



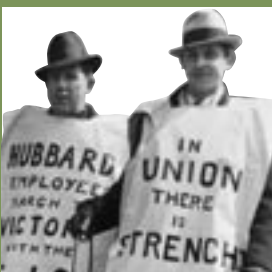
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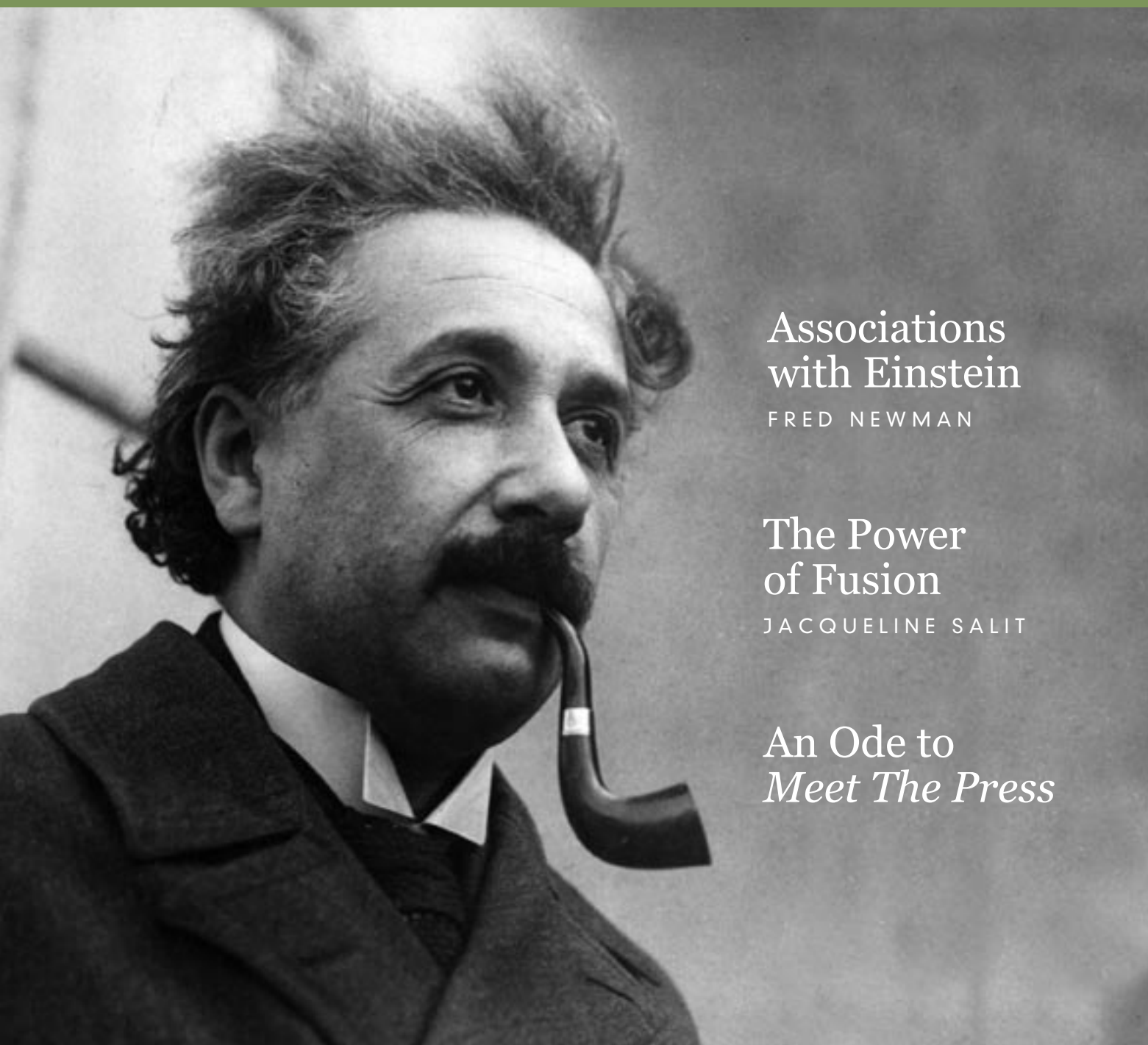
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NEO- INDEPENDENT

T H E P O L I T I C S O F B E C O M I N G



Associations with Einstein

FRED NEWMAN

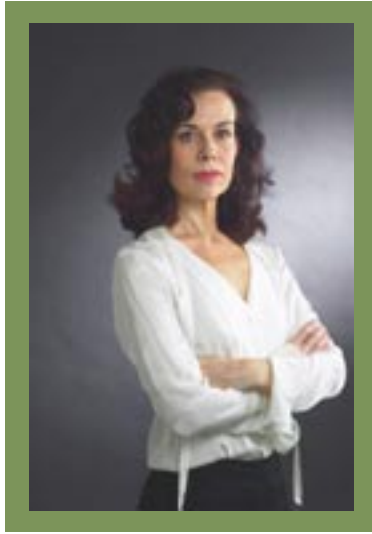
The Power of Fusion

JACQUELINE SALIT

An Ode to *Meet The Press*

neo-independent (nē'ō in də pen'dənt)

adj. 1 of, or pertaining to, the movement of independent voters for political recognition and popular power ___ **n.** an independent voter in the post-Perot era, without traditional ideological attachments, seeking the overthrow of bipartisan political corruption ___ **adj. 2** of, or pertaining to, an independent political force styling itself as a postmodern progressive counterweight to neo-conservatism, or the neo-cons



EDITOR'S NOTE

2005 is the 100th anniversary of Einstein's "miracle year" when, while working a day job as a patent clerk in Berne, Switzerland, he authored four papers: one on Brownian Motion, a second on the size of molecules, a third on light being composed of particles rather than waves, and a fourth which modified the prevailing theory of space and time into the theory of relativity. He was 26 years old.

Einstein's work revolutionized 20th century physics, not only by virtue of his discoveries about the nature of the physical world but by calling attention to the significance of the vantage point from which physical phenomena – like the speed of light – are observed and measured.

Philosopher (and *Neo* contributing editor) Fred Newman pictures Einstein and his friend, the mathematician Kurt Gödel, "traversing

C O N T I N U E D

the historical distance between modernism and postmodernism" during their walks at Princeton after both had fled European fascism and settled in the United States. Newman's "Associations with Einstein" is a very personal reflection on the conflicted journey taken by science and philosophy through the 20th century, bringing us to "a new beginning of history" – a fitting and practical tribute to the genius Einstein.

A perfect example of going from the sublime to the ridiculous is the bouncing that we do in this issue from revolutionary theories of space-time to ballot access laws governing independents. But at *The Neo-Independent* we are nothing if not perfectionists. Read Richard Winger's expert account of the near-debacle in Florida in 2004 and you will see that the partisans who run America's electoral process inhabit a parallel universe where reality is simply made up as you go along.

Scientific and philosophical themes grace other pieces in this issue. Attorney Harry Kresky reports that the philosopher Georg W. F. Hegel has been implicated (no joke) in the independent voters' conspiracy suit against the Democratic National Committee and Kerry/Edwards. "The Power of Fusion" explores the political energy released when independents use their power as swing voters to gain political recognition – a means of transforming an otherwise inert (i.e., bipartisan) electoral system.

You may recall that the premiere issue of *The Neo-Independent* featured New York City's mayor, Michael Bloomberg, on the cover. He was (and



is) a key player in the fight to liberate independents from their second class status (see his remarks on this subject in "The Power of Fusion"). Bloomberg, who once asked me if he and I were the only two people in America who read the *Neo*, displayed it proudly at the NYC Independence Party's annual Anti-Corruption Awards in December; he was trying to

dispel rumors that Brad Pitt was used as a stand-in for the cover photo. My thanks to the mayor (it's really him) for standing up for the magazine, not to mention the independent voter.

Jacqueline Salit

Jacqueline Salit, Executive Editor
editor@neoindependent.com

THE NEO- INDEPENDENT

EXECUTIVE EDITOR: JACQUELINE SALIT

DEPUTY EDITOR: PHYLLIS GOLDBERG

CONTRIBUTING EDITORS: OMAR ALI,
DEBORAH GREEN, HARRY KRESKY,
JIM MANGIA, FRED NEWMAN

RESEARCH: DAVID BELMONT, NANCY HANKS

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COUNSEL: FRANCINE MILLER, ESQ.

ADDRESS: 302A WEST 12TH STREET, #140
NEW YORK, NY 10014

EDITORIAL TELEPHONE: 212-691-0599

EDITORIAL FAX: 212-609-2811

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On Becoming

The cause of all the suffering and pain in human history, even in the midst of our greatest Ideals, has been our creating a human nature out of sync with what Carl Jung called the life process in which we all live and move and have our being.

Like the Scriptures, philosophy and science are about developing mankind to the point where we can begin to work with this deeper creative process consciously. For Jung, psychoanalysis was the means for bringing this collective unconscious to the conscious level and thereby achieving wholeness and hence healing. And is not Fred Newman's Social Therapy a process of discovering this healing phenomenon?

Meditation is a method for understanding all the teachings of the world. Going to a church might help you, but so many go to church and never touch the inner life. Some dwell in the inner life and never need a church. Some are in the world and never know that there is such a thing as an inner life, but as they focus on the material world they experience its functioning within themselves and others. We are all on the pilgrimage of the process of becoming.

*Elbert P. Crary
Chagrin Falls, Ohio*

Defining Neo

I like your page 2 *dictionary definition* of "neo-independent." Was that your work? Anyway, as you may know, it's not specifically in the dictionary, not yet at least. The closest entry in my Webster's (book or cd) is "neo-impressionism." No more "neo-i's." So, good going! May your neo-definition be added to the neo-Webster's in the neo-future!

*Mac McCullough
Charleston, South Carolina*

Changing Course

Where has *The Neo-Independent* been all my life?! I'm sure you have endured many slings and arrows from people who try to put independents down by saying they don't stand for anything. It seems to me that what most of these people stand for themselves is a deep-rooted will-*ingness* to put party over country, regardless of the consequences. Politics in our country is certainly in a shameful state and has been for a long time. My sincere hope is that *The Neo-Independent* will have a significant hand in changing the course for the better.

*John Schneider
New Milford, Connecticut*

Include Every Voice

I'm an independent, have been for decades. I have encountered many people "out there" who are nascent independents. The thing they are looking for in an "independent" movement is not an avenue for specific candidates to be heard...especially those on the far left or far right. What they are looking for is real democracy for every voice. The major parties are terribly anti-democratic institutions, and their goals are 1) to limit the conversation during campaigns and 2) to gain numerical majorities in public bodies so as to gain complete control of public policymaking (not a democrat among them). Exclusion of third and fourth and fifth avenues of thought is their game, and it should be the primary purpose of an independent movement (and any magazine purporting to give voice to that movement) to push for systemic change that allows for inclusion of those avenues of thought. Endorsing specific candidates with identifiable ideologies would tend to delegitimize any true independent movement. A real independent movement has to have confidence in the marketplace of ideas.

*Ron Duplantis
via e-mail*

Quiet Milestone

Seventy-six percent of registered voters supported Ross Perot's inclusion in the 1996 debates, and 64% wanted Ralph Nader and Pat Buchanan included in the 2000 presidential debates. In 2004 a Zogby poll found that 57% wanted Nader included in the presidential debates. This included 50% of decided Democrats, 56% of decided Republicans, and 66% of independent voters. This poll raises a very important question. Why would people who clearly did not intend to vote for the likes of Ralph Nader still want to hear him in the debates? It is obvious that they did not want him in the debates because they agreed with him. I believe this poll represents America's quiet premonition that something is wrong with the political system. This poll separates voters from the parties they vote for. Voters are clearly saying, through this poll, "Who I vote for does not determine what opposing ideas should be allowed in a critical presidential debate." Only human beings who realize that there is more to life than party platforms can notice this subtle but important difference.

Don't expect the debate commission or either of the two parties to announce this milestone. This is a quiet, lukewarm, critical milestone. As a dam inspector I urge you: do not ignore this crack!

*Tim Gapinski
Noblesville, Indiana*

The Neo-Independent welcomes letters from readers. Letters should be concise and must include the writer's name, address and telephone number to verify authorship. We cannot guarantee publication and reserve the right to edit for length and clarity. Please send letters to editor@neoindependent.com or Letters, The Neo-Independent, 302A West 12th Street, #140, NY, NY 10014.

An Ode to *Meet the Press*

(With Some Observations About Ohio)

Jacqueline Salit



I watch *Meet the Press* every Sunday morning, you could say religiously.

I like virtually everything about the show. I love the theme song. It's so anxiety producing that it snaps you out of any lingering sense of well-being that might be left over from Saturday night. The music instantaneously communicates that there is a big, bad world out there and you damned well better be informed about it. Of course, just knowing about it won't help you very much, if at all. But I kind of enjoy the musical "call to arms." If nothing else, it gets me to sit up straight and secretly wish I had paid more attention in Social Studies.

After the overture and an urgent-sounding voiceover about the subjects the show will cover, Tim Russert appears on the screen. I always find this moment a little agonizing because Russert, who is kind of roly-poly, is really cast against type. Though obviously bright and terrifically well prepared for the show, he's almost too cherubic looking for the part he plays. Invariably, though, he makes up for that by being a bulldoggish sonofabitch during his interviews, as if there's something truly important about catching a political functionary in a contradiction: *Six months ago you said X. Now you're saying Y. Which is it?* Most ordinary Americans accept contradictions as a kind of building block – the material of life. Not Russert. He's on a one-man crusade to rid the planet of this blight.

One Sunday
I watched the
show and the only
advertised product
whose function
I could identify
was the drug Cialis.

Another thing I like about *Meet the Press* is the commercials. They promote a full range of information-age and financial consulting products, all of which are totally foreign to me. One Sunday I watched the show and the only advertised product whose function I could identify was the drug Cialis.

Cialis, apparently, is a much improved version of Viagra. It works over a longer period of time, so the user doesn't have to interrupt lovemaking to pop a pill. That seems useful because a male partner can give more energy to the wooing, or to being wooed, as the case may be. But what really gets me about the Cialis commercial is the voiceover warning: *If erection lasts for more than four hours, call your doctor.* Now I'm not a man, but I think I'd pick up the phone after the first hour and a half. Then again, what do I know?

I digress. Because, believe it or not, this essay is not about erections; it's about elections. (I never noticed that these words are nearly identical until I wrote this essay.) Let me return to *Meet the Press* to set the stage.

Throughout 2004, the punditocracy covered the presidential election as if it were the Super Bowl. Russert, who seems to love the Buffalo Bills more than life itself, varied his own coverage, going from informed and aggressive interviews with the president, the presidential candidates and assorted surrogates to a sportscaster-like rundown of "what it's all going to come down to." I remember well the Sunday morning when Russert took out his little blackboard (actually it was white and laminated) and wrote the word "Ohio" on it. Like a bookie calculating the odds for a major sporting event, Russert named Ohio – with its 20 electoral votes – as the state that would decide the next president of the United States. This is vintage *Meet the Press*. It's as if all the world's turmoil and angst – war, hunger, poverty, disease – can be reduced to a handheld laminated slate with a four-letter word and a magic number scrawled on it.

But let's give credit where credit is due. Ohio *did* turn out to be what it all came down to. Russert had it right. Both sides pulled out all the stops, but George Bush carried the state by 136,483 votes and thereby clinched a second term in the White House.



In “Who Lost Ohio?” – published in the *New York Times Magazine* on November 21, 2004 – the author, Matt Bai, presented a highly detailed and insightful analysis of the Democratic Party’s failure to win the presidency. Bai had spent the final 24 hours of the campaign in Ohio inside the Democrats’ major vote-pulling operations, conducted under the auspices of Americans Coming Together (ACT), one of the infamous 527s that the Kerry campaign hoped would mobilize the party’s core constituencies to the max. They succeeded in meeting their targets for mobilization, but as Bai pointed out: “...the truth was that the Bush campaign had created an entirely new math in Ohio.” ACT moved its operations out of the contested counties, Bai wrote, “and away from the business of trying to convert undecided voters. In the end, these were the voters Kerry needed.”

Who were those undecideds? Not surprisingly, many were independents. Indeed, Ohio is full of them. Nearly 5.5 million voters cast ballots in the 2004 presidential election; 25% of them, according to Voter News Service exit polls, were independents. Independents are notoriously “late deciders,” in part by definition. They do not hew to a party line, and they prefer to watch the campaign and the candidates develop along the way.

Like a bookie calculating the odds for a major sporting event, Russert named Ohio – with its 20 electoral votes – as the state that would decide the next president of the United States.

In 1992 independent presidential candidate Ross Perot polled over one million votes in Ohio – 21% of the total and two points above the national average. When Perot ran a second time, in 1996, he dropped to a national average of 8.5% of the vote but polled 11% in Ohio. In 2000, Ralph Nader and lesser known independents polled a total of 168,007 votes (4%) in the Buckeye State – more than the difference between Bush and Kerry there in 2004.

Kerry needed an explicit strategy – not simply to mobilize the Democratic base (which he managed to do), but to connect it to an “up for grabs” constituency. Ohio has a Republican governor and two Republican senators.

As Bai suggested, the GOP was busy changing the math. The Kerry campaign, meanwhile, was stubbornly sticking to the traditional Democratic Party script. Far from investing in connecting to Ohio’s independents, the campaign never found its independent voice. Quite the contrary. First it launched an aggressive and ultimately successful effort to remove Nader from the Ohio ballot. Calculating that Nader’s removal nullified his potential “spoiler” effect, the Democrats were notoriously blind to the negative effect such a highly publicized anti-independent move (it made the front pages of Ohio’s major dailies) would have on independent voters – who were, generally speaking,



California State Controller Steve Westly with CIV spokesman Jim Mangia

leaning toward Kerry. According to VNS exit surveys, Kerry polled 57% among independents on Election Day (to 40% for Bush), but was unable to drill down to harder-core independents who could easily have put him over the top.

“Kerry made a fatal error,” says Fred Newman, a key architect of the independent political movement who managed the campaigns that placed independent presidential candidates on the Ohio ballot in 1984, 1988 and 1992. “Instead of throwing Nader off the ballot, Kerry should have reached out to Nader and to those of us with on-the-ground experience in mobilizing independent voters who vote as independents and not simply as swing voters. Kerry should have taken \$10 million of the infamous \$14 million that remained in his bank account and come to us,” Newman continues. “He should have said: *I will support your program for nonpartisan political reform. I want to reach out beyond the borders of the Democratic Party and craft a Democratic/independent coalition. If you help me to get elected I guarantee that you will have open access to the White House and that independent voters will get the political recognition they deserve.* If Kerry and Edwards had been smart enough to do that, they’d be sitting in the White House today,” Newman asserts.



Douglas Schoen (left) and Fred Newman with the author at “The Power of Fusion” conference, January 2005

That the Democrats failed to go beyond boundaries, to look past the narrow partisan paradigm, is of concern to social commentators like Matt Bai. I talked with Bai after the election and he told me: “There’s just a huge sector of voters out there, a huge number of voters, who have been waiting in vain for someone genuine, for someone to put the country’s interests above party – for some genuine leadership.”

In Bai’s view, the need to “build out” on a national scale is most pressing for the Democrats: “There’s still a strong dissatisfaction among a large number of voters with the current process and a strong desire for leadership that goes beyond...party loyalty. The more both parties disregard that and say ‘No, no...It’s all about our base’ the larger that demand gets. And if I’m a Democratic leader today, this would be of serious concern to me...The Republicans aren’t in danger of being supplanted by some alternative political movement. They’re doing just fine on the local level...There’s not a state in the country where Republicans can’t mount a competitive election today...But you look at the Democrats and there are huge swathes of the country where [they] are not competitive and are becoming less competitive.”

“It was really only three highly contested states — Florida, Ohio and Pennsylvania — where independents strongly supported Kerry over Bush,” says political consultant and pollster Douglas Schoen, a partner in the political consulting firm of Penn, Schoen and Berland who has worked with many Democratic candidates and officeholders, including former President Bill Clinton. “But I think... we can say that the independent vote was probably the largest single voter bloc in America whose influence was systematically under-discussed, under-considered and under-analyzed.”

“There’s just a huge sector of voters out there, a huge number of voters, who have been waiting in vain for someone genuine, for someone to put the country’s interests above party – for some genuine leadership.”

Matt Bai

California State Controller Steve Westly, a lifelong Democrat, supported last year’s effort to pass Proposition 62 – an initiative for nonpartisan state and congressional elections – for some of the reasons Bai cites. “There is clearly gridlock in Sacramento and the level of partisan rancor is out of control,” Westly told *Neo-Independent* contributing editor Jim Mangia, a spokesman for California’s Committee for an Independent Voice (CIV), which supported Prop 62. “Look, I am a Democrat and proud to be a Democrat. I think there is a purpose for political parties. But at the end of the day, we are elected to get things done. The state has big problems, and we need to spend more time focusing on those. The sad thing today is we are not having truly democratic elections,” said Westly, among a small group of his party’s leaders who backed Prop 62 over the protests of the Democrat-controlled state legislature.

“When I grew up...it was the time of the Cold War,” Westly explained. “We looked at the Soviet Union and they had these ‘faux’ elections which members of the Supreme Soviet always won. There was a vote, but there were not real elections. We all felt very sad for these people and wondered why the public put up with it. But fast forward 30 years: we have a legislature of 120 members, 80 in the Assembly and 40 in the Senate, and no more than five elections in this whole group will be decided by margins of less than 10%. These are not real elections. We do not have real participatory democracy. This is why we need to have an open primary.”

The open primary measure — a reform that would have brought California’s three million independent voters into the decisive first round and helped to make independents a more powerful force — was defeated in 2004. Westly backed the reform because he believes that the presence of independent voters early in the process would exert a moderating influence on the parties. Fred Newman, however, sees independents not as a moderating force but as a radicalizing one:

If there’s a single thing that distinguishes independent voters from other American voters it’s their idea that something is wrong with the political *process*. The more independents come together as a unified

“There is clearly gridlock in Sacramento and the level of partisan rancor is out of control...”

*California State Controller
Steve Westly*

political force and use their power to win key political reforms, the more the Democrats and Republicans will be forced to relinquish some of their control over the political scene. That’s a radical agenda. It’s what the American Revolution was fought over, after all. That was a political reform movement! Today the major parties are caught in a contradiction. If the Democrats, for example, want to win nationally they need the support of independents. To get it, they will have to empower them, but doing so will change the chemistry of American politics – and make it less predictable and controllable.

Schoen believes that the current partisan divide increases the leverage that independents have. “The even divisions of independents between Democrats and Republicans in terms of presidential preference gives you strong leverage to impact on the ongoing dialogue in America,” he explains. “That being said, I think it’s absolutely the case that political organizations in key swing states can make independent voters kingmakers on Election Day, in local and national elections.

In the not-too-distant future, perhaps even by 2008, the 35% of Americans who have not aligned with any political party could be pivotal. I’ll keep watching *Meet the Press*. Maybe, one day soon, I’ll tune in and Russert will hold up his little white board. But instead of naming a state, it will have a 12-letter word scrawled on it. I-N-D-E-P-E-N-D-E-N-T-S. And he’ll say, beaming like an oddsmaker at the Super Bowl, “It will all come down to this.” NEO-



Turning the Democratic Party on Its Head

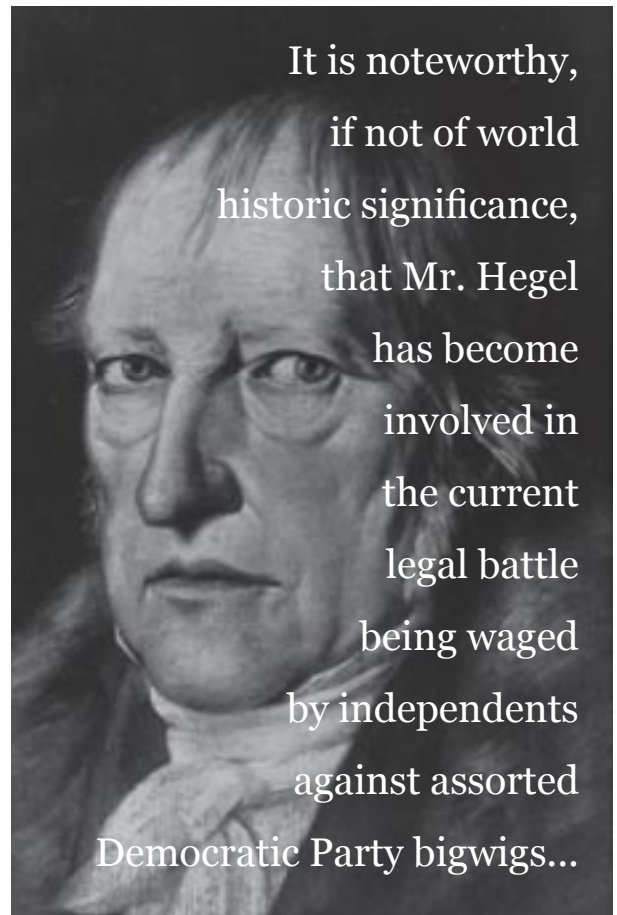
(With Apologies to Hegel and Marx)

Harry Kresky

Plaintiffs characterize themselves as “persons in the process of organizing a party” and state that “the strategic object of defendants’ conspiracy is to prevent this party from becoming” (emphasis added). This Hegelian characterization of their status may evidence frustration, but it nevertheless is insufficient to constitute the requisite class-based, invidious discriminatory animus.

Jerry H. Goldfeder, attorney for Terence R. McAuliffe and the Democratic National Committee, in *Fulani v. McAuliffe*, 04 CV 6973, U.S. District Court, Southern District of New York.

When I was a freshman at Columbia College 42 years ago, we were required to take a course called Contemporary Civilization in which we read a smattering of excerpts from the great thinkers of the Western tradition. The 19th century German philosopher Georg Wilhelm Friedrich Hegel was one of them. I must admit



Georg Wilhelm Friedrich Hegel

that I was taken with Hegel's effort to identify a unifying principle (the "Zeitgeist") for historical processes. The instructor, a political scientist, began our discussion of Hegel by stating categorically that Hegel was "an idiot."

Name-calling aside, it is noteworthy, if not of world historic significance, that Mr. Hegel has become involved in the current legal battle being waged by independents against assorted Democratic Party bigwigs over the latter's conspiracy to prevent Ralph Nader's name from appearing on the ballot in states across the country.¹ Of course, a lot has happened since Hegel – including Karl Marx, who is said to have turned Hegel on his head by characterizing historical process as the activity of real human beings rather than the motion of an objective spirit. Perhaps it is the activity of real human beings in their effort to create something new – a non-ideological third party that can compete with the Democrats and Republicans – that has attorney Goldfeder so worked up. His "how dare you?" arrogance seems to reflect an attitude not unlike that of my Columbia instructor: *The way things are is the way things are, and only a fool would characterize the existing arrangement otherwise, much less attempt to change it.*

Legally speaking, the issue can be understood in the following way. The civil rights statutes were passed after the Civil War to protect African Americans who were endeavoring to exercise their newly granted political rights in the former Confederacy in the face of efforts by members of the planter class and their allies to stop them. (You might say black Americans were then in the process of "becoming" full citizens.)

The statutes' reach has since been extended by the courts to include other identifiable groups of people who, because of their membership in a class, merit legal protection. Just as an identifiable racial grouping is a class, so too, for example, is a political party. The first status is conferred by birth; the second is a consequence of people's activities. The question is whether a group of people attempting to become the latter type of class can seek protection for their efforts. The answer would seem to be obvious: It is absurd to protect people only once they have achieved a certain status – membership in a full-blown party – while denying them protection against those who seek to impede their efforts to achieve that status.

Mr. Goldfeder might respond: "But what does that have to do with the effort to use existing state ballot access laws to prevent Nader from running for president

in as many states as possible?" The immediate purpose of such efforts, of course, was to prevent Nader from taking potential votes away from Kerry; the perpetrators justified them on the grounds that Nader had failed to meet the various state ballot access requirements and, anyway, they argued, he was nothing more than a spoiler.

The plaintiffs in the Committee for a Unified Independent Party (CUIP) lawsuit ask the Court to provide redress from unfair ballot access laws and their manipulation by the DNC, McAuliffe, John Kerry, John Edwards, former Congressman Toby Moffet and their co-conspirators around the country:

Plaintiffs do not ask this Court to go that far [as to strike down unfair ballot access laws], although the extent to which the states' ballot access laws discriminate against independent and third-party candidates has been widely noted.² However, what plaintiffs do ask is that when these laws are manipulated in a coordinated way by a party and its leadership with positions of power and influence inside and outside state government to deprive American citizens of the opportunity to vote for the candidates of their choice, redress under the civil rights statutes be available. Significant, of course, is that defendants utilized their access to state legal and administrative apparatus to prevent persons from voting for the candidate of their choice in a federal election, an election for president of the United States.

The lawsuit points out that the American system – in which government officials are also, in many cases, leaders of their political parties – is premised on a "covenant" with these officials; we, the citizenry, trust that they can and will separate partisan interests from the interests of the public on whose behalf they govern – a public that includes substantial numbers of people who do not necessarily agree with the political agenda of the officials' party. But that trust is severely strained when the party itself calls on these officials, as the Democratic Party did in the 2004 election, to put the interests of their party above the public interest, in particular by directing them to obstruct the efforts of far less powerful citizens to engage in the constitutionally protected associational activity of building a new party.

Plaintiffs submit that such obstruction occurred here to an extent that the covenant was broken, and a partisan agenda replaced the accepted norms of governance. Moreover, this was done through a coordinated effort under the direction of the highest levels of the Democratic Party and for the express purpose of preventing plaintiffs and the candidates they supported from participation in the political process. It is imperative that judicial scrutiny be brought to bear.

Plaintiffs' memorandum of law in opposition to defendants' motion to dismiss in *Fulani v. McAuliffe*.

Some of the more strategically oriented defendants probably understood that they were engaged in an effort to stop not only Nader, but the independent movement in general.³ Subjective intent aside, however, activities of the kind challenged in the lawsuit effectively help to perpetuate the status quo by erecting roadblocks in the way of those seeking to change it and discouraging others from joining such an effort. After all, if Ralph Nader can't get on the ballot in Texas, California, Ohio and Pennsylvania, who can?

The lawsuit also engages the issue of conspiracy itself. When does a coordinated effort to accomplish a political end become a conspiracy? Does the answer to this question turn on the degree of coordination, or on the political goal of the coordinators, or on the means used to achieve that end? Can a conspiracy be illegal even if all or most of the means are legal?

Under anti-trust law, conspiracies in restraint of trade are illegal even when the activities by which trade is restrained were not in and of themselves illegal. It was not against the law, for example, for manufacturers to hold meetings in which they divided up territories, set prices, and entered into agreements regarding innovation and obsolescence – until Congress and the courts decided that such activities violated the public interest.

Under anti-trust law,
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In the political arena, the legality of efforts to keep a candidate for president off the ballot should not be tested by considering each particular act as a thing-in-itself (to borrow another conception from Hegel/Marx). Certainly McAuliffe and company are correct to argue that they have the right to scrutinize Nader's nominating petitions, to bring their deficiencies to the attention of government officials, and to institute administrative and judicial challenges against them. But what if these entirely legal activities are accompanied by other, more dubious ones? The latter included a propaganda campaign to discourage voters from signing the Nader petition; unannounced visits to the homes of Nader petitioners from physically imposing union members or police-like investigators seeking to interrogate them; the public announcement by a West Virginia county prosecutor that he was opening an investigation into the activities of Nader petitioners; and a legal initiative against the petition by West Virginia's attorney general, who filed an appeal when the trial judge had the temerity to rule that the action was both unprecedented and frivolous.

And what if, as was the case in Oregon, the local Democratic Party organization urges its members to attend a Nader nominating convention for the sole purpose of filling the room with enough persons hostile to Nader's ballot access effort so that he cannot get

the required number of votes to place his name on the ballot? Co-defendant Jeffrey Merrick, the chairman of the Multnomah County Democratic Organization in Portland, insists that all electors – regardless of their party affiliation – have the right to attend such an assembly, and that they may vote their conscience there.

That is true, in principle – just as it is true that a manufacturer has the right to decide what price to charge for his products. Here's how Mr. Goldfeder puts it:

Plaintiffs further allege that "Defendant McAuliffe issued public statements about the importance of eliminating Nader as a factor in the race in order to induce leaders, members and supporters of the Democratic Party to participate in and work to achieve the objectives of the conspiracy." Public statements made by the leader of a major political party to party members and supporters hardly qualify as acts committed in furtherance of a conspiracy. Such public statements are clearly afforded protection under the Constitution...and by their very nature defy characterization as "conspiratorial," which suggests secretive or clandestine behavior.



Ralph Nader and Lenora Fulani in New York City, 2004

At what point, however, does it become necessary for our governing institutions to determine that certain activities engaged in by political associations – in this case, parties – are so subversive of the common good, so corrosive of the democratic process, that they must be curbed?

In fact the First Amendment does not protect every sort of public speech. What if the head of the Ku Klux Klan went on television the night before Election Day to urge that Klan members assemble at the polls in full regalia to prevent African Americans from voting? Speech inciting actions that trample on the rights of others is not protected.⁴ That Terry McAuliffe could speak with such candor in his public statements is hardly a measure of the legitimacy of what he was encouraging the party faithful to do; rather it indicates that the two parties so dominate the country's political life that they can openly conspire to stifle competition and prevent the development of political alternatives.

"There is nothing I dread so much as a division of the Republic into two great parties," John Adams confided in a letter written in 1783. Have we now reached the precipice that he and some of the other Founding Fathers warned us not to approach?

The CUIP lawsuit is designed to test the limits of the concerted actions of a powerful party, a private association almost as old as the Republic itself, to stifle our democracy. In their reply brief supporting the motion to dismiss, defendants Kerry and Edwards charge:

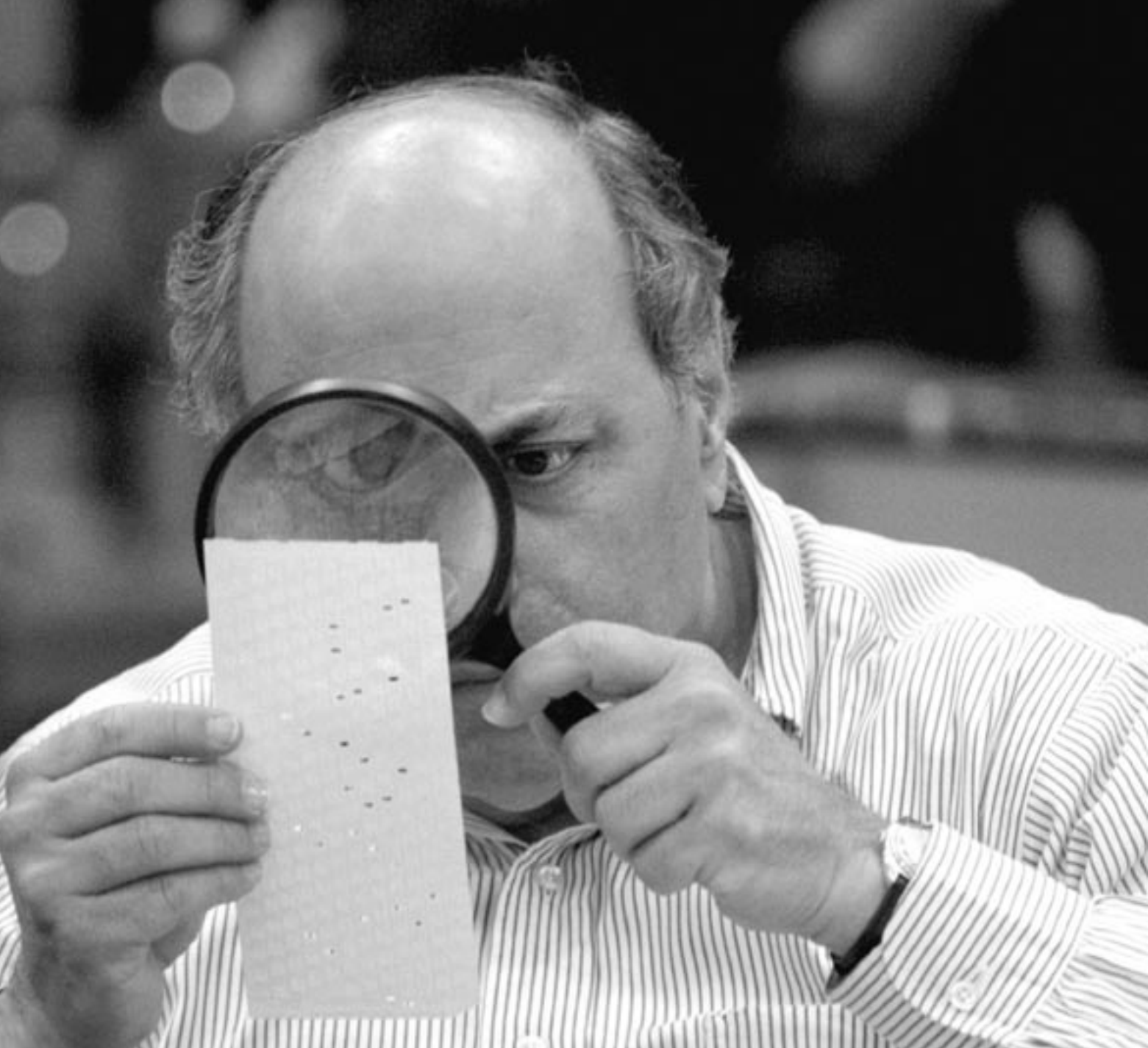
Plaintiff Lenora Fulani has made a practice of misusing the courts to pursue a political agenda. By our count of *published* court decisions alone, there are at least 35 other lawsuits in which Ms. Fulani has been a plaintiff, almost all of which were dismissed at the pleading stage or by summary judgment.

Well, yes. As Ralph Nader, invited to Harlem by Dr. Fulani just before the election, told the several hundred people gathered at the Emmanuel AME Church: "Those fighting for justice lose and lose and lose until they win." **NEO**

Notes

- ¹ The lawsuit in question was brought by Lenora Fulani, the chair of the Committee for a Unified Independent Party, along with independent activists from seven states, against the Democratic National Committee, former DNC chairman Terry McAuliffe, John Kerry, and other leading Democrats. Through a combination of litigation, propaganda and pressure exerted on state officials, the lawsuit charges Democratic Party lawyers and operatives sought to stop Nader from gathering sufficient nominating petition signatures and/or meeting other requirements for ballot access in all but a handful of states. As a direct consequence of their machinations, the Nader campaign was compelled to wage costly legal battles all over the country; in fact, former Connecticut Congressman Toby Moffett, a ringleader of the anti-Nader campaign, stated publicly that the purpose of the petition challenges was "to drain [Nader's] resources and force him to spend time and money." Nader was ultimately denied a place on the ballot in 13 states, including California, Illinois, Ohio, Pennsylvania, and Texas. The goal of the conspiracy was to impede the formation of a broad-based, non-ideological third party by making it impossible not only for Ralph Nader but for a future independent presidential candidate to run an effective national campaign. The defendants have moved to dismiss the lawsuit, which is currently pending before U.S. District Judge Loretta Preska in New York City. See Harry Kresky, "A Constitutional Crisis," in *The Neo-Independent*, Vol. I, No. 2 (Fall, 2004) for details of the conspirators' efforts.
- ² See, for example, Rick Davis (of the Reform Institute), "Enact fair rules for ballot access" in *Portland Oregonian*, April 7, 2004.
- ³ In fact, in Pennsylvania and New Mexico the Democrats argued that state statutes prohibited a candidate from running as an independent if he/she was also running on a party line there or in another state. (Nader, of course, was the Reform Party candidate in seven states.) Had the argument prevailed (compliant judges in both states credited it at the trial level, only to be reversed on appeal), the traditional way in which third-party and independent candidates have achieved ballot status in enough states to run a national campaign would have become illegal.
- ⁴ In *Schenck v. U.S.*, 249 U.S. 47, 52 (1919) the great jurist Oliver Wendell Holmes wrote: "The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic."

Harry Kresky represents the Committee for a Unified Independent Party and other plaintiffs in the pending lawsuit that charges former DNC chairman Terry McAuliffe, John Kerry, John Edwards, and other leading Democrats with conspiracy.



Dimpled chads made national headlines
during the Florida 2000 debacle.
The near-debacle of Florida 2004 ,
where the rights of independent voters
and parties were on the line,
was only barely noted.



The Fight to Keep Ralph Nader on the Ballot in Florida: One Expert's Story

Richard Winger

I've been studying ballot access laws, and election returns, for over 40 years. I've published articles in many different periodicals and books (scholarly publications as well as those aimed at a general readership) on the subject of U.S. ballot access laws. That's how I got to be an expert witness in ballot access lawsuits; over the years I've testified in ballot access cases in 33 states. So when I got a call from the Nader campaign asking me to testify on its behalf in Florida – one of 14 states where groups aligned with the Democratic Party and/or the Kerry campaign sued to have Ralph Nader's name removed from the ballot in 2004 – I wasn't surprised.



Richard Winger (right)

RULES OF THE GAME

Beginning in 1999, the Florida election code had made it very easy for small political parties to place their presidential candidates on the ballot. Assuming that it existed elsewhere in the country and not just in Florida, a minor party was required to do three simple things. First, it had to be recognized as a “qualified party.” How? Simply by electing state officers and writing a letter to the secretary of state naming them – and expressing the desire to be recognized as a party. Presto! One letter was all it took. This very liberal requirement was established in 1970, after the state supreme court ruled that the old law defining “political party” – as a group with a registration equal to 5% of the total number of registered voters in the state – was unconstitutional. The new definition of “party” was so easy to meet that by the middle of 2004 Florida had 34 qualified parties!

The second requirement for putting a presidential candidate on the ballot was to hold a “national convention” and nominate such a candidate, along with a vice presidential running mate. Also established in 1999, this requirement did not contain a definition of “national convention” or “national party.” Prior to 1999, it hadn’t been necessary to hold a national convention; instead, the code had required that parties with fewer than 5% of the total number of registered voters in the state collect the signatures of 1% of all voters on a nominating petition – a difficult job. The requirement was eased in 1999 because a year earlier the voters of Florida had made ballot access rules equal for all candidates; the new legislation was designed to equal-

ize the rules for all national political parties as well by abolishing the petition requirement across the board.

Finally, the party had to nominate 27 presidential electors. They all had to be registered to vote in Florida, and they all had to be registered members of the party.

The new requirements had been tried out for the first time in 2000, when eight minor parties – Constitution, Green, Libertarian, Natural Law, Reform, Socialist, Socialist Workers, and Workers World – were able to place their presidential candidates on the ballot. Four years later, six minor parties qualified: Constitution, Green, Libertarian, Reform, Socialist, and Socialist Workers.

The Reform Party had nominated Ralph Nader at its national convention on May 11, 2004. It had re-nominated him at another national convention on August 27-29. Two days later, the Reform Party of Florida nominated its candidates for presidential elector and sent the names to the secretary of state. So far, so good: the Reform Party had done everything the election code required, and the secretary of state duly certified Nader as the party’s presidential nominee.

THE LAWSUIT

On September 2 two lawsuits were filed against the secretary of state in an attempt to force her to remove Nader from the ballot. One suit was filed by the Florida Democratic Party, the other by a group of four voters (a Democrat, a Republican, an independent, and a member of the Reform Party). Since the Florida ballot was now so accessible, it was startling for anyone to claim that the Reform Party had not qualified. Still, the lawsuits argued that Reform had failed to meet all three requirements for putting its presidential candidate on the ballot.

First, the lawsuits claimed that Reform was not a qualified party in Florida. Why not? Because it had not run any candidates for federal or state office in 2002, nor had it received any contributions large enough to be reported to the state since 2003. This line of argument was about as weak as any legal argument can be: the code doesn’t define a “party” as having run candidates at the last election, nor in terms of its financial activity.

— continued on page 20



I had the honor of being one of Ralph Nader's electors in Maine in the 2004 election. I hadn't been involved in the election process before, so this was a learning experience for me. Maine has ballot access laws that encourage participation and promote democracy. Mr. Nader quickly collected the small number of signatures, 4,000, needed to appear on the ballot.

The law also allows for challenges to petitions. The national Democratic Party challenged the petitions shortly after they were submitted. Being an elector, I received a copy of the challenge. When I read it, I knew it would not hold up in court. The challenge included the false accusation that I was affiliated with a party. If that claim had been true, it would have invalidated all the petitions. But I have never been enrolled in a political party, because the two major parties do not represent my beliefs. So when I saw the allegation that I had enrolled in a party after January 22, 2004, I knew it was just a ploy to stall the process of Mr. Nader getting on the ballot in Maine.

I read the challenge carefully and wondered what other false allegations the national Democratic Party had made. They claimed that one elector did not exist, and that a number of petition signers gave false addresses. If there had been any validity to these charges Mr. Nader's access to the ballot would have been jeopardized.

When I was contacted by Mr. Nader's attorney, I told him that I did not know where the documents accompanying the challenge came from but that I did recognize that my signature must have been about 20 years old. The signature was on a voter registration card that was filed at the town hall when I registered to vote – in fact, it was 22 years ago. The word “change” appeared on the card. I explained to the attorney that South Portland, like many other towns all over the country, redrew its district lines in 2004. The word “change” on a voter registration card indicated that the voter had been affected by the redistricting – not that the voter had changed party affiliation!

I am familiar with court proceedings, so I know that ordinarily attorneys will not call, or challenge, a witness without being sure that the witness will support their position. Why would the Democrats challenge my qualifications as an elector without first finding out what the word “change” meant on my voter registration card? I had to conclude that they were trying to

stall the democratic process by any means possible. The Democrats were afraid, and they were being very undemocratic.

I was subpoenaed to testify before a board that would determine if the challenge to the petitions was valid. For me to go to Augusta, the state capital, to testify meant taking time off from work and traveling for an hour to get to the hearing. This was inconvenient for me, but for others who were traveling five and six hours and losing pay to get to the hearing, it was downright mean.

It was meant to be intimidating. We, however, were not intimidated but were driven to expose this undemocratic effort by a major political party. The elector the Democrats alleged did not exist was at the hearing and testified that there was a clerical error in the typing of his name. The individuals who had supposedly given false addresses on the nominating petitions testified that they had lived in their homes for over 30 years and refused to use the new name that the town had given to their street. The town clerk of South Portland, where I live, was also subpoenaed to testify at the hearing, and explained that when the town had changed its district lines the word “change” was put on *every* voter registration card.

Maine has a small population that strongly supports an independent point of view. Our ballot access laws have been written to support candidates outside the major political parties, giving citizens the opportunity to vote for the candidate of their choice. The challenge to the Nader petitions was thrown out, and his name did appear on the ballot in November. I am very grateful that our democratic process prevailed. **NEO+**



Rosemary Whittaker has lived in Maine since 1976. A social worker, she supervises Child Welfare student interns for the state's Department of Health and Human Services in Portland. Whittaker is active in Choosing an Independent President (ChIP).



Panelists at “The Power of Fusion” conference discuss legal controversies affecting the independent movement. Left to right: Neo editor Jacqueline Salit; attorney Harry Kresky; attorney Theresa Amato, Nader campaign manager; attorney Gary Sinawski; Richard Winger

continued from page 18 —

Next, the lawsuits claimed that the Reform Party had not held a genuine national presidential nominating convention. This was another odd bit of reasoning, since the party actually held *two* national conventions in 2004 – both of which had nominated Nader! The first convention was via telephone conference call. But there were worries that such a convention, being unorthodox, might be challenged, so a second convention was held at a hotel at the Dallas-Fort Worth airport in Irving, Texas. The anti-Nader lawsuits argued that the conference call convention was not valid because the participants were not physically present in the same room. And they said (tautologically) that the convention in Texas was not valid because it was a “sham.”

The suit filed by the four anti-Nader voters waxed eloquent about what a “real” national convention is

Nothing in the Florida code defined “national political party”; the plaintiffs were just making up the rules as they went along.

supposed to be: “The law contemplates a genuine competition between candidates among the members of the party – not just a committee of a few – that is utterly lacking here. Candidates of the major parties must endure a rigorous selection procedure culminating in a presidential preference poll.” These sentences are laughable when you think about the Republican National Convention of 2004, where there was no detectable opposition to President Bush – just as there was hardly a “rigorous selection procedure” at the Democratic convention of 1996, which unanimously re-nominated President Clinton.

Finally, the anti-Nader plaintiffs argued that the Reform Party was not a “national political party.” Now since 1997 the party had been recognized by the Federal Election Commission as a “national political committee,” but this didn’t carry any weight. In fact, in 2000 Florida had recognized the Green Party, the Socialist Workers Party, and the Workers World Party as national political parties, and placed their presidential candidates on the ballot, when they *weren’t* recognized “national committees” in the eyes of the FEC. And in 2004 the Socialist Workers Party – still not recognized by the FEC – was again on the ballot, unchallenged.

The plaintiffs’ briefs bulged with details about how the Reform Party had declined in size, prestige, wealth and popularity since 2000. They argued that a true political party raises and spends lots of money, and that the Reform Party was broke. Again, these arguments were almost comically weak. Nothing in the Florida code defined “national political party”; they were just making up the rules as they went along.

THE TRIAL

A hearing on the lawsuits was set for Wednesday, September 15, at 8 a.m. in the Tallahassee courtroom of Circuit Court Judge P. Kevin Duffy, a Democrat. The date had not been selected until September 14. I was given one hour's notice that I was needed to testify. That is, I had one hour to pack before I had to leave for the airport. (I live in San Francisco.) I arrived at my hotel room at 4 a.m. on September 15. Thanks to the hurricanes that had been troubling Florida that month, the hotel was full of stranded travelers. So I shared a room with another Nader witness, Brian Moore, a former state Reform Party officer. I lay awake for two hours before being roused to get ready to go court. When I got there, I was disappointed to learn that I would not be permitted in the courtroom until it was my turn to testify. And since I was being called third-to-last of all the witnesses, this "exclusion rule" meant that I had to spend almost the entire day on a bench outside the courtroom.

When I was finally called to testify, I was first questioned by attorneys for Nader. That was easy. I corroborated the fact that the Reform Party was ballot-qualified in seven states, thereby supporting its claim to be a "national party." I corroborated the fact that it had candidates for Congress on the ballot in Mississippi, Kansas, and Colorado. I corroborated the fact that the party had over 63,729 registered members in the U.S. as of early 2004. Based on these objective criteria, I testified that Reform was one of the five largest minor parties in the nation. (By contrast, the Socialist Party and the Socialist Workers Party were not ballot-qualified in any state other than Florida, and they each had fewer than 1,000 registered members nationally – yet they were both on the Florida ballot that year, and no one was challenging their status.)

Then it was time for the anti-Nader lawyers to question me. At this point I asked for a glass of water. The first words out of the attorney's mouth were, "Why, Mr. Winger, throat dry? I haven't even asked you the first question!" As his questions proceeded, it became apparent to me that the expert witness against Nader (whose testimony I had not been permitted to hear), the historian Alan Lichtman, had testified that all "real" political parties raise large amounts of money, and spend this money to help their candidates win elections. I gathered that Lichtman had argued that since the national Reform Party had neither raised nor spent any large amounts of money in several years, it was therefore not a "real" political party.

I wanted to point out that Lichtman may have been describing the characteristics of a typical political party, but that Florida law didn't define "political party" in such terms. But when one is being cross-examined, of course, one doesn't have the luxury of leading the conversation.

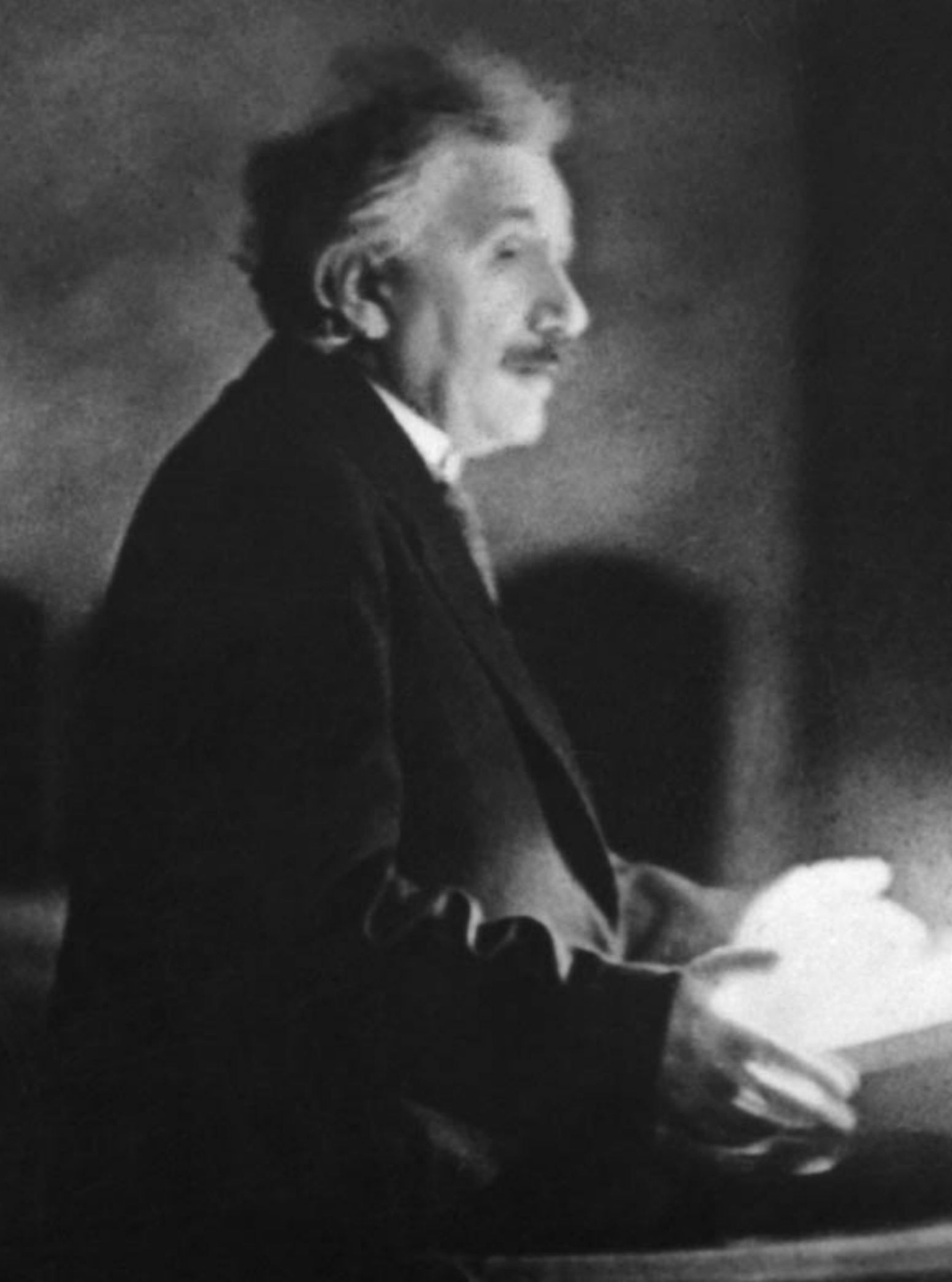
It is sad but true that Judge Duffy wasn't interested in any of my testimony. He never looked at me while I was testifying, even when I gazed at him.

I was permitted to hear the testimony of one anti-Nader witness. He was the next-to-last to take the stand, and he hadn't testified earlier in the day (when the other witnesses on his side spoke) because he hadn't been available. He was not present in the courtroom, but testified via speaker phone. A former rank-and-file member of the Reform Party, he testified that he had attended about 20 monthly meetings of his local party and that the group never seemed to do anything else except to hold such meetings. He summed them up as "grumpy old white men."

After all the witnesses had finished, and we took a recess, Judge Duffy ruled from the bench that the Reform Party was not a real political party and that its national conventions had not been bona fide national conventions. The judge seemed to rely more on the final anti-Nader witness for these conclusions than on anyone else; apparently the testimony about "grumpy old white men" who never did anything except talk to each other impressed him as having the ring of truth. But of course none of it was relevant to the law.

Two days later, on September 17, the state supreme court heard Nader's appeal. The Florida court is composed of two Republicans and five Democrats, but even the Democrats could see that keeping Nader and the Reform Party off the ballot would have been a shocking case of "making up the law" for a pre-determined partisan-oriented result. At the end of the day the justices voted 6-1 to reverse Judge Duffy and place Nader back on the ballot. On September 21 *The New York Times* ran an editorial praising the court for that decision, noting that it had "applied the rules with the sort of nonpartisanship that is critical for democracy to function." **NEO+**

Richard Winger is the country's leading authority on ballot access for independent parties and candidates. He is the editor and publisher of Ballot Access News, a monthly newsletter that he founded in 1985.



Associations with Einstein

Fred Newman



I

A MATTER OF GRAVITY

Einstein was, in my opinion, as much a philosopher as a physicist. But the relationship of physics to mushroom clouds has made it more mainstream than philosophy's brief ('60s) dalliance with mushrooms. Thus, in the mainstream, Einstein is a physicist, albeit a theoretical physicist. But despite American philosophy's "self-conscious" efforts to avoid the mainstream at all costs there is always a self-serving Judas who will betray the philosophical gods in the name of his or her self-interest. In our times his name is Richard Rorty. Due to his "bad" good work, philosophy is ever so slightly better known about in America these days. This is not to say that philosophy isn't characteristically an important part of our culture. It's just to say that it isn't typically known as such.

Relativism is one of the traditional hot-button philosophical issues. Long before Einstein gave it physical credibility, philosophers from Plato on down debated such matters. Is there an ultimate absolute by which we can objectively measure things step by step? Or are there only relativistic relationships? From Plato's ideals (forms) to Russell's sense data, such matters have preoccupied philosophers. Indeed, they preoccupy everybody. Struggling working class parents can be as committed to their absolutism in raising their children as any Church Father. On the other hand, middle class parents influenced by the '60s can be as relativistic as Bishop Berkeley.

Einstein confounds the world of the early 20th century by suggesting that there is a kind of subjectivity to be found where you would least expect it: namely, in Newtonian physics – more specifically, in its analysis of gravity. His formulation of the general theory of relativity is both analytically rigorous and, eventually, empirically verifiable. Now of course there are those who say that Einstein's discoveries have nothing to do with the longstanding philosophical debates on relativism. I do not agree. Ultimately, in my opinion, such people simply want to create self-serving and utilitarian boundaries between academic subjects.

To be sure, the brilliance of Einstein was that his theoretical observations about gravity could not be laughed off as philosophical abstraction. He was, even at a very early age, a brilliant physicist. But Einsteinian physics (in no way a complete denial of Newtonian physics) brought the old philosophical questions back

into the center of the dialogue in the discipline in much the same way that Russell, Whitehead, Gödel, and others did in mathematics.

II

DEBATES

It is less than clear what discussions or debates between philosophers have to do with what most of us uncritically identify as the real world. From Socrates and Thrasymachus, to Galileo and the Church Fathers, to Berkeley's Hylas and Philonius, to Einstein and Gödel roaming "mindlessly" about Princeton University in the 1940s and '50s discussing the limits (and existence) of time, esoteric conversations of this nature are often thought to mean nothing for the daily affairs of the earth's inhabitants. And yet there is a nagging belief among some of us that if, for example, time itself is limited (or, indeed, unreal), it should make a difference to those who live in at least a portion of time's domain.

The significant philosophical debates of our post-modern times are, not surprisingly, meta-debates – unlike the dialogues of the early years of the last century, which focused on the limitations of the first 200 years of that extraordinary phenomenon known as modern science from the vantage point of science. Contemporary philosophical debates are, first and foremost, about the vantage point itself. Hence, post-modernism. A curious characteristic of this profound shift is that it simultaneously brings philosophy much closer to and takes it much further away from the masses and their daily lives.

Everyone who cares about such things has a favorite contemporary abstract debate. My favorite is the one between Donald Davidson and Richard Rorty. *Who?* I imagine the reader asking, reasonably enough. The reader, who ever so vaguely remembers the names of Plato, Galileo, and Einstein from a rapid-fire survey course in intellectual history at the local college or university, becomes a *tabula rasa* when it comes to Davidson and Rorty. Or maybe not. Rorty, the betrayer of contemporary philosophy, has made a little bit of a name for himself in contemporary thought. But Davidson? Who in God's name (or anybody else's, for that matter) is Donald Davidson?

III

DAVIDSON AND RORTY: REMINISCENCES

It is the fall of 1960. In Cuba, Fidel Castro, not much older than me at the time, is determining what Cuba and he will become. I am at Stanford University, having completed my first year of graduate school. It was a hectic year. I wound up in the Ph.D. program in philosophy at Stanford not so much by mistake as by accident. My teen-into-twenties years had been lived, educationally speaking, more by scam than by substance: three horrific years at one of New York City's best high schools, Stuyvesant, failing everything I could get my hands on; almost three years as an infantry private in the U.S. Army (including 16 months in South Korea), like any good soldier giving all of my life energy (emotional and cognitive) to avoiding being seen; and three years at the City College of New York (on the G.I. Bill) trying to catch up socially with my now three-years-further-along-in-life college chums and winding up (for no discernible reason then or now, some 50 years later) with a wife (then) and a B.A. in philosophy (still). I had just come through that first year of graduate school in beautiful northern California with

absolutely no idea of who I was or what I was doing, but with a talent (an actor's talent) for improvising my way through life situations I had no business being in.

How did I get into Stanford in the first place? Hold onto your hat. I had sent in my application a month and a half late. But an already-accepted undergraduate from I don't know where changed her or his mind and went to Harvard. So now there was an opening and no one was likely to apply (it's a month and a half late). The day after whoever it was turned Stanford down, my application showed up in the mail. Under these circumstances, it got a look it would never have received if it had been on time. Well, it looked weird. My undergraduate record was terrible. But my philosophy professors at City – all of whom had given me low grades – had written rather glowing letters of recommendation about my level and degree of class participation. The philosophy faculty members were curious. That's it. I got into the Stanford Ph.D. philosophy program as a curiosity. So that first year I had to prove that I was something other than a curiosity. And I did. I got some A's and fought my way through a year-long struggle with symbolic logic (for which I had little or no apti-



Donald Davidson



Richard Rorty

tude), surprising even myself.

Okay. So here we are, back in September of 1960. Throughout my “qualifying” year of 1959-60, in the department hallways, in the campus coffee shop, with friends at Stanford Village (married student housing), I hear talk of the “preeminent” member of the philosophy faculty. I had avoided him like the plague in my first year. He was obviously out of my league at that point. But now it’s 1960. I had established (by hook and by crook) that I was “qualified.” It was time to figure out what that meant. It was time for “his eminence.”

The undergraduate Introduction to Ethics course was regarded by all who had come near it as one of the greatest lecture series ever given, anywhere, any time. Many undergraduates, as well as graduate students, had audited it several times. Now it was September of 1960 and I was about to begin my audit with the incomparable Donald Davidson. He would not disappoint. He never did. There were close to 100 students milling around the base of the metal staircase that led to a lecture hall on the outer quad of the campus, notable among other things for the Spanish-influenced architecture of its buildings. I stood a short distance away from the crowd and watched Donald Davidson approach. I had seen him before, but never really looked at him. I was afraid. I feared he might turn to me and say in a god-like voice (even though he didn’t have one): “What are you doing here?”

Donald is of average size. He is an attractive man, casually though nattily dressed, but not so attractive as to be anything but average. A man in his mid-forties, he is well groomed and balding. Still, average looking ... with one exception. As he comes closer I notice something. He has the ruddy complexion of a seafaring man. His complexion makes his eyes seem to twinkle. In many ways he is an average man. Yet even before he opens his mouth to speak, I see a storyteller.

Donald Davidson, in his forties, has published very little. It is a subject of campus gossip: he is a “perfectionist” who won’t let go of what he has written. He is well known in the field as one of America’s important philosophers, but not from his writings. He is a brilliant teacher. The Stanford philosophy department is filled with men (sorry, no women yet) who recite the history of philosophy. But Donald, the department’s glowing star, *performs* the story of philosophy. He is Socrates in a tweed jacket. He is David Hume with an American accent. He is Ludwig Wittgenstein without the bizarre affect. As with all great performers, everything he does is understated. He is analytically precise almost to the

point of excess, just as Melville included far too much detail in *Moby Dick*. But like Melville, Davidson never allows the story to get lost. He is sharing with us the love story of his life – the story of philosophy as a living performance piece.

Fast-forward more than 40 years. Donald Davidson is now recognized by all who care about such things as one of the world’s great thinkers. When W.V.O. Quine dies, in 2000, Davidson ascends, in the minds of many, to the position of America’s greatest living philosopher. Much has happened, of course, in those 40 years, for everybody, everywhere. In the world of those who indulge such generalization, some say that even history has transformed, moving from the modern epoch to the postmodern.

While Donald Davidson is thought by some to be America’s greatest living philosopher, he is generally not seen as its most popular. That position, often unfilled, is held by Richard Rorty.

Rorty, a much-published neo-pragmatist, is, ironically, now teaching at Stanford. Like Davidson, he is well trained in the rigors of analytic philosophy. Unlike Davidson, however, he has written, it seems, about almost everything, everywhere. He is, as I said, a popular writer.

Davidson completed his teaching career as professor emeritus at the University of California at Berkeley. In the 40-plus years since I left academia – or, more accurately, since it left me – my philosophical teaching has led me to an “infamous” career as a radical psychologist, a radical therapist, and a left-wing community organizer. As the years go by, I more and more recognize the extent to which philosophy (particularly Wittgenstein’s and Davidson’s) has informed my thinking. When Davidson responded to my book *The End of Knowing*, co-authored with Lois Holzman (Routledge, 1997), with a short note, he cautioned me not to bury philosophy prematurely. I wrote back that I had no intention of doing so and surely had no interest in disregarding what I had learned from him.

Much of what Richard Rorty writes is (in some sense) cognitively consistent with what I myself have said and written and yet ... and yet his style of pragmatism is off-putting to me. He is clever and even rigorous. But when he says, again and again, that he has no new position on truth, that he is simply no longer interested in it, I sense a narcissism that disturbs me. “Who cares whether you are interested in truth or not?” I say to myself. I spent years being

uninterested in philosophy (“philosophy” and “truth” are, to me, nearly equivalent), but I did not proclaim my lack of interest as an argument against philosophy. Despite Rorty’s much-publicized lack of interest in truth, I presume that Davidson never warned *him* not to “bury” philosophy. They are both academics. Both members of the club.

Sometime in the mid-’90s I meet Rorty. I am co-hosting a low-low-low-budget cable TV show with the distinguished black educator/activist Lenora Fulani. He appears as a guest on the show. He is not a storyteller. He is selling books – his books. He is aloof, above performing. He is a pragmatist.

A few years later I come across a book called *Rorty and his Critics* (Brandom, 2000). The book is a collection of essays about Rorty by contemporary critical thinkers and his responses to them. Included in the book are an essay by Davidson and a response by Rorty. Now I can read some of their conversation.

Davidson’s contribution is called “Truth Rehabilitated.” My first reaction: “Donald, you don’t rehabilitate truth – you rehabilitate those who have suffered from its authoritarian application.” That’s the radical therapist

talking. I read the essay and remember Donald in 1960 – a passionate storyteller in love with philosophy. I can live with his silly title, “Truth Rehabilitated,” because he cares. Rorty doesn’t care: he’s uninterested. Rorty wants to get rid of truth, but what about the billions who suffered and continue to suffer from it? In one way, it makes sense for me to be a Rortyan, as opposed to a Davidsonian. But I cannot make that move, despite Davidson’s silly title. Because how much you care, and how you care, count. It is not there in the logic of our argument, but my old-fashioned storyteller Donald Davidson excites me still and the pragmatist (or neo-pragmatist) Rorty does not. Why is my “excitement” any more important than Rorty’s “uninterest”? Probably it isn’t. But there is no activity in uninterest. The storyteller Davidson creates; the postmodern uninterested Rorty does not.

In the fall of 2003 I picked up *The New York Times* and there was Donald Davidson’s obituary. Donald was gone. My thoughts went back to Stanford in the early ’60s. I have been an activist my whole life. Donald was an academic to the core. But in his creatively performing the story of philosophy, he was also an activist. He was performing philosophy. I am attempting to perform the world. And Davidson and philosophy are still with me.

— continued on next page



The author with guest Richard Rorty and co-host Lenora Fulani on their “low-low-low-budget cable TV show”

IV

A TIMELESS STORY

What happened to Einstein? It is the 100th anniversary of his extraordinary paper on special relativity, and so the book writers/anniversary celebrators of the world are busy producing manuscripts about “Einstein and...” One such book (a particularly good one) is *A World Without Time: The Forgotten Legacy of Gödel and Einstein*, by Palley Yourgrau (Basic Books, 2005). The book jacket tells the story:

It is a widely known but little appreciated fact that Albert Einstein, the twentieth century’s greatest physicist, and Kurt Gödel, its greatest logician, were best friends for the last decade and a half of Einstein’s life. They walked home together from Princeton’s Institute for Advanced Study every day; they shared ideas about physics, philosophy, politics, and the lost world of German-Austrian science in which they had grown up. What is not widely known is the discovery that grew out of this friendship. In 1949 Gödel published a paper proving that there exist possible worlds described by the theory of relativity in which time, as we ordinarily understand it, does not exist. He went further: if it is absent from those theoretical universes, he showed, *time does not exist in our world either*. Einstein’s great work has not explained time, as most physicists and philosophers think, but explained it completely away.

Einstein recognized Gödel’s paper as “an important contribution to the general theory of relativity.” Physicists since then have tried without success to find an error in Gödel’s physics or a missing element in relativity itself that would rule out world models like Gödel’s. Stephen Hawking went so far as to propose an ad hoc modification of the laws of nature – a “chronology protection conjecture” – specifically to negate Gödel’s contribution to relativity. Philosophers have been largely silent – and their silence, says Yourgrau, is one of the intellectual scandals of the past century.



Gödel and Einstein on one of their Princeton walks.



In an early summing up, Yourgrau observes:

Einstein, Gödel, Heisenberg: three men whose fundamental scientific results opened up new horizons, paradoxically, by setting limits to thought or reality. Together they embodied the *zeitgeist*, the spirit of the age. Mysteriously, each had reached an ontological conclusion about *reality* through the employment of an epistemic principle concerning *knowledge*. The dance or dialectic of knowledge and reality – of limit and limitlessness – would become a dominant theme of the twentieth century.

But reality (in itself) and knowledge (of it) had long been the “bread and butter” subject matter of philosophy. Donald Davidson, in another wonderful course called “Theory of Knowledge,” taught me that. Indeed, logical positivism, a dominant philosophical school of the early 20th century (with its physical center in Vienna), insisted that modern science had resolved the epistemological and ontological antinomies of Kant and that philosophy was now merely a “handmaiden” to science and mathematics. Twentieth century positivism was a philosophically rigorous effort to show that through science one could finally answer the traditional questions: What is meaningful? What is knowledge? And what is real? But Gödel (himself an early member of the Vienna Circle) and Einstein rejected positivism even as their scientific discoveries (incompleteness and relativity, respectively) shook mathematical logic and physics to their very core. Paradoxically, the two German thinkers were, attitudinally, philosophical realists. Like Plato and Leibniz (and in his own way, Kant), they believed in the real existence of abstractions: numbers and time, for example. It was only in his commitment to the existence of time that Einstein discovered the profound *limitations* of time. And it was Gödel’s belief in time’s limitations as real that led him to recognize that time could be eliminated altogether. As they say in the beer commercials: “Brilliant!”

Heisenberg remained a positivist, even as he remained loyal to Germany during World War II. But Einstein and Gödel traveled (although not together) to America, both winding up at Princeton in central New Jersey some 60 years ago. And on those long walks that they took the two German Realists were, arguably, traversing the historical distance between modernism and postmodernism. With impeccable credentials they

carried modern science away from logical positivism to its “logical extreme” and discovered (conceptually speaking) the many “best of all possible worlds.” A lot of people have taken credit for discovering postmodernism. And presumably it has endless starting points (although it seems a bit odd to me that they should all be in France). But the two German geniuses, Einstein and Gödel, surely have a serious claim to being the philosophical transition between modernism (in its most *certain* philosophical form, logical positivism) and the string theoretic *reality* – the endless possible worlds – in which the more scientifically minded postmodernists now roam.

V AN AUTOBIOGRAPHICAL NOTE

My journey *into* postmodernism *from* Davidsonian decision-theoretic philosophical analysis has been a long and hard one. First of all, it involved leaving the comfortable academic sinecure (actually two havens, the university and philosophy) in favor of the community and psychology. Despite the historical connection of the university to the community and of philosophy to psychology, in our society they have little or nothing to do with each other nowadays. Actually, they are often quite antagonistic toward each other. And what about the postmodernist community? Hasn’t it been a welcoming environment? Yes and no. For in philosophy and psychology, as in politics, partisanship rules the day. Postmodernism, having staked out a sinecure of its own, seems for the most part uninterested in seriously examining itself. The British critical psychologist Ian Parker is wise to be concerned with postmodernism’s rightward drift. (I suppose he would say it’s more than a drift.) The right-wing landscape is filled with people and conceptions that are little more than unexamined left-wing ideas, e.g., the current disaster in the White House (not only Bush) called neo-conservatism. So while my writings on postmodern psychology and psychotherapy (with my chief collaborator, Lois Holzman) have received a modest degree of recognition, my work in community organizing (with my chief collaborator, Lenora Fulani) remains the object of ultra-left/ liberal partisan hysteria.

Yet it is neither the modesty of the recognition nor the hysteria of some of the attacks that troubles me most. It is the unwillingness of psychology (not to mention the left) to take itself seriously, i.e., *to care*. Postmodern psychology, while ever in danger of drifting rightward, and late modernist reformist progressivism (the American Left again and again renewing its marriage vows to the moribund Democratic Party) have both an extraordinary potential and an extraordinary responsibility. Profound historical developments are taking place everywhere. Throughout the world “strange bedfellows” is fast becoming an everyday headline. Some will quickly point out that all those so-called developments are not good. To me, however, developments are neither good nor bad. Rather they are openings. And what we creatively do with them will determine what becomes of them – or, more accurately, us. And this is precisely the point. Francis Fukuyama’s self-serving philosophy about “the end of history” notwithstanding, we are, it seems to me, at a new beginning of history. And postmodern psychology (still in its infancy) and progressive politics (awaiting its postmodernization) have the opportunity and the deep responsibility to care and to transform those developments into a better world.

To do so involves – in the manner of Einstein and Gödel strolling around Princeton, and Davidson puzzling aloud over Plato and Hume at Stanford – a caring yet critical acceptance, a willingness to create a new possible world.

In 1997 I was mysteriously invited to join a New School panel as one of several respondents to a talk by Alan Sokal, a New York University physicist who had gained a modicum of notoriety by submitting, under a pen name, a “postmodernized” theoretical physics paper to the journal *Social Text*. According to Sokal, the paper was *intentionally* completely meaningless and was, consequently, untrue and invalid. His point was to show that such a fraudulent paper could get accepted for publication, which it was (by the postmodernist editors of *Social Text*). In the very limited circles where such matters are taken seriously, the ensuing “Sokal affair” generated intense discussion.

The invitation to me to speak on the New School panel was “mysterious” because I do not travel in those circles. I have always assumed that it was effected by Kenneth Gergen, the most distinguished American postmodernist psychologist and, at the time, a “becoming” friend and colleague. In 1995 Ken

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and I had delivered a joint paper on “reforming diagnostics” at that year’s annual meeting of the American Psychological Association. In the fall of 2001 we – along with Lois Holzman and the social constructionist Sheila McNamee – organized a conference on the role of performance and improvisation in personal, social, and political change. Gergen and I opened the conference, which took place at the Montauk Yacht Club on Long Island, with a joint presentation (a conversation) that we had previously agreed would take the form of a dialogue on our points of agreement and disagreement. As part of my presentation, and in the tradition (I hope the best tradition!) of Einstein and Gödel reflecting on time, I noted that Gergen’s concept of a radically reformed notion of knowing (social epistemology) did not carry postmodernism to its logical or sociological conclusion; what was demanded of critical postmodernism, I argued, was the elimination of knowing altogether. (See Newman and Holzman, *The End of Knowing*.) Gergen, for whom I felt and continue to feel deep admiration, had taught me, through his writings (*The Saturated Self*, and others) and our evolving relationship, a great deal about postmodernism. Moreover, I deeply valued our friendship. We have not spoken since our joint presentation in Montauk. Of course, Ken Gergen (like everyone else) has every *right* – personally, politically, and professionally – to move in whatever direction he chooses. He is not alone in moving away from the Newman-Holzman thesis on knowing. Indeed, if I can generalize for a moment, the American postmodernist community has collectively moved away from such “extremism.” Perhaps they are right (politically) to do so. Perhaps it was right (politically) for the community of theoretical physicists to essentially ignore Gödel’s paper on the elimination of time.

And what of the Sokal affair? How does it tie into our discussion? My presentation at that New School forum was for the most part an identification and a brief history of the pro-scientific philosophical roots of postmodernism. From Einstein and Gödel, to Quine’s breathtaking “Two Dogmas of Empiricism,” to Kuhn’s popular book *The Structure of Scientific Revolutions*, to Nelson Goodman’s *Fact, Fiction and Forecast*, to John Searle’s *Mind: A Brief Introduction (Fundamentals of Philosophy)*, along with a thousand other articles and books and lectures and conversations less well known but critical, a scientific critique of science (at least as important as French existential postmodernism) had emerged. Did Sokal attempt to

engage this pro-scientific body of intellectual work in his effort to discredit postmodernism? No. Not a word. There was little or no evidence that he even knew of it. His understanding of postmodernism was, in large measure, a caricature of contemporary French existential thought. To turn postmodernism into an antagonistic debate between itself (postmodernism) and science is to trivialize postmodernism and effectively to move it to the right. To be sure, science versus anti-science, like Rorty's lack of interest in truth, will sell a few more books than Davidson ever will. But the community of scholars has a far deeper responsibility to the community at large. Philosophers and/or thinkers in general must be asked, "For whom are you thinking?" "Have you now become the 'handmaidens' of your university or your publishing house?"

In these times of almost universal commodification it is vital that thinking itself not be further commodified. Postmodernism, at its best, is an effort to prevent this from happening. But is postmodernism itself vulnerable to being consumed? Of course. Thinking is probably more important now than ever. But what is thinking? And for whom are we doing it? Not new questions, but to be sure a new historical moment for asking them. **NEO**

Fred Newman is the co-author of *The End of Knowing* along with several other books. He is a contributing editor of *The Neo-Independent*.

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KARP'S CORNER

Walter Karp (1934-1989) was a political journalist of unusual integrity who specialized in puncturing the hot air balloons – the myths, the spins, and the rewrites of history – that help to keep the two-party system aloft. Mr. Karp was a contributing editor to *Harper's Magazine* for ten years, and wrote eight books on American politics. In *Indispensable Enemies: The Politics of Misrule in America* (1974) he deconstructs one of the central myths of our bipartisan system: the pretense that the two parties are permanently and profoundly at odds; in fact, he argues, the Republicans and Democrats are “indispensable” to one another, routinely and systematically colluding to maintain their control over the political process by stifling reform at every turn and even conceding elections to the “enemy” when losing is in their long-term strategic interests.

In each issue of *The Neo-Independent* we set aside a space for Walter Karp's singular voice to be heard. It's always a little difficult to decide on a selection from his writings, because so much of what he had to say – on the subject of war, for example, or foreign policy, or trade unions – is so compelling and, decades later, still so relevant. This time, however, the choice seemed somewhat easier.

With the two sides in the current debate over Social Security flooding the national airwaves with sound and fury, seemingly unable to forge a compromise between the twin ideals of self-sufficiency and social responsibility, we are pleased to return to Karp's Corner with an excerpt from Chapter 6 of *Indispensable Enemies* on the subject.

Roosevelt Packs in the New Deal (continued)

Walter Karp

When Roosevelt told the nation in a 1938 “fireside chat” that there were still too many conservatives in the Democratic party, he was speaking plain truth, but it was he who had kept them there and, in many cases, put them there. Either that or Roosevelt was the most egregious political bungler in American history.

The story of the “Second New Deal” is briefly told. Despite all that Roosevelt had done to put a brake on genuine reform, the lopsided Democratic Congress elected in 1934 still “threatened,” in Leuchtenburg’s words, “to push him in a direction far more radical than any he had originally contemplated.” The threat was particularly pointed since what Roosevelt had “originally contemplated” was restoring, by sweeping measures, all the nation’s shaky holders of corrupt privilege and corrupt power. To help prevent the Democratic majority from getting out of hand, Roosevelt and the Congressional leadership increased the number of signatures needed to dislodge a bill from the Rules Committee from 145 to 218 just three years after they had reduced it from 218 to 145; this would be yet another key element in the Rules Committee’s future power to thwart reform legislation. To damp down unruly enthusiasm for reform, Roosevelt conveniently submitted almost no legislation to the new Congress and showed not the slightest propensity to fight for what he did submit. By June 1935 the New Deal was at another standstill, as Ickes and others loudly lamented. According to Leuchtenburg, Roosevelt “seemed to fear the conservatives less than the spenders and inflationists.” That is putting it mildly. “Roosevelt’s actions left his progressive followers in a quandary. They could not countenance his conservative posture.”

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In mid-May, for example, a delegation of Western Republican reformers had urged Roosevelt to take some action and pointedly told him, as Ickes reports, that he would get nothing done if he persisted in dealing with the Senate solely through Majority Leader Joe Robinson of Arkansas, Senator Pat Harrison and the rest of the ruling gang in the Senate, this “deference” to the Senate Democratic oligarchs being yet another of Roosevelt’s alleged blunders as an alleged reformer.

Stall as much as he could, however, Roosevelt no longer possessed full power of decision. Having stirred the citizenry out of despondency, Roosevelt was now being threatened by men who were feeding

on their hopes. “As the New Deal bogged down,” in Leuchtenburg’s words, “demagogues and radicals who feasted on the popular discontent of 1934 challenged Roosevelt for national leadership.” The two key figures were Senator Huey Long and his Share Our Wealth following and Dr. Francis Townsend and his old people’s movement, each of which was pressing hard on an already impatient Congress. Roosevelt’s hand was forced. Suddenly springing into action on June 5, 1935, Roosevelt enacted the “Second New Deal,” which was exactly like the first in one fundamental regard: it revealed Roosevelt’s persistent attitude toward reform – to yield as little as political circumstance allowed.

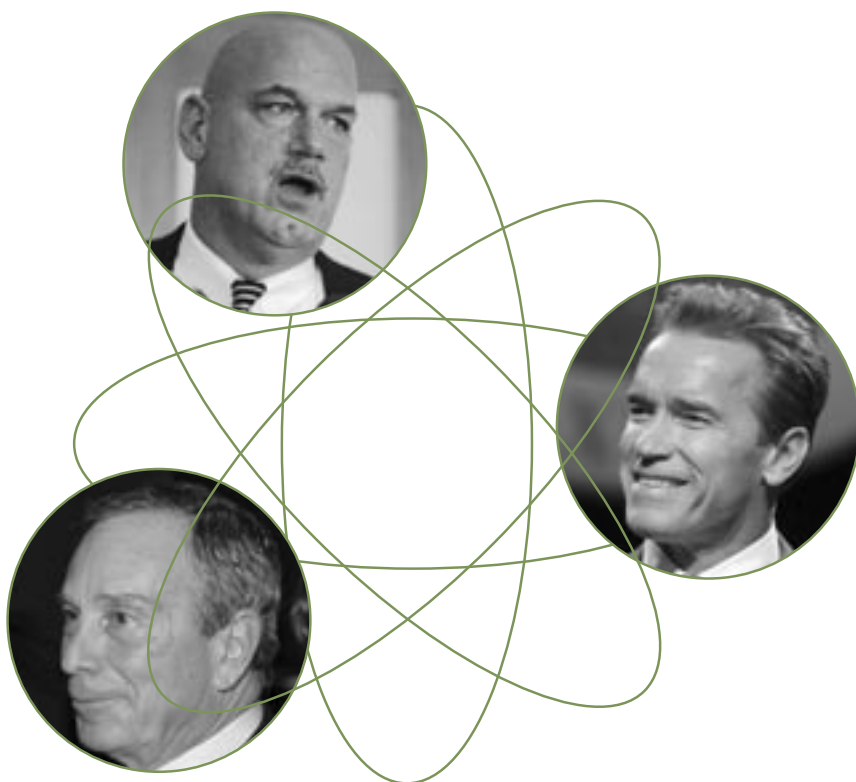
The Social Security Act, for which the New Deal is celebrated, was not even a Roosevelt-initiated reform, but one forced out of him by the Townsend movement and by the country at large; in the 1934 elections *Republicans* had attacked Roosevelt for not submitting a social security measure. Even after submitting a proposal in January 1935, Roosevelt had given no signs of supporting it until he was forced into action in June. Passed in June by enormous majorities, the Social Security Act was, in Leuchtenburg’s words, “an astonishingly inept and conservative piece of legislation. In no other welfare system in the world did the state shirk all responsibility for old-age indigency and insist that funds be taken out of the current earnings of workers.” Fiscally, the Social Security Act imposed – and still imposes – a savagely regressive tax on the ordinary citizen, one which, thanks entirely to Roosevelt, puts a heavy burden on the ill-to-do and almost none at all on the affluent.* In short it was the *worst* measure he could get through a Congress far more reform-minded than he. That is what he needed Bourbon leadership for. NEO

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* No tax is considered progressive which takes the same fixed portion of everybody’s income. The Social Security tax is sharply regressive because it takes a fixed portion of people’s incomes up to a stipulated point; anything beyond that is untaxed. Conventional historians frequently quote with approval Roosevelt’s allegedly “shrewd” explanation for burdening the have-nots so heavily. By making ordinary people pay, he said, future “reactionary” administrations would be unable to take Social Security away from them. This is pure mendacity. Even if the great mass of people paid nothing for their Social Security benefits, no administration would dare strip such a general privilege from the citizenry. Powerful “reactionary” forces were a bogeyman Roosevelt used again and again. The real reason Roosevelt chose to burden the citizenry was to discourage them from too keenly demanding the expansion of Social Security provisions, since any expansion hits them so hard. By means of a savagely regressive tax, another avenue of hope was closed down by Roosevelt and every one of his successors.

The Power of Fusion

Jacqueline Salit



In scattered situations independents have tipped an election to an unexpected and “out of the box” outcome, as they did with Jesse Ventura in Minnesota, Michael Bloomberg in New York and Arnold Schwarzenegger in California. Yet the national power of independents remains uneven and unexpressed. Now they are beginning to seek political recognition.

And that should change the equation.

The fact remains that political parties exist somewhere in the interstices between civil society and the state and serve as a link between the two realms. To function successfully as conduits between citizens and their government, parties must reflect the sentiments of civil society, which inevitably change over time. Thus it is only natural for old parties to disappear and new ones to emerge (or for existing parties to be thoroughly transformed) as the composition of the population changes and new issues arise.

Mark F. Plattner
“The Trouble with Parties”
The Public Interest
Spring 2001

A survey of the latest surveys puts the size of the independent voter bloc at between 30% and 37% of the electorate.¹ At a time when America is divided between the so-called “red states” and “blue states,” independents remain a solid third of the country, an omnipresent but still unrealized force for political change.

Surveys show that upwards of 66% of independents believe that structural reform is needed to curtail the negative effects of partisanship and to revitalize American democracy. In scattered situations independents have tipped an election to an unexpected and “out of the box” outcome, as they did with Jesse Ventura in Minnesota, Michael Bloomberg in New York and Arnold Schwarzenegger in California. Yet the national power of independents remains uneven and unexpressed. But they are now beginning to seek political recognition. And that should change the equation.

Whether this nascent movement against the cumulative impact of partisanship becomes a party or creates a new form of acting as a “conduit between citizens and their government” remains to be seen. But more immediate questions present themselves in the context of the current polarization.

Can the independent movement become a force for restructuring and reforming American democracy? Can independents use their power as swing voters to advance those goals? Many signs indicate that the answer is “Yes,” although in order to use its power more effectively the in-

dependent movement is turning toward tactics aimed at winning political recognition for the independent voter.

What is political recognition? At the most basic level it means breaking down the barriers that prevent independent voters from enjoying rights equal to those of Democrats and Republicans. Some thirty-five million Americans are governed by a Constitution that makes no mention of political parties, yet find themselves under the thumb of a system where two-partyism is so embedded that independents are relegated to second-class status.

Despite comprising a third of the American electorate, independents have no representation on the bodies that regulate elections. From the Federal Elections Commission to local boards of elections, the regulators are representatives of the two parties; they have a vested interest in maintaining their privileged position in the political marketplace.

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THE BARRIERS

The New York State Constitution, for example, stipulates that *only* Democrats and Republicans can serve as election inspectors at the polls. In jurisdictions around the country, voters are required to be registered either as Republicans or Democrats in order to cast ballots in the first – and generally decisive – round of voting.

Independents are disempowered twice over by the partisan system of redistricting: first, when the two parties draw lines to determine in advance which of them will win a particular district, and a second time when, as independents, they're banned from voting in the primary that determines the outcome of the race.

Yet despite the self-perpetuating power of the two-party system, the independent voter has not gone away. On the contrary. In many states, the size of the independent voter bloc keeps growing. From February to October 2004 in California, over 30% of new voters registered as independents. The number of registered independents nationally has grown from one in four voters in 1952 to nearly four in 10 today. Interestingly, neither of the major parties dominates the hearts and minds of independents. In the 2004 presidential election independent voters split 48%/49%/2% for George Bush, John Kerry and Ralph Nader respectively.

"What is startling to me, and somewhat under-discussed, is that we know people are dissatisfied with the way our system works," observed Dr. Douglas Schoen, a partner in Penn, Schoen and Berland, the prominent political consulting and polling firm that works with many Democrats nationally and has done some of the most extensive surveys of independent voters. Speaking at a recent national conference of independent voters, "The Power of Fusion," Schoen explained: "Frequently, though, the reasons for that dissatisfaction are not so well understood. And I think that one of the answers is that we have a system that poorly represents and excludes the views of up to 35% or 36% of the American people. Because we do such a poor job of accommodating and reaching out to independents as a country and a government, we create dissatisfaction that makes our system less supported, less appreciated and ultimately less effective."

Schoen's analysis of the systemic lack of responsiveness to the independent voter sharpens the picture. But can independents gain the recognition that will in turn enhance their power to change that systemic problem?

In considering that question, it's useful to look back at other struggles for recognition of the unrecognized, notably, the labor movement of the 1930s.





President Franklin Delano Roosevelt

THE NEW DEAL AND A NEW DEMOCRATIC PARTY

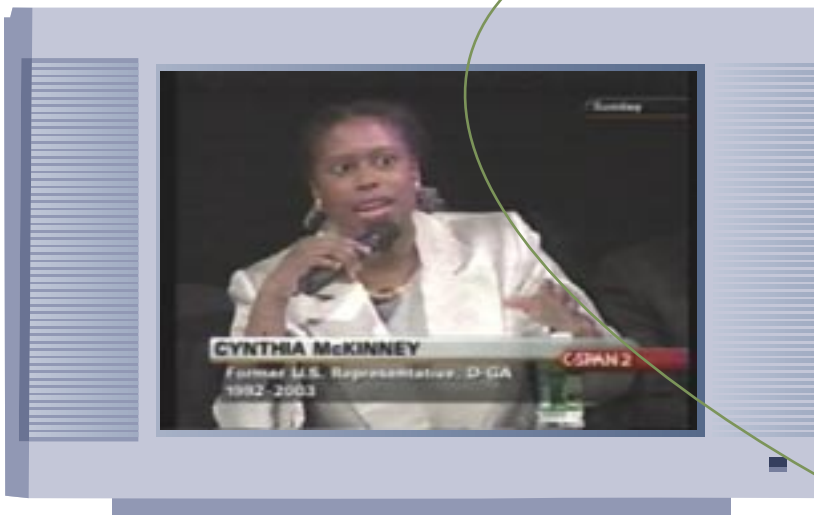
Dramatic shifts in the U.S. economy after World War I changed the character of the American work force. In the years between that war and the next, the second Industrial Revolution was unfolding. In 1914, when WWI began, 573,000 automobiles were manufactured in the United States. Just 15 years later, in 1929, *5.3 million* cars were built.

As America industrialized, the industrialists were determined to control the terms and conditions of employment despite growing demands for unionization. The call for government involvement grew louder, particularly as the industrial boom gave way to the Great Depression. The demand for recognition by hundreds of thousands of American workers reached a fever pitch amidst the social unrest of those years. In July of 1935 Congress passed and President Franklin Delano Roosevelt signed – under duress – the National Labor Relations Act. Also known as the Wagner Act, it guaranteed employees the right of collective bargaining and provided “an orderly procedure for determining who is entitled to represent employees.” Having gained recognition, organized labor began to assert itself.

Four months after the signing of the Wagner Act, the Committee for Industrial Organization – the CIO (it became the Congress of Industrial Organizations in 1938) – was founded and with it the largest wave of organizing the unorganized in American history was underway. Labor achieved a new political status, becoming a pillar of the New Deal Democratic majority that dominated U.S. politics for the next 65 or 70 years.

The shift in the composition of the workforce and the grassroots organizing by dedicated labor organizers have their counterparts on the contemporary electoral scene. Today there is a marked shift in the character of the electorate – the size of the independent voting bloc has grown very substantially over the last 50 years – at the same time that networks of independent organizers are working to build the independent movement. Independents may not be massing in the streets or at the polls, but the independent movement has started knocking – not at the plant gates, but at the gates of American democracy. It has begun to demand a voice.

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NEW PARTNERSHIPS

In California, 20% of the electorate are independents. There are three million of such “decline-to-state” voters, and they’re all barred from voting in the decisive first round for congressional, state legislative and statewide elections. Last year a million voters signed a petition to put a referendum on the ballot, Proposition 62, which would have opened those primary elections to non-aligned independents.

But the state legislature was in no mood for a reform as radical as nonpartisan elections. In an unprecedented rebellion, the voters of California had just recalled the sitting governor. Although Republicans were glad to have Arnold Schwarzenegger in the state house, the GOP establishment was anxious to put the genie back in the bottle. After Prop 62 was put on the ballot by

the voters, the bipartisan state legislature countered with its own measure, Prop 60, arguing – among other things – that preserving the rights of parties was more beneficial to independents. Some politicians – including Schwarzenegger, former Los Angeles Mayor Richard Riordan, former Clinton White House Chief of Staff Leon Panetta, State Controller Steve Westly (see “An Ode to *Meet the Press*”) – backed Prop 62 but the decision went to the partisans. Prop 62 was defeated 54% to 46%; Prop 60 passed with 67.6% of the vote. But the independent voter gained new visibility during the fight for Prop 62, and so did an upstart group representing the state’s three million decline-to-states, the Committee for an Independent Voice (CIV). When CIV spokesperson Harriet Hoffman debated Art Torres, the state chairman of the California Democratic Party,



on a popular San Francisco TV show, she explained: “What’s important about Prop 62 is that all the voters would be able to participate in the first round.” In the current situation, by contrast, “The two parties control, virtually control, who gets nominated in the first round and who moves on to the November election.” The result, said Hoffman, is that 20% of the electorate has no voice in choosing the candidates; since partisan redistricting has made many districts non-competitive, by the time they can vote the outcome of the race has already been decided. CIV’s Jim Mangia adds, “Governor Schwarzenegger’s call for nonpartisan redistricting is a direct response to what he correctly identifies as the power of California’s independent voters. It’s shrewd on his part and that’s good for independents. We’re looking

for politicians who are shrewd enough to partner with independent voters. The issue is getting independents sufficiently organized so that we can benefit from those partnerships.”

Controlling who gets nominated in a primary and moves on to the November election is a cornerstone of the electoral game. When independents are only allowed to exercise their voting rights in the second round of voting, they are effectively deprived of decision-making power.

Some states, however, hold open primaries, and in those circumstances independents can play a pivotal role. Last year independent voters in Atlanta’s 4th Congressional District did just that.

PLAYING IN THE OPEN PRIMARY

In 2002, Democratic Congresswoman Cynthia McKinney, an outspoken opponent of the war in Iraq and a perpetual thorn in the side of both the Republican and Democratic parties, lost a hotly contested primary to a heavily funded opponent who was backed by the party organization.

Having lost her seat in Congress, thanks to the determination of her own party to get rid of the “troublemaker,” McKinney was not about to make the same mistake twice. In January of 2003 she told a national conference of independent voters sponsored by Choosing An Independent President (ChIP), which serves as a clearinghouse and training center for local organizations of independent voters, “I’m not quite an independent in terms of political party yet. But this forum today has given me an opportunity to really think about the place and the role of independents in the political process...If we leave our future to the Democratic Party and the Republican Party, we won’t have a future, and our communities are going to be wrecked.”

McKinney *did* think about the role of independents. A year later, in 2004, when she entered the Democratic primary – an open primary – in an effort to retake her seat, she sought the support of independents, including the ChIP-affiliated Georgia Committee for an Independent Voice. After interviewing McKinney and getting her support for a program of political reform to empower independent voters, GCIV gave her its endorsement and subsequently campaigned among independents in her district, to urge them to vote in the Democratic primary for McKinney. In a five-way race – 50% of the vote plus one was needed to prevent a runoff – McKinney polled 51%. She went on to win handily in November. Independent voters, who gave her the margin of victory, now have a claim on her reform agenda in Congress. That is the power of fusion.

The power of fusion – the ability of independent voters to swing elections under certain circumstances – is one source of the leverage that makes it possible for independents to go beyond being merely swing voters to become a fully recognized partner in American democracy.

How can independents unleash the power of fusion?

In part by recruiting allies who will stand with them in the fight for political recognition – just as becoming-organized labor once recruited FDR to stand up for the right of the American worker to organize. Indeed, the challenge for independents is to continue building a base from the bottom up while navigating the political mainstream to identify and reach out to those allies – be they Democrat, Republican or independent – who will stand with them.

THE BLOOMBERG BUY-IN

That has been the dynamic of independents’ partnership with Mayor Michael Bloomberg, whose margin of victory in New York’s hotly contested 2001 mayoral race came from votes on the Independence Party line. Bloomberg and the Independence Party went on to partner in a variety of political reform efforts designed to enfranchise the city’s nearly one million independent voters.

On the day that Mayor Bloomberg was to appear at the Independence Party’s annual Anti-Corruption Awards dinner, he was hammered in the press by several of his potential Democratic rivals in the 2005 mayoral election. Not unlike Franklin Roosevelt, who 70 years earlier was accused of betraying his class by consorting with Communists, troublemakers and outsiders when he blocked with becoming-organized labor, Bloomberg was called upon to sever his ties with the Independence Party, to denounce Lenora Fulani, a party leader with deep roots in the African American community, and, in effect, to repudiate the independent voter. That evening, addressing a packed room of 500 Independence Party activists, the mayor spelled out his vision for political reform:

I don’t believe that any citizen should be forced to register with any party in order to exercise his or her full rights as a voter.

There’s a word for what happens when election laws prevent a large section of the population from fully participating in the democratic process. It’s called disenfranchisement, and that’s why we are here. The poll tax is only the most obvious method of disenfranchising voters, but

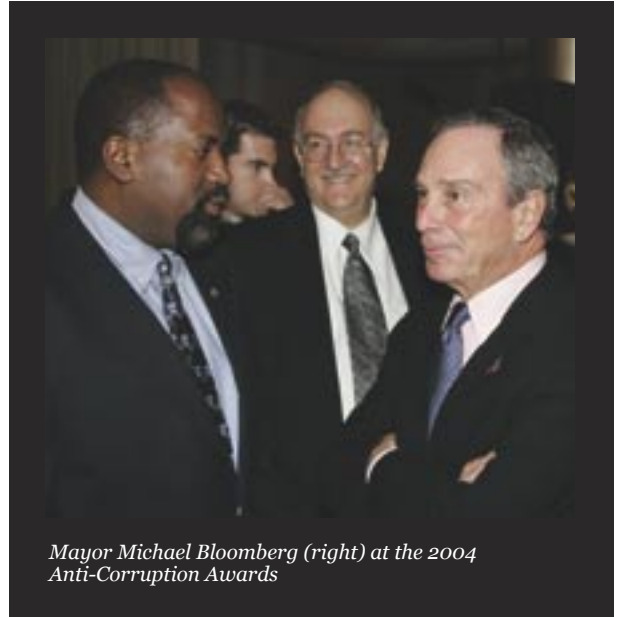
other election laws can have exactly the same effect. And the situation is particularly bad here in New York because many independents are young people and many are immigrants. They are the future of the democracy that we have and they are being shut out of our elections.

And that's why I supported nonpartisan elections along with the Independence Party. Because we believe that every single voter should be treated equally. And that's what the party bosses don't want to have happen. Let's be honest about what this is all about. It's taking away their power, their ability to control the electorate, their ability to disenfranchise anybody who would vote against them – who wouldn't do exactly what they were told to do. And that's why a few weeks ago I gave a speech calling for reform of the Board of Elections, and that includes an end to the hiring based on party registration during elections.

We all know that election reform takes time. That's because those who have benefited from the system are the ones who fight hardest to preserve it. So if we are going to succeed we need an independent coalition of citizens who believe in reform. Who believe that our election laws should treat every voter equally. Who believe that low levels of competition and participation are not healthy for democracy. The Independence Party is helping to build that coalition and I am happy to join you in doing so.

THE FIGHT FOR RECOGNITION

Bloomberg highlighted the fact that when citizens in a democracy are deprived of the right to participate, it is simple and outright disenfranchisement. The call for political recognition of the independent voter is a response to disenfranchisement. In the past, independents have focused on legal and political equity for candidates and parties. That is important and that will continue. The new focus, however, is on political equity for independent voters. That independents might choose not to join a party, or to join an independent party, that independents might want to run campaigns



Mayor Michael Bloomberg (right) at the 2004 Anti-Corruption Awards

“There’s a word for what happens when election laws prevent a large section of the population from fully participating in the democratic process. It’s called disenfranchisement...”

Mayor Michael Bloomberg

based on shifting coalitions – none of those choices should preclude or interfere with their right to equal access to voting, to participate in the regulation of the electoral system, or to shape the political debate.

Independents must have the right to cast ballots in all rounds of voting. The FEC must be restructured, and not simply cleansed of partisanship; it must have a congressional mandate to mediate on behalf of independent voters in the process of becoming a force for democratic reform, much as the National Labor Relations Board was given that role for labor 70 years ago. State and local boards of elections must be opened up to include independents. Where state law and state constitutions stand in the way, these must be rewritten and amended. Where major party membership is used to confer privileges and power superior to the privileges and power of others, the double standard must be rectified. Direct democracy – through Initiative and Referendum – must be extended to the states where it is currently banned. Ultimately, it must be brought in to the federal law-making process.

These and other pertinent reforms are designed to redress the second-class status of independent voters. Independent voters – 24% of the electorate in Arizona, 20% in California, 38% in Maine, 15% in Maryland, 16% in New Mexico, 25% in New York, 11% in Pennsylvania and in West Virginia, to cite just a few of the statistics – are endeavoring to become a recognized political force. They are tailoring their tactics to each state and local situation, building communication and education networks among independent voters and seeking political partners who will champion their cause. It may be “only natural,” as Plattner wrote in *The Public Interest*, for “old parties to disappear and new ones to emerge,” but for the fact that the old parties have vested themselves with an unnatural power to control the political marketplace. For new forces – parties, associations, coalitions – to emerge, the independent voter will have to pave the way. **NEO**

Notes

- 1 Pew Research Center for the People and the Press data indicate that 35% of young adults between the ages of 18 and 29 say they are independents. More than 23% of African Americans and 29% of Latinos place themselves in the independent category.

COVER ALBERT EINSTEIN (1879-1955), CIRCA 1930
PHOTO BY KEYSTONE / GETTY IMAGES

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2 MAYOR MICHAEL BLOOMBERG
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AN ODE TO MEET THE PRESS

5, 7 TIM RUSSERT
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becoming (bē kum'in)

vi. **1** coming to be **2** growing to be; changing or developing into by growth