## USLP To Appeal Dismissal of N.Y. Fraudo Monto Prado Proposition Proposition

for the U.S. Labor Party presented airtight evidence that NEW YARK, Specalo (NSUSS) necollowing totateavs as responsible for the velting of high abatter convertings as Nov. 2 presidential election, Judge Jacob Mysher of the Eastern District of New York this afternoon dismissed a joint Labor Party-GOP-Conservative petition for a temporary restraining order against certification of the state's 'Il president a electors and dismissed from court the plaintiff's idim act on the overtheth results of the Nove balloting.

During the course of the hearing the Easter Party see

forth evidence that have ast 138,000 votes had been fraudulently case in six of the three largest cities, including the New York metropolitan area. (1) (2) Mishler accepted the methodiof statistical verification; however chose to rule against the USEP will be grounds that the statistical sample, including be bery but, of New York's registered waters, was insufficiently (haprasent ative. Mishier's 144 page decision also of the shat ho evidence was the formand to prove change for the change for the carrier to the carrier which the change of the Mishier This aspect of the Mishier This aspect of the Mishier This testimony given until by B Dolah the Binentor of New North City a Bourd of Bleations Her testimons included the fact that gloubs of Carter supporter was a skylight in as xolunteers to process voter registration posts and in

New York Engine of the heart less retailed post and in New York Engine of the heart less retailed to New York's Appellated Court for immediate appeal on Monday, Dec. 13. Vork metals largest cities and Monday, Dec. 13. Vork metals largest cities largest language week long procedular legicles and large week long procedular legicles and large week long procedular legicles.

by election officials rat the state and county level was broken today as the State Supreme Court issued an order to Wisconsin's Board of Elections to show cause why the court should not enforce a Labor Party request for a recount of the presidential ballots in that state's Nov. 2 elections. A hearing on the USLP's will of mandamus and the Supreme Court show cause order is scheduled for 1 pimit on Dec: 13; estebnial ballots in that state's Nov

Attorneys for the Labor Party, the GOP and the American Party are now preparing for full evidentiary hearings to begin tomorrow on the parties' joint petition to perimanently enjoin certification of Ohio's 27 presidential electors. The hearings will be held before Judge Joseph Kinnedry of the Southern Federal District Court of Office win also consider plaintiffs request that the tident appoint the commission to oversee a re-battering of the offic presidential contest. Federal District

Rep. Guy Vander Jagta (R-Mehylas also hooking allest "interesting diesplons" about whether Congress would balloting of the Chic presidential contest.

coons Shader Jagi (R Mich) is also looking into esting one dears' about whether Congress would

NEW YORK, D.C. Ansirio protowing the protowing of the college session, and about whether President Ford washing face washingron the webbered the college does meet Monday but some of these suits are not formally salped and that series Carter votes are not available for casting the Washelbern La reposition, serdov

Judge in N.Y. Vole FTA Od Valse PEPOET Denies Motion to Dismiss

NEW YORK SSC INSERF — Retery judge Jacob Mishler here today denied a motion to disthiss an historic charging massive vote fraud in the Nov. 2 New York by identity ect of prouval Verore the court by the U.S. Labor Party, the Rockland Court Conservative Party and vidual Republicans.

Labor Party, the Rockiand and order issued prior to and vindividual Republicans.

The amemoralidate of decision and order issued prior to this morning's Evidentiady bearing in Eastern District of Mary Vindige Machiner stated that it was clearly within the jurisdiction of the Rederal Court to protect the testing vote from dilution. The motion for dismissal had been filed by lawyers representing the defendants in the defendants in the lawyers representing the defendants in the lawyers representing the defendants in the lawyers are resenting the defendants in the lawyers. the case, Gov. Hugh Carey, the Boards of Elections of the State and City of New York and Betty Dolan of the City Board of Elections, and the Secretary of State of New

York.

Both Caree and Secretary of State Afthur Levitt has argued that "they were not proper parties to the suit" New autory meither is subject to statutory duties concern-Ming the registration of voters or the conduct of election." But as Judge Mishler argued: Since both play a part in are clearly proper parties and subject to the suit." Judge Wishier further dismissed an argument by the State Board of Elections that as a "state agency it is immune from the suit, stating the granting of equitable relief premised directly upon the Constitution has long been a setfled practice accepted without discussion." The court further disagreed with the claim of the State Board of Election that are the had little if anything to do with the registration of votes and administration of electors. Court

In laying out the ground rules for the case. Judge Mishler stated: "The burden which plaintiffs must meet is a heavy one. Moreover, even if a claim is stated under this standard, plaintiffs bear an even heavier burden in demonstrating the necessity for a new election. In the present case, ordering a new election in New York State for President could involve the most serious consequences, raising the question of 'whether the relief, figiven, might not do more harm than good.' President-

consequences, raising the question of tall all a If given might pot do props have a thon good 'NSIPS and

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elect Carter's victory in New York will provide him with the margin of victory in the Electoral College, which meets on December 13, 1976, to complete the nation's quadrennial task of choosing a President. If New York's electors are disqualified from casting their ballots, and a new election in New York is necessary, possibly no candidate would receive sufficient votes in the Electoral College to be elected President. The delay attendant in holding a new election in New York might disrupt the governing process and leave the nation without a legitimate leader for an unpredictable length of time.

"The point, however," Judge Mishler continued, "is not that ordering a new Presidential election in New York State is beyond the equity jurisdiction of the federal courts. Protecting the integrity of elections — particularly Presidential contests — is essential to a free and democratic society. It is difficult to imagine a more damaging blow to public confidence in the electoral process than the election of a President whose margin of victory was provided by fraudulent registration or voting, ballot-stuffing or other illegal means... The fact that a national election might require judicial intervention, concomitantly implicating the interests of the entire nation, if anything, militates in favor of interpreting the equity jurisdiction of the federal courts to include challenges to Presidential elections.

"But before a federal court can responsibly order new elections," Judge Mishler stated, "the claimants seeking this extraordinary relief must come forward with the most clear and convincing evidence that state officials or persons acting under color of state law, by intentionally depriving qualified voters of the right to vote, altered the outcome of the election. A party contesting a Presidential election carries a heavy burden. Not to put too fine a point on it, this standard implies conduct of a most egregious nature, approximating criminal activity...

## Ohio Federal Judge Sets Final Evidentiary Hearing In Fraud Cases; Denies Temporary Restraining Order

NEW YORK, Dec. 9 (NSIPS) — Judge Joseph Kinneary of the Federal Southern District Court of Ohio today rendered a decision to hold a final evidentiary hearing on a Federal suit to set aside the outcome of the 1976 general election in Ohio. While Kinneary denied the plaintiffs in the suit — electors representing the U.S. Labor Party, the American Party and the Republican Party — their requested emergency relief of a Temporary Restraining Order, he has set the date for a final hearing: Saturday, Dec. 11 at 9:00 a.m. This will permit the opportunity to complete judicial relief prior to the meeting of the Electoral College Dec. 13.

In setting forth his denial of the Restraining Order, Judge Kinneary held that "The Court finds that certain irregularities did occur (in the general election) that cannot be condoned." However, Judge Kinneary raised doubts as to the conclusive nature of the evidence thus far presented, and therefore declined to grant emergency injunctive relief.

The plaintiffs are now making final preparations for the Dec. 11 hearing. On that occasion, Dr. George Bardwell is scheduled to present the scientific basis for statistical evidence which challenges the election results. Dr. Bardwell has just completed testimony in a similar court challenge in New York.

In the event that an appeal of the Dec. 11 decision is necessary, the plaintiffs will continue to pursue relief in the Sixth Circuit in Cincinnati. A precedent established in a 1960 case in Hawaii allows for electors to be disqualified or changed even after the meeting of the Electoral College.

## Ohio Secretary Of State Brown Announces Statewide Fraud Probe

COLUMBUS, Ohio, Dec. 8 (NSIPS) — In a statement released to the national press from his office here this morning, Ohio Secretary of State Ted Brown has announced that he will undertake a full investigation into possible fraud in Ohio's Nov. 2 presidential elections. The investigation could take up to two years and will include criminal indictments, sources at the state capital report. Brown has also announced that he will not certify Ohio's presidential and vice-presidential electors in the Nov. 2 contest pending a decision on the U.S. Labor Party's court request for a re-balloting of the Ohio election due to fraud, which was heard yesterday before Judge Kinneary of Ohio's Federal District Court.

Brown has appointed George Ferris, a former Ohio undersecretary of state to lead a team of investigators in the statewide probe, and will request 500,000 dollars in funding for the investigation from the State Board of Control. Anticipating possible stalling from this Democratic Party-controlled joint legislative body, Brown is also drafting a bill for the appropriation of 6 95,000 dollars in funding by the state legislature, which he estimates will be the full cost of the investigation.

Brown's decision follows his receipt of a letter urging action on the vote fraud signed by Republican Party State Representatives John Galbraith and Linda Carmel of Lucas County. The open letter to Brown, which attacked a Dec. 1 Lucas County Board of Elections meeting during which massive evidence of fraud documented by the U.S. Labor Party was summarily dismissed, was published today on the front page of the Toledo Blade.

The Associated Press and United Press International news services have placed Brown's announcement on their national news wires.

## Pennsylvania Filing

Also today in Pennsylvania, U.S. Labor Party lawyer John Bradley filed an appeal with the State Supreme Court to overturn a Dec. 3 low court decision requiring the USLP to file a 50,000 dollar bond to cover "possible investigative expenses" in party allegations that fraud was carried out under Pennsylvania's post-card voter registration law. The Labor Party's constitutional challenge of the post-card law was dismissed by the Court when the party failed to meet the bond requirement.