fish, Flake, Foglietta, Ford (MI), Frank (MA), Franks (NJ), Frost, Furse, Gejdenson, Gephardt, Geren, Gibbons, Gilchrist, Gilman, Glickman, Gonzales, Gordon, Green, Gunderson, Gutierrez, Hall (OR), Hall (TX), Hamburg, Hamilton, Harman, Hastings, Hayes, Hefner, Hilliard, Hinchley, Hoagland, Hochbrueckner, Holden, Hoyer, Hughes, Inslee, Jacobs, Jefferson, Johnson (GA), Johnson (SD), Eddie Johnson (TX), Johnston, Kanjorski, Kaptur, Kennedy, Kennelly, Kildee, Kleczka, Klein, Klink, Klug, Kopetski, Kreidler, LaFalce, Lambert, Lancaster, Lantos, LaRocco, Leach, Lehman, Levin, Lewis (GA), Lloyd, Long, Lowey, Machtley, Maloney, Mann, Manton, Margolies-Mesvinsky, Markey, Martinez, Matsui, Mazzoli, McCloskey, McCurdy, McDermott, McHale, McKinney, McNulty, Meehan, Meeke, Menendez, Meyers, Mfume, Miller (CA), Mineta, Mingo, Mink, Moakley, Mollohan, Montgomery, Moran, Morella, Murphy, Murtha, Nadler, Natcher, Neal (MA), Neal (NC), Oberstar, Obey, Olver, Ortiz, Orton, Owens, Pallone, Parker, Pastor, Payne (NJ), Payne (VA), Pelosi, Penny, Peterson (FL), Peterson (MN), Pickle, Pomeroy, Poshard, Price (NC), Rahall, Ramstad, Rangel, Reed, Reynolds, Richardson, Roemer, Ros-Lehtinen, Rose, Rostenkowski, Roybal-Allard, Rush, Sabo, Sanders, Sangmeister, Santorum, Sarpalius, Sawyer, Schenk, Schroeder, Schumer, Scott, Serrano, Sharp, Shays, Shepherd, Sisisky, Skaggs, Skelton, Slattery, Slaughter, Smith (IA), Smith (NJ), Spratt, Stark, Stokes, Strickland, Stupak, Swett, Swift, Synar, Tanner, Tauzin, Taylor (MS), Tejada, Thornton, Thurman, Torres, Torricelli, Towns, Traficant, Tucker, Unsoeld, Upton, Velasquez, Vento, Volkmer, Walsh, Washington, Waters, Watt, Waxman, Wheat, Whitten, Williams, Wilson, Wise, Woolsey, Wyden, Wynn, Yates, Zimmer.

HEARING IN BALLOT PAMPHLET CASE

On June 25, the 9th circuit will hold a special eleven-judge hearing in *Geary v Renne II*, no. 89-15601. This is over whether California law, authorizing elections officials to censor the Voters Handbook, is constitutional. Specifically, the California laws under attack authorize deleting: (1) "false, misleading or inconsistent" material from candidate statements; (2) similar material from arguments for or against ballot questions; (3) any reference to political party support in candidate statements, if the candidate is running for non-partisan office.

The original panel upheld these laws, but the judges of the 9th circuit then granted a rehearing, before a larger panel.

The rehearing had been delayed, pending the California Supreme Court decision in another ballot pamphlet case, *Drexel v Mann*, no. S020662. However, on March 25, the California Supreme Court announced it would not hear that case (even though in 1991 it had said it would hear it). Thus, there is no more reason for a delay in the federal case.

PUBLIC TV DEBATE VICTORY

A television station owned by the State of Rhode Island sponsored a candidate debate last October, and invited only the Democratic and Republican nominees. One of the two independent candidates in the race, Norman Jacques, filed a lawsuit against the station. His briefs, prepared by an ACLU attorney, John W. Dineen, were so convincing, the station gave in and permitted Jacques to enter the debate, before the issue reached the judge. *Jacques v R.I. Public Telecommunications Authority*, no. 92-0556T.

In order to achieve this result, Dineen had to overcome the 2-1 unfavorable decision of the U.S. Court of Appeals, 11th circuit, in *Chandler v Georgia Public Television*, 917 F 2d 486 (1990), which had been the only published decision on the question of whether public TV may discriminate against certain candidates who are on the ballot, when it holds a televised debate. Dineen argued that the *Chandler* decision was wrong, under recent U.S. Supreme Court public forum decisions.

MATCHING FUNDS HEARING

On April 14, the U.S. Court of Appeals, D.C. circuit, held a hearing in *LaRouche v FEC*, no. 92-1100. The issue is whether the Federal Election Commission had the authority to deny primary season matching funds to Lyndon LaRouche in 1992, on the basis that he misused some of the money in 1988. The FEC has no reason to believe that LaRouche broke any campaign finance laws during his 1992 race for the Democratic nomination.

The three judges who heard the case were Patricia Wald, James Buckley and Stephen Williams. They seemed skeptical of the FEC's reasoning, noting that many, if not most, of the recipients of federal matching funds have broken various FEC regulations. A decision is probably at least several months away.

DEBATES BILL

Congressman Tim Penny introduced his "Democracy in Debates" Bill the same day he introduced his ballot access bill. It is HR 1753. As reported in the last issue of *B.A.N.*, it has a hearing in the Elections Subcommittee on May 20. Co-sponsors of HR 1753 are Earl Hilliard of Alabama, Andrew Jacobs of Indiana, Alcee Hastings of Florida, Lucien Blackwell of Pennsylvania, Floyd Flake and Edolphus Towns of New York. All are Democrats.

PETITIONING VICTORY IN 1st CIRCUIT

On February 5, the U.S. Court of Appeals, 1st circuit, ruled that petitioning on public property has the same First Amendment protection that leafletting does. *Jews for Jesus v MBTA*, 984 F 2d 1319. The First Circuit covers four New England states.

The decision is important, since leafletting has more protection than soliciting for money does, according to the 1990 U.S. Supreme Court decision *U.S. v Kokinda*. The legal status of petitioning is unclear.

The First Circuit said that petitioning is "core political speech", that it does not produce litter because "the solicitor of signatures does not give the petition to a passenger to keep but is careful to hold on to every page of the petition". Also, "because no money changes hands, the risk of fraud, a major concern justifying bans on solicitation of funds, is absent. Third, although solicitation is more disruptive of passenger flow because it invites a passenger to stop to read the petition before deciding whether to add her name, it is no more disruptive of traffic than other activities in the transit system...in the absence of contrary evidence, the peaceful solicitation of signatures appears compatible with the environment of the Boston subway system."

The decision was written by Judge Frank Coffin, a Johnson appointee, and signed by Judges Bruce Selya, a Reagan appointee, and Michael Boudin, a Bush appointee.

MICHIGAN OPINION STILL PENDING

The Michigan Secretary of State and Attorney General still have not issued their ruling on whether the Natural Law, Libertarian and Tisch Independent Citizens Party are on the ballot or not. In the meantime, the Tisch Party has legally changed its name to the U.S. Taxpayers Party.

PATRIOT PARTY SUES PENNSYLVANIA

On April 29, the Patriot Party of Pennsylvania filed a lawsuit in federal court, alleging that Pennsylvania election laws which force it to petition for its candidates are unconstitutional. The Patriot Party polled enough votes to meet the definition of "political party" last year, but under a Pennsylvania law passed in 1986, even qualified parties must petition as though they weren't qualified, unless they have registration membership of at least 15% of the state total (almost 1,000,000 registered members). *Patriot Party of Pennsylvania v Mitchell*, no. 93-cv-2257, Eastern District.

1994 PETITIONING

STATE	REQUIREMENTS		SIGNATURES COLLECTED				DEADLINES	
	FULL PARTY	CAND.	LIBT	PEROT	GREEN	NEW AL	PARTY	CAND.
Alabama	12,157	12,157	500	0	0	0	Sep 9	Sep 9
Alaska	no procedure	2,586	0	0	already on	0	-	Aug 22
Ariz. (est)	(reg) 13,500	(es) 7,000	5,600	0	2,000	300	May 21	Jun 30
Arkansas	20,890	10,000	0	already on	0	0	Jan 4	May 1
California	(reg) 78,992	151,015	already on	100	already on	0	Jan 4	Aug 12
Colorado	no procedure	1,000	can't start	can't start	can't start	can't start	-	Aug 2
Connecticut	no procedure	15,008	can't start	already on	can't start	can't start	-	Aug 12
Delaware	(reg.) 150	(es) 3,000	already on	already on	0	already on	Aug 20	Jul 15
D.C.	no procedure	(es) 2,600	can't start	can't start	can't start	can't start	-	Aug 31
Florida	196,255	196,255	can't start	(reg.) 200	can't start	can't start	Jul 19	Jul 19
Georgia	31,771	31,771	already on	0	0	0	Jul 12	Jul 12
Hawaii	4,645	unpredictable	already on	0	already on	0	Apr 20	Jul 19
Idaho	9,643	1,000	already on	0	350	0	Aug 31	Jun 24
Illinois	no procedure	25,000	can't start	can't start	can't start	can't start	-	Aug 8
Indiana	no procedure	29,909	4,000	0	0	13,000	-	Jul 15
Iowa	no procedure	1,000	0	0	0	0	-	Aug 19
Kansas	15,661	5,000	already on	0	0	0	Apr 11	Aug 2
Kentucky	no procedure	5,000	0	0	0	0	-	Sep 1
Louisiana	(reg) 110,000	0	approx 150	already on	38	0	Jun 30	Jul 29
Maine	26,139	4,000	can't start	can't start	can't start	can't start	Dec 15,91	Jun 7
Maryland	(es) 76,000	(es) 66,000	600	6,000	0	0	Aug 1	Aug 1
Massachsts.	(reg) 33,000	10,000	can't start	already on	can't start	can't start	Jul 1	Aug 2
Michigan	25,646	25,646	unknown	0	0	0	Jul 21	Jul 21
Minnesota	117,790	2,000	can't start	can't start	can't start	can't start	ap. May 1	Jul 19
Mississippi	just be org.	1,000	already on	0	0	0	ap. Apr 1	Apr 8
Missouri	no procedure	20,860	already on	0	0	0	-	Aug 1
Montana	9,473	9,473	already on	0	0	0	Mar 17	Jun 6
Nebraska	5,834	2,000	0	0	0	0	Aug 1	Aug 30
Nevada	14,759	15,402	0	0	1,200	0	unknown	unknown
New Hamp.	no procedure	3,000	already on	0	0	0	-	Aug 10
New Jersey	no procedure	800	0	0	0	0	-	Apr 14
New Mexico	2,850	17,100	700	0	already on	0	Jul 12	Jul 12
New York	no procedure	15,000	can't start	can't start	can't start	can't start	-	Aug 23
North Carolina	51,904	(es) 70,000	lawsuit	0	0	6,000	Jul 14	Jun 24
North Dakota	7,000	1,000	0	0	0	0	Apr 15	Sep 9
Ohio	49,399	5,000	0	0	0	0	Jan 6	May 3
Oklahoma	69,518	0	0	0	0	0	May 31	Jul 13
Oregon	(es) 37,000	(att.) 1,000	already on	already on	15,000	already on	Aug 30	Aug 30
Penn.	no procedure	(es) 28,000	already on	already on	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	-	Jul 21
South Carolina	10,000	10,000	already on	0	0	already on	May 8	Aug 1
South Dakota	6,419	2,568	already on	0	0	0	Apr 5	Aug 2
Tennessee	19,759	25	0	0	1,000	0	ap. May 1	May 19
Texas	38,900	38,900	already on	can't start	can't start	can't start	May 22	May 12
Utah	500	300	already on	0	0	0	Mar 15	Mar 17
Vermont	just be org.	1,000	already on	0	0	already on	Sep 22	Sep 22
Virginia	no procedure	(es) 15,500	can't start	can't start	can't start	can't start	-	Jun 14
Washington	no procedure	unpredictable	can't start	can't start	can't start	can't start	-	Jul 23
West Va.	no procedure	4,044	0	0	0	0	-	May 9
Wisconsin	10,000	2,000	already on	can't start	can't start	can't start	Jun 1	Jul 12
Wyoming	8,000	9,849	0	0	0	0	May 1	Aug 29

LIBT = Libertarian; NEW AL = New Alliance; PEROT = a party associated with his movement; this doesn't mean that Perot necessarily supports such party. Other qual. national parties: Natural Law in N.M. & Vt, Populist in Utah, U.S. Taxpayers in Cal., Miss., N.M. & S.C., and Wkrs. World in Mich. "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. "CAND. REQ." means a procedure which names a candidate. Grassroots Party has 200 signatures in Az (19,827 needed). Oregon Green entry is called "Pacific Party".

HELSINKI PACT CAN BE ENFORCED

The December 9, 1991 *B.A.N.* reported that the U.S. government had signed the "Document of the Copenhagen Meeting" of the Conference on the Human Dimension of CSCE. "CSCE" stands for Conference on Security and Cooperation in Europe, the group of nations which signed the Helsinki Accords on human rights.

The Copenhagen document guarantees equal treatment of political parties before the law. Although the U.S. signed, the U.S. violates the agreement by discriminating in favor of the Democratic and Republican Parties, and against other parties. Federal law discriminates in the area of public subsidies for general election presidential campaigns, and state law discriminates by automatically putting the Democratic and Republican Parties on the ballot in all states, while forcing new parties to submit more than 1,500,000 valid signatures to run a full slate of candidates for federal office, and millions more for state and local office.

Bob Waldrop of Utah has learned that if one foreign government requests information from the U.S. about its discriminatory practices, the U.S. must (1) respond to requests for information; (2) meet bilaterally with participating States requesting such a meeting to examine the issue; (3) host a panel of experts from another concerned government, to look into the issue.

The U.S. would be forced to receive the mission of foreign observers, at U.S. expense, if nine other participating governments support the mission.

For more information, contact Bob Waldrop at Morning Glory Productions, Bx 526175, Salt Lake City Ut 84152.

COLORADO WRITE-IN ALMOST ELECTED

A write-in candidate for the Colorado House (13th district, Boulder) came within 113 votes of being elected, on November 3, 1992. The totals were: Drew Clark, Republican, 13,161; Peggy Lamm, write-in, 13,049.

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FINAL PRESIDENTIAL VOTE TALLY

The Committee for the Study of the American Electorate has compiled last year's presidential vote: Clinton 44,908,261; Bush 39,102,350; Perot 19,741,088; Marrou 291,612; Gritz 107,064; Fulani 73,713; Phillips 43,448; Hagelin 39,222; Daniels 27,977; LaRouche 26,342; Warren 23,098; Bradford 4,749; Herer 3,876; Brisben 3,059; Halyard 3,051; Yiamouyannis 2,199; Ehlers 1,149; Dodge 962; Boren 956; Hem 405; Masters 339; Smith 293; LaRiva 181; Willie Carter 132.

U.S. SENATE ELECTION IN TEXAS

On May 1, Texas held a special election for U.S. Senate. All candidates qualified either by paying a fee of \$4,000, or by submitting 5,000 signatures. All candidates appeared on the same ballot. On the ballot were 10 Republicans, 5 Democrats, 6 candidates labelled "Independent", 1 independent candidate labelled "People's", 1 Libertarian and 1 Socialist Worker. Only two candidates chose to collect 5,000 signatures rather than pay \$4,000. This was the first time since 1978 that the Socialist Workers Party appeared on a statewide Texas ballot.

DELAWARE LIBERTARIAN DOES WELL

On April 24, a partisan election was held for Mayor of Elsmere, Delaware, a town of 5,000 people. The only two candidates on the ballot were the incumbent, a Democrat, and a Libertarian, John Rader. Rader polled 298 votes, losing by only 36 votes. This was the best showing for a nationally-organized third party candidate in Delaware since the 1910's.

AGAIN, NO LABOR SLATE IN NEW JERSEY

New Jersey elects all its legislators in odd years. This year, organized labor had talked about running an independent slate of candidates for the legislature, but decided not to take such action. In 1991, the AFL-CIO went so far as to file an independent slate, but then withdrew it.

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