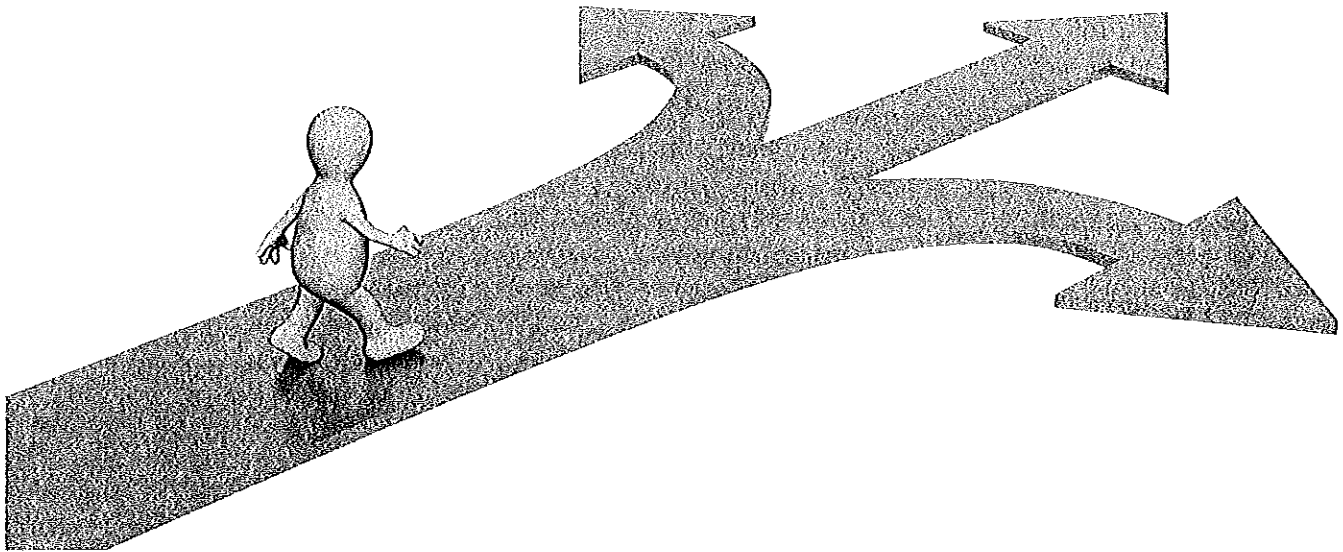


Giving New Jersey's Minor Political Parties a Chance: Permitting Alternative Voting Systems in Local Elections

by Renée Steinhagen



Abolition of slavery, women's suffrage, the direct election of U.S. senators—our nation would be unrecognizable without these things. Yet all of these key steps forward found their first advocates in American third or *minor* parties.

For three-quarters of our nation's history, third parties were the fountainhead of such out-of-the-box thinking. If, during the last quarter of our national history, politics has become comparatively narrow, perhaps part of the reason is that our election laws amount to preservation of the two-party system (as though the Republican and Democratic parties were some form of endangered species that required legal protection in order to survive).¹ Independent-minded voters who wish to

see more diverse politics should then be interested in considering what relatively simple steps might bring minor parties back to life.

It is almost axiomatic to say that people like to vote for candidates who they believe are able to win and, accordingly, often decline to vote for the candidate of their choice, preferring to vote instead for the candidate who is seen as having a better chance of emerging victorious. At one time in American history, many more people voted for third-party candidates both nationally² and in New Jersey.³ Indeed, there has been a steady decline in the willingness of people to cast their votes for people they perceive to be unelectable,⁴ although many voters over the past 20 years have expressed dissatisfaction with either of the two dominant parties.⁵

There is some evidence that the decline in third-party voting, and more particularly the precipitous decline in left-leaning third-party voting since the 1930s, may be attributed to the "large and sustained leftward shift of the Democratic Party during and following the New Deal."⁶ However, the continuing inability of third parties to garner votes and elect candidates in the face of the growing numbers of people who

declare themselves as independent⁷ may be linked with the differential treatment of major and minor political parties under state and federal electoral and campaign finance laws,⁸ and, most importantly, the single-district, winner-take-all plurality election system where whoever gets the most votes wins.⁹

It is clear that under plurality voting, dissatisfaction with either major party does not lead voters to cast their ballot for third-party candidates, simply because winning even 10 percent of the vote does not result in securing any legislative or executive seat. In such a system, candidates who receive the most votes win the whole political reward, and minor political parties receive nothing. The occasional victory of a third-party or independent candidate, who more often than not has money, credibility with the media, or former elected official status,¹⁰ does not distract from the enormous difficulty facing third-party candidates in winning elections, let alone influencing platforms of major party candidates, and being more than the spoiler in the race between candidates sponsored by the Democratic or Republican parties. The basic problem remains: People won't vote for a third-party candidate because they fear it will hand the election to the major party candidate they disfavor.

In New Jersey, over the past several years, third parties have challenged the discriminatory nature of the state's electoral law,¹¹ and have tried to eradicate some of the major disadvantages they face in order to enable their candidates to better compete with the two major parties. However, until some form of proportional representation voting system is introduced,¹² or alternative methods of voting are used, third-party candidates are unlikely to attract more than a few voters, and will therefore continue to have little or no influence over the platform of the major parties in the state.

The Status of Alternative Political (Third) Parties Under New Jersey Law

In the presidential election of 1992, Ross Perot, the candidate of the National Reform Party, received 15.6 percent of the popular vote in New Jersey; in 1996, he received 8.52 percent of the vote. One year later, in 1997, Murray Sabrin, the Libertarian candidate for governor, received 114,172 votes or 4.7 percent of the statewide vote. More recently, in 2000, 2.97 percent of New Jersey voters (94,554) cast their presidential ballot for Ralph Nader, who was then running under the New Jersey Green Party label. Despite these spikes in voting for non-mainstream candidates, registration in third parties in New Jersey remains negligible.¹³ In fact, the statutory requirement for obtaining official political party status in the state remains the single most onerous and discriminatory in the nation.¹⁴

Pursuant to N.J.S.A. 19:1-1, a political party seeking official recognition must not only obtain at least 10 percent of the vote across the state—which itself is an extraordinary and difficult hurdle—but the 10 percent is measured by aggregating the results of individual, district-specific races for the New Jersey General Assembly. Because high-profile statewide races such as those for governor or president do not count for party recognition purposes, and because, as a practical matter, alternative political parties cannot field viable third-party candidates in all or even most local Assembly races, the author believes New Jersey's requirement renders it nothing short of impossible for any third party to secure official recognition and mount a campaign to unseat one of the two major parties.

Not surprisingly, no alternative political party has done so since 1920—the year the Democrats and Republicans amended New Jersey's statutory definition of "political party" with the manifest intent of squelching then-growing

political competition by alternative political parties and solidifying their joint stranglehold on New Jersey politics.¹⁵ Although in more recent times, some political scientists have argued that elections have become less party-oriented than candidate-oriented, political parties still remain central to elections, typically serving as knowing conduits of campaign money between large contributors and political candidates, and providing some level of credibility to candidates merely through the use of the party label.¹⁶

With this role in mind, New Jersey's minor parties have tried to chip away at the burdens they face by failing to secure official party status. First, in *CAPP v. State of New Jersey*,¹⁷ common law political parties won the ability to have voters declare their membership in their party and to obtain voter registration lists under the same terms as the official political parties. Such voter membership lists, which prior to the litigation in 2000 were only made available free-of-charge to the two recognized political parties, are indispensable tools for party development and growth, for they enable parties to identify, communicate with, and raise funds from their established base.¹⁸

More recently, in *Green Party et al v. State of New Jersey*, certain third parties won the right to create state, county and municipal political party committees, thus removing them from the extremely burdensome campaign contribution limits to which they were previously subjected as a "continuing political committee." Pursuant to a consent order entered in October 2007, the New Jersey Green Party, Libertarian Party and Conservative Party are now, for the first time, each entitled to receive contributions from individuals and other entities at the same level as the Democrats and Republicans, and more importantly, are entitled to give unlimited financial contributions to

promote candidates nominated by their party or other minor parties.¹⁹

These changes, together with relatively liberal ballot access laws enabling third-party candidates to appear on the ballot after garnering a relatively small amount of support, place New Jersey's third parties on more equal footing with the official political parties than previously.²⁰ Nevertheless, if voters are going to overcome hesitation to vote for third-party candidates, and such parties are to have an impact in New Jersey, the author feels that the state should consider authorizing alternative voting systems by permitting localities to experiment with them.²¹ That is, considering the hostile stance New Jersey state law has taken against minor parties, the state Legislature should, at minimum, empower local municipalities to try a different approach.

Alternative Voting Systems

In 1952, renowned economist Kenneth Arrow established that no voting system is exempt from unexpected or "counterintuitive outcomes."²² He sought to determine what voting system satisfied two properties he thought desirable: First, if voters preferred Candidate A to Candidate B, then A should be ranked higher than B; and second, a voter's opinion about a third candidate, Candidate C, should not affect whether A defeats B. Unfortunately, he determined that the only voting system that satisfied these two properties is a dictatorship, where one person determines the outcome.²³

Notwithstanding the validity of Arrow's theorem, there is little doubt that there exist voting systems that capture voter preferences more effectively than plurality voting. Each has its advantages and disadvantages substantively and administratively (*i.e.*, ease of understanding, implementing and auditing), and each is subject to paradoxical outcomes upon vigorous mathematical scrutiny. However, under each of the voting sys-

tems described here, third-party candidates are likely to do better than under plurality voting, since voters would not be afraid to cast their ballot for spoilers.

What follows is a brief description of five alternative voting methods, and a look at electoral reform that would permit New Jersey voters to experiment with any one or several of them as a means of electing their local officials.

Instant Runoff Voting (IRV)

IRV systems are referred to as "choice voting" or "single transferable" vote systems in which a voter ranks candidates in order of preference.²⁴ In practice, if a voter's first choice does not win a majority of votes, his or her alternative preferences are transferred to subsequent candidates until all seats are filled. In the most commonly used IRV system, candidates are continually taken off the bottom of the candidate list until one candidate has a majority of the votes and is declared the winner. Alternatively, all but the top two candidates' votes are redistributed, to ensure that every voter has the opportunity to express his or her first two preferences.

Despite different methods of vote tabulation, in the end IRV systems are designed to ensure that the winner has received support from a majority of voters (as indicated by implementation in at least two major cities in the United States).²⁵

In addition to permitting people to express all their preferences through ranking candidates and protecting majority rule by reducing the spoiler dynamic in multi-candidate races, some people posit that IRV results in more positive, issue-oriented campaigning,²⁶ lower election costs in those municipalities that currently require runoff elections if no majority winner is produced in the first election, and increased voter turnout because people are more likely to vote if they are certain that their vote is not viewed as being wasted and they are not

forced to choose between two candidates of whom they do not approve.²⁷

On the other hand, critics of IRV note that there are theoretical situations in which improving the ranking of a particular candidate can hurt his or her chance of winning, because it can change the order in which losing candidates' (*i.e.*, those in last place) votes are redistributed among the remaining candidates. Mathematicians thus say IRV is non-monotonic. The frequency with which such situations arise and will affect voter strategy, however, is not clear.

Range Voting

Range voting is a method where voters score each candidate with a number of points between 0 and 99, or one through five, and the candidate with the most points or highest average points wins.²⁸ Pursuant to this a system, voters are able to provide quantitative information about all or any subset of candidates (that is express a strong dislike or approval of) rather than providing qualitative information about just one; do not have to split their vote between two similar candidates; and can be comparatively honest. Nonetheless, there is no guarantee that individuals holding the same level of fondness or dislike of a candidate will express their preferences in the same way.

Permitting voters to express their preferences within a range also may result in a candidate beating another candidate despite the fact that a significant majority of voters preferred the latter candidate. Such an outcome would occur when a tactical minority of voters allocates or assigns a lopsided number of points to a candidate (*e.g.*, 98-0-0; 5-0-0) while most voters simply express their relative preferences (*e.g.*, 25-15-10; 4-3-2). It should be noted that range voting has been used in Olympic competitions and by some private organizations, but has never been employed in a political election.

Borda Count Voting

The Borda rule (developed by J.C. de Borda in 1781) belongs to the class of ranking systems where voters assign points to each candidate according to his or her rank in the preference of the voters.²⁹ It can be considered a combination of IRV and range voting. Like IRV, people rank their choices in order, but then each ranking is given a fixed numerical value. Once the points each candidate receives is determined, the candidate with the most points emerges the winner. In this way, Borda count voting, in contrast to IRV, captures the full range of a voter's preferences, not just his or her second choice in the event he or she supports the least popular candidate in a multi-candidate race.

Borda count voting systems may vary with respect to allocation of points. For example, pursuant to some methods the candidate ranked last gets 0 points, while in others he or she receives one point, or even fractions of a point ranging from .9 to .2. A significant variable in such systems is the way ballots where not all candidates are ranked are treated (*i.e.*, truncated ballots).

The simplest method is to require voters to rank all candidates. However, this requirement may lead to large numbers of ballots being deemed invalid simply because a voter does not, in fact, rank all candidates, voter confusion and perverse results when voters do not have enough information to rank all candidates.

Alternative methods to requiring voters to rank all candidates include giving all unranked choices 0 points (which encourages the type of strategic voting that similarly distracts from the benefits of range voting) or applying a formula for allocating points equivalent to $k-1$, where k represents the number of candidates a voter ranks. This method, however, penalizes voters who do not fill out the entire ballot. On the other hand, voters who support third-party candi-

dates may be particularly favored under Borda counting rules because such candidates have a greater chance of winning an election even if they are not a majority of the voters' first choice. This can occur when supporters of major parties rank third parties second, or always above the other major party. Under such circumstances, the third-party candidate is likely to win, thus functioning as the compromise, or the least common denominator candidate.

Unlike range voting that has not been used in a political election, Borda count voting is used in Slovenia and two small nations in Micronesia, and has been applied during some Northern Ireland peace negotiation sessions.

Condorcet Voting³⁰

Pursuant to the Condorcet method, named after the 18th century French election theorist who devised it, individuals rank candidates in the same way they do when using IRV, but instead of eliminating *loser* candidates and redistributing their votes, one compares pairs of candidates against one another and gives the winner of the pair one point. The candidate receiving the most points wins, and thus constitutes the most "comparatively preferred candidate." For example, a candidate in a four-way race may be ranked the first choice by 42 percent of the voters, but if he or she is ranked fourth by 58 percent of the voters he or she is not going to win pursuant to this method.

Unfortunately, Condorcet comparisons can result in a situation where there is no winner, such as if Candidate 1 is preferred by a certain percentage of voters to Candidate 2, Candidate 2 is preferred by yet another percentage to Candidate 3, and Candidate 3 is preferred to Candidate 1. In such a situation, another method or criterion must be used to break the tie and determine the winner.

Nonetheless, the Condorcet method

is easy to understand, and voters are likely to honestly rank candidates rather than engage in strategic voting typically associated with the other methods. Pursuant to this voting and counting method, all voters' preferences are considered, not just the second choice of voters whose first choice candidate ranks last or near the bottom, as is the case in IRV. Condorcet-type voting rules have not been used in a public election, but are used to elect the leadership of some private organizations. They also require central tabulation of elections, and may be difficult to count by hand during a large election initially or during an audit or recount.

Approval Voting³¹

Approval voting is a procedure in which voters cast a ballot for, or approve of, as many candidates as they wish. Each candidate approved of receives one vote, and the candidate with the most votes wins. In some scenarios, voters must disapprove of candidates as well as approve of them (in order to prevent after-the-fact marking of ballots by someone other than the voter), while in others voters rank their first choice, who receives one point, and list other candidates of whom they approve, who receive one-half point. Again the person with the most votes wins, but pursuant to the latter method, even if each candidate is acceptable to all voters, one candidate will emerge the victor.

Although approval voting is relatively intuitive, easy to understand and relatively uncomplicated to count and audit, it, like Borda counting voting, has been nicknamed the lowest common denominator voting. This is the case because strategic voting usually causes the least controversial candidate, but not necessarily the most qualified candidate, to win. Accordingly, supporters of approval voting argue that it is likely to reduce negative campaigning, since candidates are seeking the approval of as

many people as possible, and voters are likely to vote for third-party candidates because they are unafraid of producing a spoiler. Approval voting was routinely used in 13th century Venice and 19th century England, and is currently employed to elect the secretary general of the United Nations.

Conclusion

Any one of the alternative voting systems highlighted above, if adopted, may increase voter participation and engender social innovations and new political alignments through the resurgence of third-party or minor-party candidates. The introduction of one or more of these systems in several localities throughout the state may, over time, break down misconceptions and barriers to the existence of multi-party elections that are currently preventing larger electoral reforms such as the introduction of proportional voting in New Jersey's lower house. Authorizing localities to experiment with different voting systems will thus begin to redress the worst consequence of single-district plurality rule—a two party system immune from new ideas and significant political and economic change. ♪

Endnotes

1. See *Timmons v. Twin Cities Area New Party*, 520 U.S. 351 (1997)(upholding Minnesota's law that imposed a general prohibition on fusion candidacies by finding "weighty" state interests in ballot integrity and the political stability of the two-party system).
2. See, e.g., Shigeo Hirano and James M. Snyder Jr., *The Decline of Third-Party Voting in the United States*, *Journal of Politics*, Vol. 69, No. 1 (February 2007) at p. 1 (noting that in late 19th century and early 20th century the number of votes for the Greenbacks, Populists, Progressives and Prohibitionists was more than twice as large as votes for third parties in recent years).
3. During the 1880s, the third-party vote for congressional and state Assembly office in New Jersey was as high as 11 percent. See John F. Reynolds & Richard McCormick, *Outlawing 'Treachery': Split Tickets and Ballot Laws in New York and New Jersey, 1880-1910*, 72 *J. American History* 835 at 845 (1986). Significant levels of support continued into the next two decades: During the 1890s, the National Prohibition Party consistently had a showing greater than two percent in New Jersey's elections. Third-party support was even stronger during the 1910s as the Socialists showed greater than four percent support from 1911-1914 and the Progressive Republicans, buoyed by the presidential campaign of Theodore Roosevelt, had showings of approximately 34.27 percent, 13.92 percent and 5.66 percent respectively from 1912-1914 in New Jersey. (Percentages calculated from raw data maintained by the state of New Jersey found in relevant manuals of the Legislature).
4. Although third-parties have rarely won elections in the United States, some have argued that they have added other values to its political life: they have served as a "vehicle for discontented voters," have encouraged the two major parties to be more responsive to voters, have spurred "policy innovations" and have even "dramatically reshaped the political landscape—such as the Republican Party" in the 1850s and 1860s. Benjamin D. Black, *Developments in the State Regulation of Major and Minor Political Parties*, 82 *Cornell L. Rev.* 109, 178 (1996). Notwithstanding these important values, it seems that voters only decide "to send a message" by choosing a candidate that they prefer when either a Democratic or Republican candidate is certain to win, and they perceive that there is no chance of "spoiling" the election. See Barry C. Burden, *Minor Parties and Strategic Voting in Recent U.S. Presidential Elections*, *Electoral Studies* 24 (2005) 603-618. (comparing sincere voting with strategic voting; the former occurs when a voter chooses the candidate he or she prefers, while the latter is when a voter chooses a less-preferred candidate because that candidate has a better chance of winning and the voter has a better opportunity to shape the election outcome).
5. There is some evidence that Americans find the two-party system "unsound" or "broken" and want more choices at the ballot box. Ross Perot won almost 30 million votes nationwide in 1992, and in 2000, 4 million voters (3.7 percent) cast their ballot for third-party presidential candidate Ralph Nader. See Howard J. Gold, *Explaining Third-Party Success in Gubernatorial Elections: The Cases of Alaska, Connecticut, Maine and Minnesota*, *The Social Science Journal* 42 (2005) 523-540.
6. Shigeo Hirano and James M. Snyder Jr., *The Decline of Third-Party Voting in the United States*, *Journal of Politics*, Vol. 69, No. 1 (February 2007) at 3.
7. In some ways, the levels of partisanship in the American electorate have decreased during the 20th century. In 1992, there were more independents than declared Republicans, and in October 1992, 635 of those surveyed favored the creation of a third party. Benjamin Black, *Developments in the State Regulation of Major and Minor Political Parties*, at 180. In New Jersey, there are currently twice as many voters registered as unaffiliated (2,798,827) as

- those registered as either a Democrat (1,170,644) or a Republican (874,752). See www.nj.gov/oag/elections/2008_results/08_primary-election/2008-pres-pri-election-registered-by-party.pdf. See generally Martin P. Wattenberg, *The Decline of American Parties: 1952-1994* (1996) (noting decline in party affiliation among citizens).
8. The United States Constitution indicates no particular theory of party politics, let alone a theory requiring the continuous domination of two parties. In fact, the “[f]ramers understood the Election Clause as a grant of authority to issue procedural regulations, and not as a source of power to dictate electoral outcomes, to favor or disfavor a class of candidates, or to evade important constitutional constraints.” *U.S. Term Limits v. Thornton*, 115 S. Ct. 1842, 1869 (1995) quoted in Benjamin D. Black, *Developments in the State Regulation of Major and Minor Political Parties*, at 113. Notwithstanding all this, almost all states treat major and minor parties differently for ballot access and campaign finance purposes, and the Federal Election Commission provides matching funds in successive elections only when a minor party candidate wins at least five percent of the vote.
 9. There is little doubt that the current “winner-take-all” “plurality at-large” or “first-past-the-post” voting system imposes a significant, if not insurmountable, burden on the ability of minor party candidates to win office. Michael A. McCann, *A Vote Cast; A Vote Counted: Quantifying Voting Rights Through Proportional Representation in Congressional Elections*, 12 *Kan. J. L. & Pub. Pol’y* 191 (2002-2003). Both game theoretic models and cross-national empirical evidence support the claim that simple plurality rule reduces the number of competing political parties, and, in the United States, results in the marginalization of third parties. See, e.g., Cox, Gary W. (1997) *Making Votes Count: Strategic Coordination in the World’s Electoral Systems*, New York: Cambridge University Press; Duverger, Maurice (1954) *Political Parties, Their Organization and Activity in the Modern State*, New York: Wiley; Feddersen, Timothy (1992) A Voting Model Implying Duverger’s Law and Positive Turnout, *American Journal of Political Science* 36(4):938-62; and Riker, William H. (1982) The Two-Party System and Duverger’s Law: An Essay on the History of Political Science, *The American Political Science Review* 76(4):753-66, cited in Shigeo Hirano and James M. Snyder Jr., The Decline of Third-Party Voting in the United States, *Journal of Politics*, Vol. 69, No. 1 (February 2007) at 12-13.
 10. See Howard J. Gold, Explaining Third-Party Success in Gubernatorial Elections: The Cases of Alaska, Connecticut, Maine and Minnesota, *The Social Science Journal* 42 (2005) 523-540, in which the respective elections of Walter Hickel of Alaska (1990), Lowell Weicker of Connecticut (1990), Angus King of Maine (1994; 1998), and Jesse Ventura of Minnesota (1998) are examined. All four candidates shared wide name recognition in their respective states, the ability to spend significant sums of money, and an ability to gain access to media. *Id.* at 524.
 11. See *Council of Alternative Political Parties et. al. v. State of New Jersey*, 344 N.J. Super. 255 (App. Div. 2001)(equal protection challenge to inability to register third-party members and secure voting lists on same terms as two political parties); *Green Party, et al. v. State of New Jersey*, MER-C-125-06 (Oct. 17, 2007)(equal protection challenge to differential treatment under New Jersey’s campaign finance laws and lobbying fee requirements).
 12. Pursuant to Duverger’s law, proportional representation systems tend to produce multi-party systems. See Emily Clough, Strategic Voting Under Conditions of Uncertainty: A Reevaluation of Duverger’s Law, *British Journal of Political Science* 37 at 313. Furthermore, countries using proportional representation seem to enjoy a higher level of voter turnout and more varied political discourse. See Majid Allan and Brian Pruka, Making the Case for Two Changes, *Wis.St. J.*, Jan. 28, 2001, at B1. Under the current German Constitution, the hybrid lower house of the German national Legislature includes *both* representatives from geographic districts *and* at-large delegates seated in sufficient numbers to make the lower house proportionally representative of national political parties. Any party that wins five percent of the national vote is awarded seats even if that party has carried no individual geographic district. While this would require an amendment to our state constitution, adding such at-large representatives to the New Jersey Assembly, awarded based upon voter support for political parties, would undoubtedly encourage the formation of significant third parties in New Jersey.
 13. As of February 2008, 796 voters were registered as Green Party members, 646 voters were registered as Libertarians, and 91 persons were registered in the U.S. Constitution Party. Although, 32 people were registered in the Natural Law Party and 70 in the Reform Party, neither party continues to exist in the state. See www.nj.gov/oag/elections/2008_results/08_primary-election/2008-

pres-pri-election-registered-by-party.pdf. It should be noted that pursuant to consent order issued in *Green Party, et al. v. State of New Jersey*, MER-C-125-06 (Oct. 17, 2007), voters will be able to register as a member of the New Jersey Conservative Party.

14. For this conclusion, the author relies on a 50-state survey of the definition of a political party, and the alternative methods permitted by the different states to achieve such status that is kept on record in the office of New Jersey Applesed Public Interest Law Center. This survey was updated in 2006.
15. Prior to 1800, New Jersey had no statewide parties, although there were county and sectional alignments. Nominations for office were made by individuals and groups of individuals until after the first congressional elections in 1788, at which time statewide political parties came into being, conventions were held for the selection of party candidates, and party slates began to appear. See *Stevenson v. Gilfert*, 13 N.J. 496, 499 (1953). Throughout most of the 1800s, candidates for office were selected at conventions that were conducted without any state regulations. In 1878, New Jersey enacted its first legislation that related to the "primary meetings or caucuses held by any political party or organization" in the state, (L. 1878 c. 113), and it was not until 1890 that New Jersey defined a political party. Pursuant to the Werts Ballot Reform Law, L. 1890 c. 231 ¶25, publicly printed ballots were enacted and political parties were defined as those organizations that polled at least five percent in the state Assembly elections for the district for which the particular nomination for office was made. *Id.*, ¶26. All other parties could make

nominations by petition, *Id.*, ¶28, thus permitting variation among districts as to which parties obtained ballot status. Notwithstanding this variation, parties found it harder to function under the new law given that they were forced to spend time and money circulating petitions for nomination. This was particularly burdensome for parties that catered to working men, see Reynolds (1988) at 66, resulting in the percentage of votes that went to third-party candidates in local elections going down considerably. *Id.* at 68.

In 1893, the New Jersey Legislature lowered the percentage requirement to be recognized as a political party to two percent per district in a state Assembly election. L. 1893, c. 238. The percentage requirement went back up to five percent per district in a state Assembly district in 1903. L. 1903, c. 248, ¶3, and increased to 10 percent of all Assembly returns in 1920. L.1920. c.349. In 1903, New Jersey also "launched its now-longstanding state policy of having fully regulated closed primaries;" and, for the first time, such primaries were held at the public's expense and for only recognized political parties. L.1903, c. 248, ¶1.

N.J.S.A. 19:1-1 was again amended by the Legislature (over the veto of the governor) in 1920 to double the percentage of votes needed to be officially recognized party from five percent to 10 percent and to require the 10 percent percentage of votes to be obtained over all districts, not just for the district in which the nomination occurred. Governor Edwards in his letter to the Assembly vetoing the bill stated that he believed that the bill "facilitates the voting of straight party tickets, and in my opinion makes it difficult for the expression of independent

thought." *Id.* at 1145. Within years, the Prohibition Party died and the Progressive Republicans and Socialists lost their ability to elect local officials in New Jersey. In fact, no third party has met New Jersey's current standard since it was established in 1920; and New Jersey remains the only state in the union in which a third party has not been recognized since that time.

16. This view of political parties is somewhat at odds with a popular model of the "ideal" political party as a unique organization that would not only provide an avenue for citizens to share their concerns with candidates and office-holders, but also would serve as a means to promulgate and promote ideology and to mobilize voters to rally around the party banner. See e.g., V. O. Key, Jr., *Politics, Parties, and Pressure Groups* 163-65 (5th ed. 1964); John Aldrich, *Why Parties? The Origin and Transformation of Political Parties in America* 10 (1995).
17. 344 N.J. Super. 255 (App. Div. 2001).
18. See *Council of Alternative Political Parties et. al. v. State of New Jersey*, 344 N.J. Super. 255 (App. Div. 2001).
19. MER-C-125-06 (Oct. 17, 2007).
20. Although third-parties in New Jersey are entitled to a "slate" with the party identification under each candidate's name, *Richardson v. Caputo*, 4 N.J. 3 (1965), state law only provides a party column, with the party's identification on top, and the first or second column on the ballot to the two officially recognized political parties. N.J.S.A. 19:5-1.
21. Pursuant to state law, every election in the state of New Jersey is determined by plurality voting (N.J.S.A. 19:3-4) except those municipalities organized pursuant to the Faulkner Act in which nonpartisan elections are held and must be won by a majority. See N.J.S.A. 40:45-18 to 21.

22. Erica Klarreich, Election Selection: Are We Using the Worst Voting Procedure? *Science News Online*, week of Nov. 2, 2002; Vol. 162, No. 18.
23. *Id.*
24. Resources for this section include: Matt Gehring, Instant-Runoff Voting, Information Brief, Minnesota House of Representatives, February 2007; Fair Vote, Evaluation of San Francisco's First Ranked Choice Election, January 2005 (www.sf-rcv.com); Eric C. Olson and Steven Hill, Big Wins for Democracy: San Francisco and Vermont Vote for Instant Runoff Voting, *National Civic Review*, Vol. 91, No. 2 Summer 2002; Francis Neely *et. al.*, An Assessment of Ranked-Choice Voting in the San Francisco 2004 Election, Public Research Institute (December 2004).
25. IRV was first used in the United

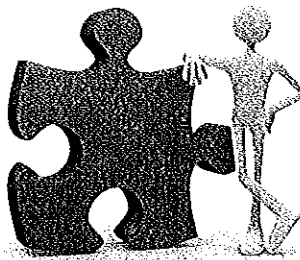
States in the 1970s in Ann Arbor, Michigan, though has since been discontinued there. More recently, it has been implemented in San Francisco, California; Burlington, Vermont and Takoma Park, Maryland. It is slated to be used in Minneapolis, Minnesota; Oakland, California; Pierce County, Washington and several cities in North Carolina. Initial studies indicate that there is public support for IRV or ranked choice voting, that it is not too difficult for voters to understand as first predicted, and in the case of San Francisco, Asian voters did not have more difficulties with ranked choice voting than other racial groups including whites. Fair Vote, Evaluation of San Francisco's First Ranked Choice Election, January 2005 (<http://www.sf-rcv.com>) at p.7. IRV

is also used in Ireland and Australia.

26. In Burlington's first IRV election on March 7, 2006, some newspapers reported less negative campaigning.
27. In Burlington, Vermont, voter turnout for the mayoral election when IRV was first used was the highest since 1999.
28. Resources for this section include: Warren Smith, Range Voting: The Best Way to Select a Leader? <http://rangevoting.org/SmithWM.html>; Warren Smith, Range Voting, NECI Doc. No. (December 2000).
29. Resources for this section include: www.deborda.org/votingsys.shtml; <http://ips.sagepub.com/cgi/content/abstract/23/4/355>.
30. Resources for this section include: Condorcet's Method, <http://robia.net/1996/politics/condorcet.html>; Joaquin Perez, A Strong No Show Paradox is a Common Flaw in Condorcet Voting Correspondences found at www2.uah.es/docecon/dcoumentos/DT1.pdf
31. Resources for this section include: Steven J. Brams, Approval Voting: A Better Way to Select a Winner found at <http://alum.mit.edu/ne/what-matters/200211/index.html>.

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