

2-19-77 present CTCL attorneys announce plans to sue the FEC for damages on harassment and through discovery to prove the NSC use of the Federal Elections Commission; communications between CTCL, its Washington attorneys and the U.S. Labor Party all

arrive opened; CTCL officials spend two days in Washington addressing Congressmen on the real nature of the FEC; CTCL and U.S. Labor Party schedule testimony before the Senate Appropriations Committee on FEC funding.

'To Restore The Right Of Free Elections In The United States'

The Committee for Fair Elections and the Labor Organizer's Defense Fund have initiated five lawsuits "to restore the right of free elections in the United States" and will present to the Congress Omnibus Election Reform legislation on April 1. According to spokesmen for the two groups, these actions represent the only alternative to so-called election reform legislation currently being drafted by Vice-President Walter Mondale at the request of President Carter for presentation to the Congress in April.

The key features of the Carter-Mondale election reform proposals, as reported by staff in the Vice-president's office, are "universal voter registration" and "abolition of the electoral college" as presently constituted. CFFE and the LODF spokesmen maintain that the electoral college and personal voter registration are critical aspects of "fraud-proofing" elections and that the Carter Administration reforms amount to an "attempt to institutionalize the documented methods by which the Carter for President campaign committed fraud during the Nov. 2, 1976 presidential elections." The following is a report on the Carter-Mondale proposals and pending vote fraud litigation, prepared by the staff of the Labor Organizer's Defense Fund.

The Electoral College was designed by the founding fathers to remove the most critical national election from the passions and uncertainties of everyday politics. Rather than, as the reformers claim, permitting one individual to brush aside the will of the majority, the Electoral College has historically delayed the formal declaration of a victor until the outcome of the election can be accurately determined. In the last presidential election, charges of widespread vote fraud were made in a number of states. The time necessary for the certification of the electors, and the casting and counting of their votes — approximately two months — provided the juridical basis for some fraud investigation to take place, despite unwarranted judicial caution in taking on the fraud issue. The Carter-Mondale proposal to make the Electoral College a rubber stamp would eliminate even that safeguard.

The second Carter proposal will affect all elections, not just the Presidency. The proposal for universal mail or on-site registration threatens to make ballot security impossible. Lawsuits in at least four states (New York, Pennsylvania, Ohio and Wisconsin) challenged the outcome of the Nov. 2 presidential election and six congressional races were similarly challenged. In each instance,

ballot-stuffing based on fraudulent registration and tombstone voting was conclusively documented.

The Carter-Mondale plan is to invite more such lawlessness. The congressional vote challenges are still in court or are being considered by special three-man congressional review teams set up to decide the claims. Of the remaining cases, *Donahue v. New York State Board of Elections* has the most serious implications for the fu-

'We Don't Look For Irregularities'

The following is testimony given by Mrs. Betty Dolen, Directory of New York City Board of Elections under questioning by Lester Fettell, Counsel for the Plaintiffs in the case of Donahue V. New York State Board of Elections, Dec. 8, 1976.

Q: In your capacity with the Board of Elections of the City of New York, do you presume that there is no fraud among voters?

A: Well, I wish we had Utopia—

Mr. Schwartz: Objection, your Honor.

The Court: Well, just because Mr. Fetell volunteered the statement I will allow the witness to answer.

A: I said I wish we had a Utopia of that kind.

Q: Do you recognize that it is a part of your responsibility and the responsibility of the Board of Elections to look for irregularities and report them to the proper authorities, if found?

A: No, we don't look for irregularities; if they are called to our attention we check them out.

Q: Was there anything — when this system was implemented by the Board of Elections, was anything done to spot check for the possibility of registering from tombstones to empty lots to empty buildings?

A: No, there is an affidavit on the application and when it is signed — that affidavit must be signed by the applicant. And when that application comes in with the signature on the affidavit, it is presumed what the person filled out is the truth and also there is a class E felony on the other side which charges in the event it is proven you are not telling the truth, you are subject to a class E felony."

ture of free elections. This case has just been filed with the U.S. Court of Appeals for the Second Circuit for reconsideration of the crucial issues involved.

In *Donahue* last December, Judge Jacob Mishler, Chief Judge of the U.S. District Court for the Eastern District of New York, refused to issue a preliminary injunction to stop certification of the Carter electoral slate in New York State. Mishler also dismissed a complaint alleging fraud substantial enough to overturn the election.

For the first time in a civil rights suit involving voting rights, the judge ruled that to substantiate their claim, plaintiffs would not only have to show that their votes had been diluted by enough fraudulent votes to change the outcome of the election, but also that the election officials who allowed those fraudulent votes to be recorded did so from criminal intent rather than negligence! According to the *Donohue* Appellate brief "the plaintiff must bring in proof showing the hand in the cookie jar."

The *Donohue* complaint was initiated by the U.S. Labor Party; the Rockland County Conservative Party; Lyndon LaRouche United States Labor Party candidate for President; a Republican candidate for state assembly; and several individual voters. It was based largely on a scientific sampling of registered voters in the election. This demonstrated that a large percentage of non-existent or falsely registered individuals voted; it was further substantiated by numerous affidavits demonstrating chaos at the polls, intimidation, multiple voting and other irregular practices.

An official of the National Scientific Corp., asked about the problems of vote fraud where computers are used to count votes, replied, "Fraud is an emotional issue. No one has ever proved fraud." But no one has ever demonstrated that the problems in proving fraud mean it does not occur. Judge Mishler, in his order for an evidentiary hearing, stated terms of proof which were impossible to accomplish.

Carter's margin of victory in New York was 250,000 votes. In addition to requiring that the plaintiffs show enough fraudulent votes to change the outcome of the election,

Judge Mishler stated, "The burden which the plaintiffs must meet is a heavy one.. ordering a new election in New York State for President could involve the most serious consequences, raising the question of 'whether the relief, if given, might do more harm than good'... the claimants must come forward with the most clear and convincing evidence that state officials or persons acting under color of state law, by intentionally depriving qualified voters of the right to vote, altered the outcome of the election... this standard implies conduct of a most egregious nature, approximating criminal activity."

Judge Mishler also noted that the press of time in an electoral case is a major factor. In the usual course of events, a plaintiff demonstrates fraud in an election by showing improperly cast votes and criminal prosecution follows. For example, in state court in Louisiana, in *Moreau v. Tonry*, contesting the outcome of a Democratic Congressional primary this year, Edward Moreau showed numbers of improperly cast votes. Although the court did not overturn the primary, U.S. Attorney Gallinghouse has since obtained twenty-three criminal indictments against the election officials involved.

In *Donahue*, the plaintiffs randomly sampled 2434 voters mainly from New York City, with a small sample drawn from the four other large cities in the state, Buffalo, Rochester, Syracuse and Albany. Five percent of those voters, representing a population of a little more than half the New York State voters in the November election, could be definitively shown not to exist. Another 6 percent could not be found by the most strenuous search. (See table). On the basis of the survey, over 320,000 votes were cast fraudulently *in the parts of the state surveyed*.

The most important vehicle conveying these non-existent voters into the voting booth was mail registration.

Besides overwhelming city boards of election with tens and hundreds of thousands of new registrations to verify (which the boards of election made little effort to do), mail registration provided the cover for huge amounts of tombstone voting. In the large cities, Carter supporters

Statistical Summary Of Vote Fraud In New York State

The above data, as analyzed by Dr. Steven Bardwell, was presented as testimony in the case of *Donahue vs. New York State Board of Elections*. Minimum number of irregular votes indicates researchers proved registrants did not exist. Maximum number indicates voters could not be found after extensive search.

POPULATION SIZE	MIN. % OF IRREGULAR VOTES (CONFIRM. FRAUDS)	MIN. OF IRREGULAR VOTES	LARGER % OF IRREGULAR VOTES CONFIRM. & UNCONFIRM. FRAUDS	LARGER NO. OF IRREGULAR VOTES
209,040	6.67%	13,797	13.48%	28,220
685,133	7.23%	50,015	20.55%	141,137
1,272,413	4.18%	53,434	9.12%	115,789
<u>655,083</u>	<u>3.21%</u>	<u>20,961</u>	<u>7.41%</u>	<u>48,541</u>
2,821,669	4.9 %	138,207	10.8%	333,687

poured tens of thousands of dollars into mail registration drives, resulting in well over 90 percent Democratic registration. The mail registration drives were followed with more tens of thousands of dollars to "get out the vote" on election day. As the *Donahue* survey showed, over 10 percent of the vote "gotten out" had a very doubtful corporeal existence. Only 75 percent of the "ghosts" voting as a result of this partisan drive would have had to cast their ballot for Carter to provide his 250,000 margin in New York State (and his winning margin in the Electoral College). And this assumes, of course, that the fraud described was confined entirely to the five large cities, an experience not born out in Ohio, where a U.S. Labor Party investigation showed many fraudulent votes cast in rural areas.

According to the standard set by Judge Mishler however, even this proof of the dilution of legitimate votes by fraud does not suffice. How can you prove that the election board officials *intended* non-existent individuals to vote? Never has such a standard been applied to civil rights violations of this type.

New York is not the only instance where "liberalized" registration procedures occasioned massive vote fraud. In Ohio, registrars were not permitted to ask voters for any proof of identification or residence. In addition to documented tombstone voting, fraud included transporting numbers of people into the state to vote. Federal

Judge Kinneary, in deciding a suit charging fraud in Ohio, used Mishler's decision to deny relief as a guideline for his own.

In Wisconsin, a new and unconstitutional on-site registration law also provided the opportunity for fraud. Election officials there encountered so many applicants for on-site registration, as the vote was "gotten out" by having teams travel from poll to poll, that affidavits of residence were written on napkins and whatever other scraps of paper could be found. In Wisconsin there are no records of who voted or how many times.

The Committee for Fair Elections charged that tens of thousands of irregular votes were cast. The Committee filed suit in Wisconsin challenging the outcome of the election, which suit was dismissed when hasty certification of the results by Wisconsin officials closed the question. A Committee for Fair Elections appeal charges that the abrupt certification, orchestrated by Wisconsin Secretary of State Bronson LaFollette, was itself illegal.

If the Carter electoral reform proposals and the Mishler decision are allowed to become law, vote fraud will be institutionalized. Mail registration to maximize the number of registered tombstones and make their detection impossible, coupled with the contemplated modification of the Electoral College, will permanently remove the United States from the ranks of constitutional democracy and render it a "banana republic."