

# Mass Dissent

Massachusetts Chapter

National Lawyers Guild

14 Beacon St., Boston, MA 02108

November 2008

www.nlgmass.org

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## BOARD MEETING

**November 18, 6:00pm**

14 Beacon St., 1st Fl.  
Boston

## Reinvigorating the Vote

While the blogosphere, the mainstream media and much of our water-cooler chat fix on the upcoming election tally, this issue of Mass Dissent looks instead at the rules of the game. Who gets to vote, and whose vote counts? Not as simple a question as you might think. But a vital one.

**Brenda Wright** of Demos exposes how voter identification requirements disenfranchise many voters who don't have photo i.d.s, and are disproportionately from low-income communities and communities of color. And **John Bonifaz** of Voter Action warns that privatized electronic voting systems threaten the very integrity of the voting process.

Local efforts to expand access to the polls are described by **Avi Green** of MassVote, who writes about efforts to gain Election Day Registration, and **Lydia Lowe** of the Chinese Progressive Association, who discusses the struggle of Asian Americans in Massachusetts to obtain a bilingual ballot. Finally, in a Presidential election, voters in non-contested (solidly Republican or Democratic) states are generally taken for

granted by the campaigns and feel that their vote doesn't matter. **Pam Wilmot** of Common Cause shows how replacing the electoral college with a National Popular Vote – if enacted by enough states – could ensure that every vote counts.

Add to the above challenges a mainstream media concentrated in the hands of a few corporations, a corporate-sponsored presidential debate process negotiated between the two major parties, and the suffocating role of money in our campaigns, and you can begin to see the trouble our electoral system is in. So don't just vote in November, support the many efforts to ensure a meaningful vote for everyone. Take a look at the websites of the authors' organizations listed above. You can also check out the sites of Open Debates, ACORN, Public Campaign, Public Citizen and many other groups working on electoral and media democracy. To paraphrase Ben Franklin, democracy is only ours if we can keep it, and we've got a lot of work to do.

- *Bonnie Tenneriello* -

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**Join a Guild Committee**

**Street Law Clinic Project:** The Street Law Clinic project provides workshops for Massachusetts organizations that address legal needs of various communities. Legal education workshops on 4th Amendment Rights (Stop & Search), Landlord/Tenant Disputes, Workers' Rights, Civil Disobedience Defense, Bankruptcy Law, and Immigration Law are held at community organizations, youth centers, labor unions, shelters, and pre-release centers. If you are a Guild attorney, law student, or legal worker interested in leading a workshop, please contact the project at 617-723-4330 or nlgmass-slc@igc.org.

**Lawyer Referral Service Panel (LRS):** Members of the panel provide legal services at reasonable rates. Referral Service Administrative/Oversight Committee members: Neil Burns, Neil Berman, Joshua Goldstein, Jeremy Robin, and Azizah Yasin. For more information, contact the Referral Service Coordinator at 617-227-7008 or nlgmass@igc.org.

**"No to MBTA Searches":** Works in coalition with the American Arab Anti-Discrimination Committee, American Friends Service Committee and American Civil Liberties Union of Massachusetts to stop searches on the MBTA. If you would like to be involved in the campaign, either on its political or legal end, please call the office at 617-227-7335.

**Independent Civilian Review Board:** In coalition with the American Friends Service Committee and Greater Boston Civil Rights Coalition, the NLG has been pushing for the creation of an independent civilian board to review complaints against Boston police officers. To get involved in the campaign, please contact the office at 617-227-7335.

**NLG National Immigration Project:** Works to defend and extend the human and civil rights of all immigrants, both documented and undocumented. The Committee works in coalition with community groups to organize support for immigrant rights in the face of right-wing political attacks. Ongoing projects include asylum advocacy and the rights of immigrant minors. For more information contact the NLG National Immigration Project at 617-227-9727.

**NLG Military Law Task Force:** Provides legal advice and assistance to those in the military and to others, especially members of the GIRights Hotline, who are counseling military personnel on their rights. It also provides legal support and helps to find local legal referrals when needed. The MLTF and the Hotline exchange many questions and information through their listserves. Calls to the GIRights Hotline from phones in New England are handled from the AFSC office in Cambridge. To get involved, please contact Neil Berman (njberman2@juno.com) or Marguerite Helen (mugsm@mindspring.com).

**COALITIONS:**

**Jobs with Justice**, a coalition-based organization addressing workers' rights. The NLG is a member of Jobs with Justice; any interested Guild members can attend meetings & events.

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# GUILD NEWS

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## NLG HAPPY HOUR

The NLG Massachusetts Chapter's Happy Hour - for Guild members and non-Guild members - takes place on the **2nd Wednesday of every month, 5:30 - 7:30pm, at Kennedy's Mid-Town Pub** (44 Province St., 2nd Fl., Boston, close to Suffolk Law School). We hope you will join us for the next NLG Happy Hour on **November 12th** - and bring friends!

## HOLIDAY PARTY

This year's NLG Holiday Party will be held on **Friday, December 5, 5:30pm**. We will again be hosted by **Stern Shapiro Weissberg and Garin** at 90 Canal St., 5th Fl., in Boston. Among attractions, we will offer fantastic snacks and wine, and you will have a chance to win exciting prizes at the raffle drawing. Please join us. (If you have questions, please call the office at 617-227-7335.)

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## Street Law Clinic Report

*The following Guild members conducted trainings for law students and/or clinics for members of Boston area community organizations and agencies:*

**October 1:** *Foreclosure Forum Meeting* - Guild members **Jeff Feuer, Lee Goldstein, and Lori Hill** attended a planning meeting with Boston City Councilors Chuck Turner and Charles Yancey, GBLS, and city agencies who provide foreclosure counseling.

**October 10:** *Foreclosure & Evictions* training at Suffolk Law School by **Nadine Cohen**.

**October 15:** *Foreclosure & Eviction Community Prevention Meeting* in Roxbury lead by **Nadine Cohen, Jeff Feuer, and Lee Goldstein**.

**October 21:** *Stop & Search* training at Northeastern School of Law, by **Carl Williams**.

**October 23:** *Stop & Search* training at New England School of Law, by **Benjamin Falkner**.

**October 24:** *Stop & Search* training at Suffolk Law School, by **David Nathanson**.

**October 27:** *Workers' Rights* training at Harvard Law School, by **Mark Stern**.

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## NLG STUDENT CHAPTERS

In October, NLG chapter at **Northeastern School of Law** held a presentation on "*Current Legal and Political Developments in Prisoners' Rights Cases*." The presentation was conducted by Guild members **Peter Berkowitz** and **Bonnie Tenneriello** and was part of the series on "Politics and Law".

### **THIS MONTH:**

NLG Chapter at **New England School of Law** sponsors a panel on immigration law reform with Guild members **Maureen O'Sullivan** and **Harvey Kaplan** who will be debating Mark Krikorian, the Director of the Center for Immigration Studies. Please attend.

**Friday, November 21, 1:00pm**  
**154 Stuart St., Cherry Room, 2nd Fl., Boston**

## GUILD MEMBERS IN ACTION

**Michael Avery's** new book, *We Dissent* will be out in December. It is a collection of essays about conservative civil liberties and civil rights cases from the Rehnquist Court (New York University Press).

**David Hoffman** was recently appointed to be the John H. Watson, Jr. Lecturer on Law at Harvard Law School to teach the Mediation course. David's law office, Boston Law Collaborative, LLC, celebrated its fifth anniversary last month.

**Robert Schwartz's** article "NLRB Limits Political Strikes" appeared in the October 2008 issue of Labor Notes. The article discusses a memorandum on work stoppages issued by the NLRB General Counsel that precipitated widespread walkouts by immigrant workers to attend May Day marches in 2006.

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## ARTICLES FOR MASS DISSENT

The December issue of *Mass Dissent* will review the Chapter's work in 2008.

If you are interested in submitting an article, essay, analysis, or art work (cartoons, pictures) related to the topic, please e-mail the articles to [nlgmass-director@igc.org](mailto:nlgmass-director@igc.org).

***The deadline for articles is November 15th.***

## 2008 MEMBERSHIP MEETING

Almost 30 members of the NLG Massachusetts Chapter attended the 2008 Membership Meeting in October. We started with a reception that served delicious (and quite healthy) snacks and very refreshing wine. After the reception we ran the meeting that included short reports about the Chapter's projects: **Kate Watkins** (Northeastern student) reported on the Street Law Clinic project, **Caroline Lorenz** - on the Lawyer Referral Service, **Jeff Feuer** - on the Foreclosure & Eviction Task

Force, and **Urszula Masny-Latos** - on the Mass Defense Committee; **Judy Somberg** presented the Chapter's financial reports, and chapter Co-chair **Neil Berman** encouraged members to join chapter committees and be more involved in our political work. Our guest speaker was Cynthia Mark, an attorney from GBLs who gave a very interesting and engaging presentation on "Asian American Voting Rights in Boston." Hope to see you at the next membership meeting.



Photos by Caroline Lorenz

(l.-r.) Marina Cramer and Carl Williams discussing the importance of law while David Kelston (c.) is enjoying his wine.



(l.-r.) Northeastern students Kate Watkins, Liza Hirsch, Liz Dedrick converse with Guild member Erin Medeiros.

## OCTOBER HAPPY HOUR

The October NLG Happy Hour was happy, indeed. Over two dozen of Guild members and potential members converged at Kennedy's Midtown, our new venue, and spent several hours engaging in political debates, socializing, drinking, and sampling tasty (free!) appetizers. Please join us for the next one on Nov. 12, 5:30pm.



Photo by Jennifer Berkshire

(l.-r.) Ashley Dunn (Harvard student), Caroline Lorenz, Lori Hill (Suffolk student), Laura Alfring, and Urszula Masny-Latos happy happy...

## NLG LEGAL OBSERVING



Photo by Judy Somberg

On October 11, 2008, the Guild provided four legal observers (Nora Carroll, Urszula Masny-Latos, Judy Somberg, and Carl Williams) to an anti-war rally in Boston. The fifth unofficial legal observer was Oscar "Oz" Raisler Cohn (above with his dad, Northeastern law student Josh Raisler Cohn). This was Oz's first legal observing, and he spent most of his time at the rally sleeping in his dad's arms.

## Voter ID: Keeping Democracy Safe from Nuns

by Brenda Wright

Imposing burdensome requirements for voter ID that must be presented at the polls has become one of the most potent tools for disenfranchisement to emerge in recent years. Strict requirements for government-issued photo identification, while doing nothing to protect the integrity of elections, threaten to bar thousands of eligible citizens from voting. In Indiana, the absurd results of the state's new photo ID requirement were on display in this year's presidential primary, when a dozen elderly nuns had to be turned away from voting. The pollworker was herself a sister at the convent where they all lived and knew all the would-be voters personally, but since the nuns didn't have drivers' licenses or passports, she was required to turn them away.

The nuns are not alone in being victimized by unnecessarily stringent ID requirements. According to the 2001 National Commission on Federal Election Reform, 6 to 10 percent of voting-age Americans have no driver's license or state-issued non-driver's photo identification card—approximately 11 to 20 million citizens.

Those who lack photo ID are disproportionately poor and urban residents, persons of color, the elderly, and the disabled, all communities that are less likely to hold current drivers' licenses or passports. A recent national survey by the Brennan Center found that twenty-five percent of African-American voting-age citizens have no current government-issued photo ID. When a photo ID requirement was pending before the Wisconsin legislature, a report by the University of Wisconsin-Milwaukee found that among

African-Americans in that state, only 45 percent of males and 51 percent of females had a valid drivers license. For Hispanics, only 54 percent of males and only 41 percent of females had a valid drivers license. Photo ID requirements for voting operate to disenfranchise the very communities that have had to work the hardest to gain the right to vote and to get people registered to vote.

Requirements for government-issued photo ID at the polls have rightly been termed a modern poll tax, because the documents that are necessary to obtain such IDs—such as a birth certificate—are often expensive and difficult to obtain. In Massachusetts, a birth certificate costs anywhere from \$18 (if you are able to go in person to the registry to request it) to \$42.50 (if you order it by phone). And some U.S. citizens—such as Native Americans born on reservations and elderly persons who may not have been born in hospitals—don't have birth certificates and can't get one at any cost. A passport costs even more, generally \$100 for an adult.

Legal challenges to strict ID laws have been mounted in several states, but the U.S. Supreme Court set back these efforts when it rejected a facial challenge to Indiana's voter ID law last term in *Crawford v. Marion County Election Board*. The Court accepted Indiana's argument that its stringent requirements for government-issued photo ID were necessary to combat voter fraud even though the state was unable to point to even one instance of voter-impersonation fraud at the polls that had ever taken place in Indiana elections.

Indeed, all available evidence demonstrates that voter impersonation fraud is a vanishingly rare event that cannot remotely justify

the disenfranchisement of fully eligible citizens caused by strict voter ID requirements. Impersonating a voter or registering when ineligible is already a felony in most states; in Massachusetts, it is a felony punishable by up to five years in jail and a \$10,000 fine. (56 MA ST. §§ 8, 26). It is also a federal crime to commit voter fraud in a federal election. Everyone who registers to vote must swear, under penalty of perjury on top of all the other penalties, that he or she is an eligible U.S. citizen. An extensive analysis of the extent of election fraud, published by Demos, found that voter fraud is exceedingly rare, that safeguards to prevent fraud are already in place, and that the rare instances of individual voter fraud have minimal impact on election outcomes. Further, while some 200 million votes were cast in federal elections from 2002 to 2005, U.S. Justice Department statistics show that only 24 individuals have been convicted of illegal voting—and virtually none for offenses that would have been prevented by a photo ID requirement. You are literally more likely to be struck by lightning on your way to the polls than to commit voter fraud once you arrive there.

In the wake of the Supreme Court's *Crawford* decision, the battle is moving to state legislatures where numerous bills have been introduced seeking to impose photo ID requirements for voting. Strong advocacy is needed to help the public understand that strict photo ID requirements will block thousands of legitimate votes for the one, rare fraudulent ballot—a bad bargain for democracy.

*Brenda Wright is the Legal Director of the Democracy Program of Demos.*

# The Danger of Outsourcing Elections

by John Bonifaz

Since the 2000 presidential election that was decided by the Supreme Court's decision in *Bush v. Gore*, we have seen an alarming increase in the influence and control of private companies over our elections. In a rush to respond to what happened in Florida, the U.S. Congress passed the Help America Vote Act (HAVA) in 2002. HAVA has provided more than three billion public dollars to states across the country to upgrade their voting systems. As a result, a small handful of private companies (including, but not limited to, The Election Systems & Software Company, Diebold Election Systems, now known as Premier Election Solutions, and Sequoia Voting Systems) have gained enormous profit and influence marketing their electronic voting systems to states and municipalities as the answer to the "hanging chad" fiasco in Florida.

There's only one problem. The electronic voting machines do not work. They are unreliable and insecure, and pose a serious threat to the integrity of our elections. A growing body of evidence, including two separate studies commissioned by the California and Ohio Secretaries of State, demonstrates that these machines are fundamentally flawed for counting and recording our votes. As a result, some states have shifted to a system of paper ballots with optical scan machines. In addition, voters with disabilities are increasingly using non-tabulating ballot marking devices that allow them to vote in an independent and private manner. But more than 30 states still use electronic voting machines.

These machines have turned the election disaster of 2000 into something exponentially worse.

I saw firsthand the dangers of these machines as lead counsel for a coalition of candidates and voters seeking a full and meaningful recount of the 2004 presidential election in Ohio. There was no way to conduct a recount in the Ohio jurisdictions that had used electronic voting machines. There were no paper ballots from which to derive voter intent. We were simply told to trust the machine as it reported again its original tally.

The threat of election privatization raises a fundamental question: Who owns our vote? The danger of electronic voting is best illustrated by the 2006 congressional election in Sarasota County, Florida. In that hotly contested race for Florida's 13th congressional district, 400 votes separated the declared winner, Republican candidate Vern Buchanan, from the Democratic candidate, Christine Jennings. However, 18,000 votes were lost by the electronic voting machines. Jennings filed a lawsuit contesting the outcome of the election, and a group of Florida voters filed a separate suit. [Voter Action, the organization for which I work, helped to bring the voters' case, with other public-interest organizations, and served as co-counsel in the litigation.] Jennings and the voters independently sought the source code, other key software, and the machines themselves in their investigation of the disappearance of nearly twenty thousand votes. The Election Systems & Software Company, which had manufactured the electronic voting machines in question, argued that neither Jennings nor the vot-

ers had a right to the requested materials on the grounds that they constituted trade secrets. The Florida courts agreed, allowing the alleged proprietary rights of a private company to trump election integrity and the right to vote. In other words, the election was ultimately under private control.

Electronic vote counting is part of a broader trend in the outsourcing of key election functions to private vendors. Many jurisdictions have privatized electronic poll books and voter registration databases to determine whether people are eligible to vote. In the Georgia presidential primary on February 5, 2008, numerous voters reported that electronic poll books, made by Premier Election Solutions, were crashing and inoperable, leading to long lines and citizens leaving polling sites without casting ballots. In the New Mexico Democratic presidential caucus that same day, a flawed voter registration database prepared for the state by the Elections Systems & Software Company led to thousands of voters casting provisional ballots when their names did not appear on the voting rolls. Voters in other states have reported similar problems using these systems.

*(This article was excerpted from a longer essay in Rebooting America, a collection of essays on the challenges and solutions to strengthening democracy in the 21st century that is available at <http://rebooting.personaldemocracy.com/>.)*

*John Bonifaz is the founder of the National Voting Rights Institute and the Legal Director of Voter Action, a national legal advocacy and public education center dedicated to fighting for election integrity throughout the U.S.*

# *Let Them Vote!*

## *The Need for Election Day Registration*

by *Avi Green*

**B**y all rights, this should be the year that citizens in Massachusetts who are new to the state, just turned 18, just earned their citizenship, or have recently changed addresses could simply walk into their polling place on Election Day, show identification, fill out a short form to register to vote – and vote – all at once.

There is simply no good reason for which Massachusetts and other states do not join the ranks of Maine, Minnesota, Wisconsin and New Hampshire – four states with the highest voter turnouts cycle after cycle – in allowing Election Day Registration (EDR). With the most excitement about a presidential race in memory, and with the expectation that younger voters, African American voters and new citizens are especially driven to participate, it would be wonderful if Massachusetts went into November 4 with EDR in place to allow these new voters an easier time to make their voices heard.

Instead, this year we will see the same thing we do every election cycle – people will arrive at the polling place only to discover they are not registered and cannot vote.

No other step we can take will do so much to bring in new voters and increase turnout. In the eight states that have same-day registration, turnout is 10 percent higher than in states that make voters register before the election. The upside for Massachusetts is potentially huge. A team of New York University and Caltech professors working for the think tank

Demos estimate that Massachusetts would see between 200,000 and 300,000 additional voters if EDR is in place come November. And many of those new voters will be new citizens – just the people we want to become involved and active in the life of their new country.

It is unfortunate that EDR did not pass the legislature over the summer, because the pieces were in place to make 2008 the first year for EDR. The good news? A coalition seems to be forming that can put enough pressure on the Legislature to make EDR a reality by 2010. Secretary of State William Galvin – whose office oversees elections – has endorsed the measure. So, too, have Gov. Deval Patrick, Boston Mayor Thomas M. Menino and voting rights groups like Common Cause and the League of Women Voters. The arguments against same day registration are increasingly being shown as hollow, driven more by partisan agendas and xenophobia than reality. Critics are concerned that same-day registration could lead to confusion at the polls or open up the potential for fraudulent voting. Neither concern has been borne out in states with same day registration. In the first instance, registration at the polling place is simple, straightforward and fast. On a per voter basis, states that have Election Day Registration spend no more on elections administration than we do – and often less.

Maintaining the integrity of the voter rolls is a critical task. But as Wisconsin Secretary of State Mark Ritchie has pointed out: What is more likely to lead to fraud, the current registration by post card, or registration in per-

son, face-to-face, with a photo ID? Those who wish to use same day registration will be U.S. citizens armed with IDs that indicate where they live and who they are.

The need for Election Day Registration is pressing. On the news, we hear of would-be voters who will be thrown off the list in Michigan because their homes were foreclosed, so their current address no longer matches the address on their registration form. In Florida, people are being thrown from the rolls because the middle name on the license does not match the one in the state's voter registration database, possibly because an elections worker made a typo.

Let's be clear: these efforts to disenfranchise voters are a direct descendant of the Jim Crow laws that were used to prevent African Americans from voting. Election Day Registration is a civil rights protection. It provides an ultimate safeguard for the right to vote by allowing registration problems to be fixed on Election Day, so that every eligible citizen can vote.

Two key audiences – legislators, and city and town clerks – need to be told repeatedly over the year to come: Help us drive up turnout and push for EDR.

We're getting close. Please help us over this last hurdle.

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*Avi Green is the executive director of MassVOTE.*

## *Asian Americans Continue Fight for Bilingual Ballots*

by Lydia Lowe

**E**lderly Asian American voters packed the State House hearing room to demand equal voting rights before the Joint Committee on Election Laws on September 23. The Coalition for Asian American Voting Rights, involving over 30 local and statewide organizations, sought passage of H. 5083, a Home Rule Petition to extend fully bilingual ballots for Chinese and Vietnamese-speaking voters of Boston beyond 2008.

Chinese and Vietnamese bilingual ballots, established through the City of Boston's 2005 agreement with the U.S. Department of Justice (DOJ), are due to expire in December of this year. And Chinese-speaking voters already face difficulties at the polls this year, due to "bilingual ballots" in which everything except the candidates' names—the most important part of the ballot—appear in Chinese characters. After December 2008, there will be no Vietnamese or Chinese bilingual ballots unless the legislation is passed.

This spring, community members worked with Boston city councilors to file the Home Rule Petition. City councilor Sam Yoon, the lead sponsor of the petition, stressed the importance of ensuring that all citizens may vote freely and independently. Yoon stressed, "We simply cannot turn the clock back on Asian American voting rights."

"America is supposed to be about democracy and freedom," said Jing Wen Li, an elderly Chinatown permanent resident who has been active in organizing efforts but is not yet eligible to vote. "We're 70 or 80 years old—

why are we fighting so hard? We just want our basic equal rights."

Asian Americans have made significant strides in increasing political clout in recent years, and Chinatown has become one of Boston's most politically active neighborhoods. The bilingual ballot agreement itself resulted from increasingly active elderly citizens filing voting rights complaints as far back as 2003. With the City of Boston's launch of fully bilingual ballots in 2007, Chinatown's voter turnout rate surpassed the city-wide average for the first time.

But elderly Chinese-speakers complained in the September 2008 primary election that it was difficult to identify candidates with no Chinese names on the ballot. In heavily Chinese precincts, voters checked with campaigners outside the polls to locate the proper oval by "counting down" to identify their candidates of choice by their positions on the ballot.

Secretary of State William Galvin has publicly opposed inclusion of Chinese names on the ballot for the past year. While Galvin has stated that he opposes transliteration of candidate names because of the potential to confuse voters, he has refused numerous requests from Asian American voters and community leaders to discuss his concerns. Individual voter complaints, public information requests, and over 1600 letters sent to his office have gone completely unanswered.

DOJ sought clarification in US District Court last year on the question of whether the settlement agreement required transliteration, or a phonetic rendering using Chinese characters, of candidate names. The court refused to clarify the agreement's intent, and rejected the motion on juris-

dictional grounds, explicitly expressing no opinion on the merits of issues raised.

With the settlement agreement set to expire at the end of 2008, the Asian American community pursued legislation to extend bilingual ballots beyond 2008 and to explicitly require transliteration of candidate names to Chinese characters. The community won the City of Boston's unanimous passage of the Home Rule Petition to extend Chinese and Vietnamese bilingual ballots in May, but the bill sat unmoved in the House Committee on Rules throughout the remainder of this year's legislative session. The Joint Committee on Election Laws is expected to report on the bill in October. Even with a favorable report from the committee, passage would still be an uphill battle. Only "non-controversial matters" can be decided during one of the informal sessions that can be called through December of this year. Elderly voters, however, are determined to keep voting and advocating for their voting rights for as long as it takes

"If the bill doesn't pass this year, we'll be back next year," said Dan Xin Chen, an elderly woman who testified at the hearing last month. "And the year after that, and the year after that, until we win."

*To find out more about H. 5083 or how you can help, contact Lydia Lowe at 617-259-1503, the Coalition for Asian American Voting Rights, or Cynthia Mark of Greater Boston Legal Services (617-603-1720).*

*Lydia Lowe is the Executive Director of the Chinese Progressive Association.*

# *Let Every Vote Count: The Case for the National Popular Vote*

*by Pam Wilmot*

**J**ohn McCain and Barack Obama are airing campaign ads in just 15 states. Other than fundraising, campaign visits are restricted to those same states. And the list will only grow shorter as the campaign nears the finish line. In the 2004 election, nearly two-thirds of all advertising was done in just three states.

Unlike any other election in the country, what counts in a Presidential election is not obtaining the most votes. What counts is obtaining 270 electoral votes and that means winning a handful of battleground states like New Hampshire, Pennsylvania, Ohio, and the like. In those states, voters are equally balanced between Republicans and Democrats, so that a candidate has only to sway a very small number of votes to win a huge number of Electors. The vast majority of states, including Massachusetts, safely located in the win column of either Obama or McCain, are only bystanders in the race.

This strange system, unique in the world, suppresses voter participation rates to among the lowest in the world, encourages all sorts of partisan mischief in key swing states where victory rides on so few votes, and of course can result in a candidate with fewer votes being elected President. Four times in our history -- 2000, 1888, 1876, and 1824 -- the candidate who placed second in the popular vote has won the highest office in the nation. This blatantly undemocratic outcome is no longer an unlikely event. In five of the last twelve presidential elections, a shift of a

small number of votes in one or two states would have elected the second-place candidate.

Massachusetts and other states now have a new opportunity to make Presidential elections more democratic, equitable and fair by using powers given to the states by the framers of the Constitution to establish a true popular vote for President. We don't need to amend the Constitution, a virtual impossibility in these divisive times, when states can use this existing power to adopt a better system. Contrary to popular belief, the U.S. Constitution does not instruct the states on how to select presidential electors. Rather this is a power reserved for the states. States have used many different methods over the history of the nation to choose electors, including appointing them directly without an election at all. Massachusetts, for example, has changed its method of selecting presidential electors 10 times and even cancelled an election when legislators didn't like the selection the voters were likely to make.

To elect the President using the popular vote in all 50 states, the National Popular Vote plan utilizes another clause in the U.S. Constitution that enables states to enter into legally enforceable agreements, or interstate compacts. Thousands of compacts are currently in operation on a wide variety of subjects. Under the National Popular Vote plan, states would simply agree to give their electors to the winner of the popular vote in all 50 states, thereby guaranteeing the popular vote winner a supermajority in the Electoral College. The agreement would take effect only when

identical enabling legislation has been enacted by states collectively possessing a majority of the Electoral College — that is 270 of the 538 electoral votes, roughly equal to half of the population, and most likely around 25 states.

The National Popular Vote compact has already been signed into law in Maryland, Illinois, New Jersey, and Hawaii, a total of 50 electoral votes out of the 270 or more needed. It has also been passed by the California, Vermont, and Rhode Island legislatures but vetoed by their Republican Governors.

Here in Massachusetts, the plan passed overwhelmingly in both the House and the Senate largely along party lines in July. The bill has one more step to go before it goes to Governor Deval Patrick, who has said he will sign the bill.

The National Popular Vote compact is a constitutionally sound and practically realistic plan to enact a nationwide popular vote for the president, a goal consistently supported by more than 70% of Americans. In the most important election in the world, every vote should count equally, regardless of whether it is cast in Florida or in Massachusetts.

*For more information visit [www.nationalpopularvote.com](http://www.nationalpopularvote.com) or [www.commoncause.org/ma](http://www.commoncause.org/ma).*

*Pam Wilmot is Executive Director of Common Cause Massachusetts, an independent non-profit organization working for more open, accountable, and ethical government.*

## SNAPSHOTS FROM 2008 NATIONAL CONVENTION

The 2008 NLG Convention, held in October in Detroit, was a highly informative and inspiring event. Over 400 Guild members and friends from all over the country attended, plus several international delegations from Vietnam, Pakistan, Canada, and Japan. The program included presentations and discussions on the current economic and foreclosure crisis with scholars, activists, and legal professionals. Two NLG national projects - the National Immigration Project and the Police Accountability Project - conducted their annual CLE seminars which were very popular and well-attended.

In addition to intellectual stimulants - an abundance of workshops, panels, and plenaries, the Convention was also rich in "social" stimulants - receptions, parties, and a wonderful banquet. Here are three accounts from members of our Chapter who attended the Convention:

**Josh Raisler Cohn**, a Northeastern law student, reports: One workshop I attended was "Radical Economics for Radical Lawyers: Making a Living without Selling Your Soul," facilitated by Brenna and Ashley from the Portland, Oregon NLG chapter. The participants were predominantly new lawyers and law students, but there were some lawyers who have practiced for decades to add wisdom to the conversation. The conversation flowed through a variety of topics. We began by talking about how law school fosters a culture of entitlement around wealth for new lawyers and then brainstormed methods to reduce both costs of living.

We parsed the distinction between wealth and abundance and had a lively discussion of how to be part of creating abundance in our lives and communities without relying on the creation of unequal wealth. Many people contributed thoughts on whether lawyers should make more money than their clients and, if so, how much seems appropriate. The conversation wrapped up with an assessment of how as lawyers and legal workers we can share resources and information with each other in ways that keep the costs of running a legal practice lower.



(l.-r.) Chrisey Pardew and Josh Raisler Cohn (Northeastern) attend a workshop with their newborn son Oscar, next generation of Guilders.  
*Photo by Judy Somberg*

This workshop offered a space to make personal connections and ideas about areas of law that both have fee recovery and move us towards justice. The thoughtful dialogue it provoked is just one example of the many things the national convention has to offer.

**Judy Somberg reports:** One of the highlights of the convention for me was the plenary session on the mortgage foreclosure and economic crisis. There were two economists, both of whom were a bit dry, and then two dynamite lawyers, Vanessa Fluker and Jerry Goldberg, who work with an organization called Moratorium NOW! Coalition to Stop



Judy Somberg conducts her last Plenary as the NLG Executive Vice-President.  
*Photo by Urszula Masny-Latos*

Foreclosures and Evictions. The Coalition is demanding that the mayor declare a state of emergency in Detroit, the hardest hit city in the country -- it has an 18% home vacancy rate -- and formally apply to the governor of Michigan for a moratorium on evictions. They are also pressing for state-wide legislation enacting a two-year moratorium on evictions. As we are doing here in Massachusetts, the Coalition is holding demonstrations, blocking evictions, providing legal advice and representation, and protesting foreclosures. The two lawyers were inspiring speakers and drew standing ovations.



Lori Hill (Suffolk law student, 1st left) and Howard Friedman (back right) taking notes at a Mass Defense workshop.  
*Photo by Urszula Masny-Latos*

## NLG Massachusetts Chapter Sustainers

In the spring of 2003, the Massachusetts Chapter of the NLG initiated the Chapter Sustainer Program.

Since its inception, the Program has been very successful and has been enthusiastically joined by the following Guild members:

**Adkins, Kelston & Zavez • Jane Alper • Michael Avery • Samuel Berk • Howard Cooper • Andrew Cornell & Shelley Kroll • Melinda Drew & Jeff Feuer • Howard Friedman • Benjie Hiller • David Hoffman • Stephen Hrones • Martin Kantrovitz • David Kelston • Leslee Klein & Mark Stern • William Newman • Petrucelly, Nadler & Norris • Allan Rodgers • Martin Rosenthal • Sharryn Ross • Anne Sills & Howard Silverman • Ira Sills • Judy Somberg • Stern, Shapiro, Weissberg & Garin**

The Sustainer Program is one of the most important initiatives the Chapter has undertaken to secure its future existence. Please consider joining the Program and strengthen the Guild.

### YES, INCLUDE MY NAME AMONG NLG MASSACHUSETTS CHAPTER SUSTAINERS!

I, \_\_\_\_\_, am making a commitment to support the Massachusetts Chapter of the Guild with an annual contribution of:

\_\_\_\_\_ \$500 (not including my membership dues)

\$ \_\_\_\_\_ (other above \$500)

**As a sustainer I will receive:**

- special listing in the Dinner Program;
- 1/8 page ad in the Dinner Program;
- acknowledgement in every issue of *Mass Dissent*;
- two (2) free raffle tickets for a Holiday Party raffle;
- invitation to a Guild reception.

*Please mail to:* NLG, Massachusetts Chapter  
14 Beacon St., Suite 407, Boston, MA 02108

## NLG 2008 Convention

*Continued from page 10*

**Carl Williams reports:** I just returned from the 2008 National Lawyers Guild "Law for the People" National Convention in Detroit. As usual, it was an inspiring event that rededicated me to the work that we do on a day-to-day basis. For me the highlight of the convention came not inside the Renaissance Center where the Convention was held, but outside. At a dive, PJ Lager House on Michigan Ave., I got a chance to meet Steve Bingham, a long time Guild member from San Francisco. Over a burger and beer,

### TWO GRANTS AWARDED TO THE CHAPTER

We are proud to announce that the Street Law Clinic project of the NLG Massachusetts Chapter has been awarded two grants for its work in 2009:

The **Massachusetts Bar Foundation** has awarded SLC \$20,000 to continue conducting legal clinics to the poor and disenchanted residents of Massachusetts, and the **Boston Bar Foundation** has awarded the project \$15,000 for the new Foreclosure & Eviction Task Force and the new SLC Pro-Bono Advice service. Thank you.



(l.-r.) Lori Hill, Caroline Lorenz, Urszula Masny-Latos, and Howard Friedman celebrating the Guild at the banquet.

Steve told me and a group of Cornell law students - Chris Williams, Michael Siegel and Alex Stone Thorpe - of his representation of legendary Black Panther George Jackson, and how the government prosecuted him due to his relationship with his client.

It is precisely this kind of interaction (aside from the panels and workshops) that makes the Guild the organization that I am proud to be a part of. Therefore if you missed Detroit in '08, make sure to see us in Seattle in '09.

# Mass Dissent

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## The National Lawyers Guild is...



" ... an association dedicated to the need for basic change in the structure of our political and economic system. We seek to unite the lawyers, law students, legal workers and jailhouse lawyers of America in an organization which shall function as an effective political and social force in the service of people, to the end that human rights shall be regarded as more sacred than property interests. Our aim is to bring together all those who regard adjustments to new conditions as more important than the veneration of precedent; who recognize the importance of safeguarding and extending the rights of workers, women, farmers, and minority groups upon whom the welfare of the entire nation depends; who seek actively to eliminate racism; who work to maintain and protect our civil rights and liberties in the face of persistent attacks upon them; and who look upon the law as an instrument for the protection of the people, rather than for their repression."

*Preamble to the Constitution of the National Lawyers Guild, originally adopted February 22, 1937, and most recently amended in July 1971.*

## Please Join Us!

Dues are calculated on a calendar year basis (Jan.1-Dec.31) according to your income\*:

Jailhouse Lawyers . . . . .	Free
Law Students . . . . .	\$25
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over \$20,000 to \$25,000 . . . . .	\$75
over \$25,000 to \$30,000 . . . . .	\$100
over \$30,000 to \$40,000 . . . . .	\$150
over \$40,000 to \$50,000 . . . . .	\$200
over \$50,000 to \$60,000 . . . . .	\$250
over \$60,000 to \$70,000 . . . . .	\$300
over \$70,000 to \$80,000 . . . . .	\$350
over \$80,000 to \$90,000 . . . . .	\$400
over \$100,000 . . . . .	\$500

\* Any **new** member who joins after September 1 will be carried over to the following year. Dues may be paid in full or in quarterly installments. Dues of \$80 cover the basic membership costs, which include publication and mailing of *Mass Dissent* (the Chapter's monthly newsletter), national and regional dues, and the office and staff.

*No one will be denied membership because of inability to pay.*

*Fill out and send to:*  
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**I am interested in working on the following projects:**  
 Lawyer Referral Service  
 Street Law Clinic  
 Mass Defense Committee  
 *Mass Dissent* (monthly publication)  
 National Immigration Project