

BALLOT ACCESS NEWS

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HR 1582 GAINS CO-SPONSOR

Congressman Matthew F. McHugh, Democrat of upstate New York, has become the 22nd co-sponsor of HR 1582, the Conyers' bill to set a ceiling on the number of signatures needed for federal office for third party and independent candidates. McHugh's co-sponsorship was obtained by a New York Libertarian, John M. Fields, who saw his congressman personally, while the congressman was visiting Fields' place of employment. McHugh didn't seem to be aware of the bill, but he promised to study it, and two weeks later he wrote Fields that he agreed with the bill and would co-sponsor it. He has, in fact, become a co-sponsor.

ILLINOIS

Governor James Thompson vetoed SB 653 on September 25. SB 653 would have made it legal for the officers of any qualified political party to merge that party with another ballot-qualified party, and would have made it possible for Adlai Stevenson to eliminate the party he created last year, the Illinois Solidarity Party.

Since it is considered most unlikely that the veto will be overridden, the Illinois Solidarity Party will exist as a fully-qualified party in the 1988 and 1990 elections, with its own primary. This will be the first time since 1926 that there has been a fully qualified, statewide third party in Illinois.

The Governor's veto message said, "The First Amendment right to exercise the franchise and to form political associations is possibly the most paramount virtue of our democratic republic. Quite properly, the courts have disfavored laws which have the effect of limiting access to the ballot for independent and minor party candidates. While the State has a vital interest in regulating the election process to avoid confusion and unfairness, regulation which has the effect of substantially limiting access to the ballot or retarding political associational rights transgresses constitutional protections."

The Illinois Solidarity Party will have its own presidential primary in March 1988. Lenora Fulani, the New Alliance Party activist who is seeking the NAP presidential nomination, also plans to circulate petitions to run in the Illinois Solidarity presidential primary.

Governor Thompson suggested amendments to SB 653 and indicated he would sign the bill if the amendments were made. The amendments would delete provision for merging parties, but would revise the law so that the two parties which averaged the most and second-most votes for Governor in the last three elections, would be the two parties empowered to appoint precinct election officials. This change will restore the Democratic Party right to make these appointments. The legislature has until November 6 to decide whether to accept these ideas.

OREGON HEARING

On October 8, the Oregon Supreme Court heard arguments in *Libertarian Party of Oregon v Roberts*, the challenge to Oregon's 5% petition requirement for new party ballot access. The law is so restrictive that only one statewide third party petition has succeeded in Oregon in the last 37 years.

The state defended its law by saying that the purpose of elections is merely to select office-holders, and that if a party is too weak to win, it doesn't belong on the ballot. The state also argued that there should never be more than two parties on the ballot, because if more than two are on, then it is possible for a candidate to win with less than half of the vote. Contradicting itself, though, the state also said that third parties are free to use the somewhat easier independent candidate procedures (although these procedures don't permit use of a party label on the ballot). This point, of course, undermines the first two points.

Attorney Carol Jones, for the Libertarian Party, pointed out that the state doesn't keep Republicans or Democrats who are too weak to win off the primary ballot. A moderate filing fee permits any Democrat or Republican to run in the primaries. She also pointed out that if the state were really worried about someone winning with less than 50% of the vote, they would apply this concern to the primaries...but they don't. It really makes no practical difference whether the winner gets as much as 50% of the total popular vote or not. Presidents Wilson, Cleveland, Truman, and Kennedy got less than 50% of the total popular vote, but it didn't really matter.

Three of the seven justices asked questions, and at least two of them seemed to spot the logical inconsistencies in the state's arguments. A decision is probably several months away.

GEORGE HANSEN

Former Congressman George Hansen of Idaho, now out of prison, continues to give little hope to the Populist Party and other groups which wish to run him for president. But he won't rule the idea out completely. Quane Kenyon, political columnist for the *Idaho Statesman* of Boise, who interviewed Hansen in September, said on October 11, "From talking to him, I think that he's not considering the Populist thing very seriously." Hansen was in Pocatello on October 17 for a "Coming Home Party", and the *Idaho State Journal* of October 18 said that he has no definite plans to run for Congress, and that he is "vague" about accepting the Populist presidential nomination. Hansen does plan to write two books and to speak out about conditions in federal prisons.

WORKERS WORLD PARTY

The Workers World Party has announced that it will run Larry Holmes for president and Gloria LaRiva for vice-president in 1988. The party ran the same national ticket in 1984. They were on the ballot in Maryland, Michigan, Mississippi, New Jersey, New York, Ohio, Rhode Island, Washington, Wisconsin and the District of Columbia, and polled 17,983 votes.

The Workers World Party has not had any candidates for any public office since 1984. *Workers World*, the party's newspaper, has never mentioned HR 2320 nor HR 1582, the two bills to help with ballot access in Congress since 1984. The party has never filed any lawsuit to improve ballot access procedures, and has never attended any meeting of the Coalition for Free and Open Elections, although it has been invited. The party has not yet begun petitioning. The party address is 46 W. 21st St., New York NY 10010.

PAID PETITIONING

No state now outlaws the practice of paying petitioners to circulate ballot access petitions for new parties or independent candidates. However, several states do outlaw the practice of paying circulators of initiative petitions.

Last month, the U. S. Court of Appeals, 10th circuit, ruled that it violates the U. S. Constitution for any state to forbid the practice of paying petitioners of initiative petitions. The case is *Grant v Meyer*, no. 84-1949. The case had been brought in 1984 by proponents of an initiative to deregulate transportation. The decision of the U. S. Court of Appeals was *en banc*, meaning that all the full-time judges in the circuit participated. The vote was 6-2. The decision depended heavily on the U. S. Supreme Court 1976 decision *Buckley v Valeo*, in which the Supreme Court struck down limits on campaign expenditures and reasoned that paying people to engage in political speech is protected by the First Amendment.

OKLAHOMA

On October 9, James Linger, attorney for the plaintiffs in the Oklahoma ballot access case discussed in the September issue of *Ballot Access News*, filed his appeal in the U. S. Court of Appeals, 10th circuit. The case is now called *Libertarian Party of Oklahoma v Oklahoma State Election Board*, no. 87-2360. It concerns the number of signatures needed to get a new party on the ballot, the deadline for submitting the signatures, and whether Oklahoma voters may register into parties other than the Democratic and Republican Parties. Linger plans to ask for expedited handling of the case. The case was formerly called *Rainbow Coalition v Oklahoma State Election Board*, but the U. S. District Court ruled that the Rainbow Coalition lacked standing and this is not being appealed.

ALPHABETICAL LISTING OF CANDIDATES

Maryland is one of fourteen states which still lists candidates on the primary ballot in alphabetical order. This system has been criticized as discriminatory against people who happen to have names which don't begin with A, B, C or D. However, a lower state court in Maryland refused to hold that alphabetical order violates the constitutions of Maryland or the United States, in *Schaefer v State Administrative Board of Elections Laws*, case no. 1418 in the court of special appeals. Last month, the State Court of Appeals, Maryland's highest court, refused to hear Schaefer's appeal, holding that the case was moot. The U. S. Supreme Court has said repeatedly that constitutional cases involving elections do not become moot just because the election is over, but the Maryland high court ignored that. Schaefer plans to ask the U. S. Supreme Court to hear his appeal.

DEBATES

On September 22, 1987, the U. S. Court of Appeals, D.C. circuit, ruled that the Federal Communications Commission need not intervene to help third party candidates for president get into televised debates. The case had been brought in 1984 by Sonia Johnson, Citizens Party candidate. She had asked the FCC to tell the television networks not to carry the League of Women Voters debate between Mondale and Reagan, unless other candidates for president also have a chance to participate.

Judges Robinson and Edwards, the only two judges who participated in the case, wrote that even assuming the issue includes action by the federal government, the First Amendment is not violated when televised debates only invite the Democratic and Republican candidates. The judges relied on the 1976 Supreme Court case *Buckley v Valeo*, which said that it is constitutional for the U. S. Treasury to finance the presidential campaigns of parties which polled more than 5% of the vote in the last election, and to deny funding to other parties. The judges reasoned that if the Constitution doesn't protect smaller parties in the matter of public funding, it doesn't protect them in the matter of televised debates either. The judges also said that even ballot access for small parties is not necessarily protected by the Constitution, and cited some of the ballot access cases which have turned out adverse to smaller parties.

PETITIONING

No new petition drives have been started by any political party other than the Libertarian and New Alliance Parties since the last issue of *Ballot Access News*, except that the Populist Party and the Workers League have just begun Michigan petition drives.

STATE	SIGNATURES		
	REQUIRED	COLLECTED	
		NAP	LIBT
Alabama	5,000	0	already on
Alaska	2,068	already on	0
Arizona	17,340	already on	already on
Arkansas	0	no need	no need
California	128,340	can't start	already on
Colorado	5,000	0	0
Connecticut	14,910	can't start	can't start
Delaware	(reg.) 145	75	already on
Dist of Columbia	3,000	can't start	can't start
Florida	56,318	0	1,200
Georgia	25,759	14,000	1,500
Hawaii	3,493	2,200	already on
Idaho	8,224	0	800
Illinois	25,000	can't start	can't start
Indiana	30,950	0	200
Iowa	1,000	0	0
Kansas	2,500	2,650	0
Kentucky	5,000	0	100
Louisiana	0	no need	no need
Maine	4,000	can't start	can't start
Maryland	10,000	6,600	already on
Massachusetts	33,682	can't start	can't start
Michigan	16,313	135	already on
Minnesota	2,000	can't start	can't start
Mississippi	1,000	1,000	already on
Missouri	21,083	0	0
Montana	13,329	already on	already on
Nebraska	5,635	9,000	7,000
Nevada	7,717	7,500	already on
New Hampshire	3,000	2,775	1,000
New Jersey	800	800	0
New Mexico	500	already on	already on
New York	20,000	can't start	can't start
North Carolina	44,535	23,500	700
North Dakota	4,000	0	4,500
Ohio	5,000	650	0
Oklahoma	37,671	0	0
Oregon	51,578	0	7,600
Pennsylvania	35,000	can't start	can't start
Rhode Island	1,000	can't start	can't start
South Carolina	10,000	already on	already on
South Dakota	2,945	can't start	can't start
Tennessee	25	0	0
Texas	34,424	can't start	already on
Utah	300	already on	already on
Vermont	1,000	proceeding	already on
Virginia	14,000	can't start	can't start
Washington	188	can't start	can't start
West Virginia	7,358	0	0
Wisconsin	2,000	can't start	can't start
Wyoming	8,000	11,719	10,000

In the last 30 days, the Libertarian Party has obtained 13,200 signatures and the New Alliance Party has gained 23,050. Last month's chart erroneously showed that the New Alliance Party had 3,500 signatures in Kansas. Actually, they hadn't started yet.

POLITICAL PRIVACY

Several months ago, the U. S. Court of Appeals, 10th circuit, ruled that Oklahoma's ban on anonymous campaign leaflets violates the U. S. Constitution. Although the U. S. Supreme Court has never decided this issue, lower courts have consistently been finding that people are free to circulate unsigned campaign leaflets. The case is *Wilson v Cartwright*, number unknown at this time. It still isn't reported.

MASSACHUSETTS

The ACLU of Massachusetts is helping lobby for H 1290, the bill which would lower the number of signatures needed for third party and independent candidate ballot access from 2%, to 1%, of the last gubernatorial vote cast. If you live in Massachusetts, your help is needed also. Write the Committee for Fair Ballot Access, Box 255, Boston Ma 02208, or telephone (617) 661-1143.

MICHIGAN

HB 4090, the bill which would increase the number of signatures for new parties, and establish statutory procedures for independent candidates, cleared the Senate Government Operations Committee last month. But because many senators want to add unrelated amendments to the bill, it was later referred back to the same committee.

Christ Thomas, Michigan Director of Elections, has said that he will try to have the bill amended so that the filing deadline for independent presidential candidates would be in mid-July. As written, the bill would require such petitions to be submitted by May 31, 1988, almost surely unconstitutionally early. Michigan residents need to contact their State Senator and remind them of the deadline problem.

Chris Thomas has also stated that if any political party begins petitioning before HB 4090 is enacted, the state would require the old number of signatures (16,313) rather than the new number (23,593).

ROBERTSON

Pat Robertson, candidate for the Republican presidential nomination, spent 1987 collecting 3,000,000 signatures on petitions of support for himself. Robertson's campaign report, filed October 16, shows that it cost him six million dollars to obtain these signatures, or \$2 per signature.

VIRGINIA

The lawsuit against Virginia's refusal to permit write-in votes for president will be filed in state court on October 28. Co-plaintiffs include the American Party of Virginia and the Libertarian Party of Virginia. Neither party can be certain that it will or will not appear on the ballot. In the past, write-ins to gain write-in voting for president in Virginia have always been dismissed because the election was imminent, so this time the case is being filed early. The Virginia Constitution specifically guarantees the right to cast a write-in vote in general elections, but the State Board ignores this provision.

CONGRESSIONAL QUARTERLY

Congressional Quarterly, a weekly authoritative publication on national politics and legislation, carried an article in its September 12 issue about the presidential nominees of the Libertarian and Populist Parties.

PROPORTIONAL REPRESENTATION

On November 3, the voters of Cincinnati will vote on whether to elect city council members by a system of proportional representation.

COFOE

The Coalition for Free and Open Elections is an organization devoted to working for fair election laws. Individuals are encouraged to join. Your ideas for building the Coalition are welcome. The Coalition address is Box 1885, SAnnapolis Md 21404. Dues are \$10 per year.

RENEWALS

If your mailing label indicates that your subscription to *Ballot Access News* expires on November 1, 1987, there is an envelope enclosed to make it easier for you to renew your subscription. Remember, you can get a free 3-month extension if you send me a copy of a 1987 letter from a member of Congress, commenting on HR 1582.

THANK YOU, Howard Fields, Todd Greene, Al Learned, Michael d'Hooge, and Region 66 of the California Libertarian Party, for contributions beyond the subscription price.

REMEMBER, WRITE YOUR MEMBER OF CONGRESS, HOUSE OFFICE BLDGS., WASHINGTON DC 20515, and ask him or her to CO-SPONSOR HR 1582. Also write to Congressman Al Swift at the same address and ask him to hold hearings on the bill. Swift is probably going to run for the U. S. Senate in 1988, so it is especially important for Washington state residents to write him.

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