

# BALLOT ACCESS NEWS

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## SETTLEMENT IN KANSAS

The lawsuit *Merritt v Graves* is about to be settled. The Kansas Secretary of State has promised to ask the legislature to: (1) change the independent candidate filing deadline from June to August; (2) let voters register into any political party which has ever been recognized in Kansas, whether the party is currently qualified or not; (3) repeal the law which forbids a circulator of an independent candidate petition from circulating it outside his or her own precinct. The Secretary of State also promised to sign a consent order, if the legislature refuses to make these changes by early 1988. The lawsuit had been filed by the Libertarian Party of Kansas.

## VALUABLE NEW BOOK

The Brookings Institution, one of the most venerable "think-tanks" in Washington, D. C., has just published a book titled *Elections American Style*. The lead author is named Reichley. One of the chapters in the book, by San Francisco State University political science professor Dr. Kay Lawson, documents and deplores the extent to which ballot access laws in the United States have become more and more restrictive during the past 55 years. The chapter expresses the viewpoint that strong political parties are needed for a healthy political system, and acknowledges that the right of the people to organize new parties, when they wish, is a necessary element in a system with strong political parties.

This chapter in the book is a real breakthrough for opponents of restrictive ballot access laws. It is virtually the first political science book which documents that ballot access laws are substantially more difficult than they were in the 1920's and before. Other books by political scientists about parties have made gross factual errors about this matter. For example, a 1984 book, *Third Parties in America*, although sympathetic to third parties, erroneously stated that ballot access laws in the United States have never been more lenient than they are today.

The book is brand-new; I haven't even seen it yet myself, although I read Kay Lawson's chapter in manuscript form. It can be purchased from Brookings Books, 1775 Massachusetts Ave., NW, Washington DC 20036-2188, for \$14.95 in paperback.

## PENNSYLVANIA

The number of signatures needed for third party and independent candidates for statewide office in 1988 will be between 24,000 and 25,000 signatures. This is the lowest Pennsylvania requirement since 1982, when 23,407 signatures were required. The number is based on the results of the November 3, 1987 election in Pennsylvania.

## JUDGE KENNEDY

Judge Anthony M. Kennedy of the U. S. Court of Appeals, 9th circuit, has a sparse, but good, record on issues related to ballot access. None of the other judges on Reagan's list were as good.

In 1985, Judge Kennedy was one of 3 judges who issued an injunction to suspend a Honolulu city charter provision which barred anyone who had been recalled, from running for any city office for the next two years. Plaintiffs in the case were two city councilmen who had been recalled simply for changing their party affiliation from "Democrat" to "Republican". Under the terms of the city charter, they could not run again for their seats until 1990, since city council seats are only up every four years. Judge Kennedy and the other two judges held that the charter provision was likely unconstitutional, even though the U. S. Supreme Court has never ruled that the right to be a candidate is a fundamental right. The Kennedy decision had no practical effect, since the Hawaii Supreme Court later interpreted another provision of the city charter to mean that the plaintiffs still couldn't run for their old seats. Nevertheless the decision, *Matsumoto v Pua*, 775 F 2d 1393 (1985) showed that Kennedy has a healthy regard for the idea of free elections.

Kennedy was once quoted as saying he has a "faint contempt" for the (state) legislative process, after having spent several years as a lobbyist in the California legislature.

## POLITICAL PARTY RIGHTS

On November 2, 1987, the U. S. Court of Appeals, 9th circuit, denied California's request for a rehearing in *San Francisco County Democratic Central Committee v Eu*. On November 17, the same court denied the state's request for a stay of the decision. Unless the U. S. Supreme Court intervenes, political parties in the nine states in the 9th circuit will be free to structure themselves as they wish, and to endorse candidates in their own primaries. California and New Jersey have been the only states which made it illegal for political party organizations to endorse candidates in their own primaries anyway, so this portion of the decision will have little impact outside California. The other part of the decision, giving political parties the right to determine their own organizational rules, will have more impact in the other states in the 9th circuit.

California's request for a rehearing had been presented to all 26 full-time judges of the 9th circuit. Not one of them, including Judge Anthony Kennedy, voted to grant a rehearing. Nevertheless, the California Secretary of State and Attorney General indicate they are almost certainly going to ask the U. S. Supreme Court to accept the case.

## LEAGUE OF MEN VOTERS

The League of Men Voters has been formed, specifically for the purpose of presenting debates which will include all candidates, not just candidates of the major parties. The address of the League of Men Voters is Lockbox 128, Glenview, Il. 60025.

## PAID PETITIONING

The Colorado Secretary of State is appealing the decision in *Grant v Meyer* to the U. S. Supreme Court, even though the Assistant Attorney General who recently worked on the case advised her that it was probably hopeless. The lower court decision had said that Colorado cannot ban the practice of paying people to circulate initiative petitions.

## HANSEN SAYS NO

On November 11, 1987, former Idaho Congressman George Hansen told the Populist Party that he had decided not to run for president in 1988. He had earlier said he would make the decision by November 4, but on November 4, he asked for another week. This seems to show that he was considering it seriously.

The Populist Party has several alternate presidential candidates in mind, some of whom are fairly well-known. One is from Arkansas and one is from Arizona. Of course, the party will still have the problem of persuading its next choice to accept the nomination.

## ILLINOIS

The Illinois legislature accepted Governor Thompson's ideas for amending Senate Bill 653. Illinois law as newly amended now says that the two qualified parties which polled the highest average number of votes for Governor in the last three gubernatorial elections, will be the two parties entitled to choose precinct election officials. This restores the Democratic Party's right to nominate such officials. In 1986, the Democratic Party only polled 7% for Governor. It polled 49% in 1982 and 40% in 1978, for an average of 32%. Illinois Solidarity's average over the last three gubernatorial elections is only 13%, since the party didn't exist in 1978 or 1982.

## MASSACHUSETTS

H 923, the bill to change the filing deadline from May to August for third party and independent candidates, has passed the House of Representatives and has also passed all Senate committees. The full Senate will vote on it in the next few weeks. H1290, the bill to reduce the number of signatures, has not yet been brought up in the House.

## POLITICAL PRIVACY

The city of Miami is probably going to concede that the Socialist Workers Party candidate for Mayor in the 1985 election need not reveal the names of his campaign contributors. Although the U. S. Supreme Court held unanimously in 1982 that small political parties with a record of being harassed need not reveal the names of their campaign contributors, and specifically exempted the Socialist Workers Party from reporting requirements, the city of Miami had insisted that the U. S. Supreme Court decision had no relevance to its municipal elections, since Miami elections are non-partisan. The SWP candidate for Mayor of Miami sued. The U. S. District Court judge dismissed the case, but the U. S. Court of Appeals re-instated it, and now the city appears likely to give in. The case is *McArthur v Firestone*, no. 85-3070.

There is a lawsuit in Washington state over whether the Freedom Socialist Party must reveal the names of its members. The case is *Snedigar v Hodderson*. Richard Snedigar is a former member of the party who sued the party over a year ago, claiming that he was persuaded to donate \$22,000 to the party for a new headquarters, and that later he learned that there was no pressing need for the money; he wants his money back and he says that in order to prove his claim that there was fraud, he needs to see a list of members of the party. A lower Washington state court has ordered the party to reveal the membership list and recently found the party to be in default for refusing to comply. The Washington State Court of Appeals has until now refused to intervene, but within the next few months, must accept the case and consider the constitutional arguments that the party has a First Amendment right to keep its membership list secret. The address of the Freedom Socialist Party is 5018 Rainier Ave South, Seattle Wa 98118, tel. (206) 722-2453. The Freedom Socialist Party has never run candidates for president or for public office outside Washington state.

The October 1987 issue of *Ballot Access News* mentioned an Oklahoma case, striking down the state's ban on anonymous political leaflets. The correct name of that case is *Wilson v Stocker*, 819 F 2d 943 (1987).

## MICHIGAN

HB 4090, the bill to raise the number of signatures for new parties, and to establish procedures for independent candidates, is still in the Senate Government Operations Committee. The Secretary of State has requested the Attorney General to analyze what the filing deadline for independent candidates should be. The bill, as introduced, sets a May 31 deadline, which is almost certainly unconstitutional, at least for presidential candidates. The Secretary of State's office is now thinking of having the bill amended to provide a mid-July deadline for all independent candidates.

## 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*.

STATE	SIGNATURES		
	REQUIRED	COLLECTED	
		NAP	LIBT
Alabama	5,000	1,500	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	2,000
Georgia	25,759	16,100	9,000
Hawaii	3,493	3,700	already on
Idaho	8,224	0	1,000
Illinois	25,000	can't start	can't start
Indiana	30,950	0	200
Iowa	1,000	0	50
Kansas	2,500	finished	0
Kentucky	5,000	1,500	0
Louisiana	0	no need	no need
Maine	4,000	can't start	can't start
Maryland	10,000	9,700	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	finished	already on
Missouri	21,083	0	2,500
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	5,200	800
New Jersey	800	finished	0
New Mexico	(reg.) 500	already on	already on
New York	20,000	can't start	can't start
North Carolina	44,535	25,896	700
North Dakota	4,000	0	4,500
Ohio	5,000	2,000	0
Oklahoma	37,671	0	0
Oregon	51,578	0	9,400
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	finished	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	finished	finished

In the last 30 days, the Libertarian Party has collected 14,550 signatures, and the New Alliance Party has collected 18,175 signatures.

## HR 1582

Congressman John Conyers is considering holding his own hearings on ballot access, since Congressman Al Swift still refuses to schedule any on HR 1582. Please write to Congressman Conyers, Washington DC 20515, and encourage him to do this.

A copy of HR 1582 is enclosed. Congress will soon adjourn and it should be possible for you to see your member of Congress. There is no substitute for face-to-face communication with a member of Congress. My own member of Congress, Nancy Pelosi, was first elected to Congress in a special election 5 months ago. All of my letters to her about HR 1582 were ignored. I met with an aide in the district office and that seemed to produce no results either. A few days ago, I attended a neighborhood meeting with my member of Congress, and I was able to ask her to consider becoming a co-sponsor. She was entirely unaware of the bill.

Congressman Al Swift is now sending out letters in which he states that ballot access laws are too strict in many states, and that HR 1582 would probably be beneficial. But he still won't schedule hearings. He is planning to run for re-election to Congress (not for the Senate, as had been reported earlier). Since his attitude about the issue of ballot access has improved since 1985, keep your letters to Swift courteous. He is probably psychologically more prepared to hold hearings on the bill at some time in the future, than he has been before. It is especially important for people in Washington state to continue writing Swift.

Congresswoman Pat Schroeder of Colorado, and Congressman Ron Packard of California, have recently written letters stating that there is no need for HR 1582. The response to this argument must be to cite the example of Florida. Florida requires 168,000 valid signatures to qualify a new party (for office other than president). Only one petition signature can be placed on a sheet. Each sheet contains several blanks which must be filled out. The state charges 10 cents to check each name for validity, and no waiver of this fee is ever permitted. A new party which submitted 250,000 signatures would need to pay \$25,000, in addition to filing fees for each of its candidates that sometimes exceed \$1000. There is no provision for a new party to get on the ballot in just part of the state. Even if a new party could ever qualify, no matter how many votes it polled, it would need to repeat the petitioning all over again for the next election. All of these requirements were upheld by the U. S. Court of Appeals in 1983, and the U. S. Supreme Court refused to review the decision. Only one third party, the American Party, has qualified in Florida for non-presidential office in the last 60 years. If your member of Congress says there is no need for HR 1582, tell him or her about Florida.

### PRESIDENTIAL CAMPAIGN HOTLINE

There is a new company, American Political Network, providing a service called, "Presidential Campaign Hotline". For \$350 per month, it provides its customers (mostly major newspapers and TV stations) with news from the campaigns of presidential candidates, analysis, and 200 words provided directly from each presidential candidate. The Ron Paul Libertarian presidential campaign recently asked to be included. The first response was, "OK"; the next day the organization had a board meeting and adopted a policy of excluding all third party and independent candidates.

Since many major newspapers have subscribed to the service and no longer send their own reporters to cover the campaign, American Political Network's policy of excluding third party and independent presidential candidates will accentuate a tendency of major news media to block out coverage of third party candidates. Anyone who wishes to ask American Political Network to re-think its policy can write to it at 1489 Chain Bridge Road, Suite 300, McLean Va 22101. For more information about the company, see *Newsweek* of November 2, 1987.

### PRESIDENTIAL PRIMARIES

Third political parties will be entitled to hold presidential primaries at state expense in 1988 in these states (assuming that planned petition drives are completed): California (Libertarian, Peace & Freedom, American Independent); Idaho (Libertarian, perhaps New Alliance); Illinois (Illinois Solidarity); Montana (Libertarian, New Alliance); Nebraska (Libertarian, New Alliance, perhaps Socialist); New York (Conservative, Liberal, Right to Life); North Dakota (Libertarian); Vermont (Liberty Union, Libertarian); Wisconsin (Labor-Farm) Of course, just because a party is entitled to a publicly-financed presidential primary, does not necessarily mean that it will choose to hold one. It would be absurd for the Libertarian Party to use its presidential primaries, since it has already had its national convention.

### RENEWALS

If your mailing label indicates that your subscription to *Ballot Access News* expires on December 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.

### COLORADO

On November 16, the Colorado Supreme Court heard arguments in the Prohibition Party case, which alleges that the state is constitutionally required to have a procedure by which a new party can get all its statewide candidates on the ballot with a single petition. Under existing Colorado law, a new party which wanted to run a full slate of statewide candidates in a gubernatorial election year would need to ask people to sign 7 petitions. The justices seemed to understand the issues and to be sympathetic. A decision is expected sometime within the next six months.

### SETTLEMENT IN NEW YORK CITY

The lawsuit *Fulani v Wagner*, U. S. District Court, Southern District of New York, has been settled. The New York City Board of Education has promised never again to distribute mock ballots to school children which contain only the candidates of major parties. The case arose in the 1986 gubernatorial election, when school children were asked to vote for Governor, as a classroom exercise, but the ballots omitted the candidates of third parties (even though those third party candidates were appearing on actual New York state ballots). The lawsuit had been filed by the New Alliance Party.

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