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07-17-2026
CIRCUIT COURT
DANE COUNTY, WI
2025CV001438

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

UNITED WISCONSIN, et al.,

Plaintiffs,

v.

Case No. 2025-CV-1438

WISCONSIN ELECTIONS COMMISSION,

Defendant.

**NON-PARTY AMICUS BRIEF OF PROFESSORS PETER ARGERSINGER, DALE BAUM,
COREY BROOKS, COLIN GORDON, IRA KATZNELSON, MICHAEL KAZIN, AND J.
MORGAN KOUSSER**

Amici curiae Professors Peter Argersinger, Dale Baum, Corey Brooks, Colin Gordon, Ira Katznelson, Michael Kazin, and J. Morgan Kousser are distinguished academic historians and scholars of American political and electoral history. Their research in political parties, ballot regulation, and fusion voting will provide the Court historical context relevant to assessing the structure and first principles of Wisconsin's electoral system.

Since the early 19th century, fusion voting has strengthened democracy by expanding political participation and enabling freer associations between major- and minor-party voters. Efforts to outlaw and discourage fusion voting only underscored these benefits; the restriction of voter choice to only two parties diminished the democratic process and party responsiveness. States where fusion voting still exists, most prominently New York and Connecticut, boast stronger and more representative democratic systems. And the national experience with fusion

corroborates Professor Lisa Disch's conclusions that Wisconsin politics embraced more representative democracy through cross-party coalition building from its statehood. And that fundamental cross-party coalition-building principle underlying Wisconsin's second constitutional convention and ratified constitution manifested through fusion voting.

ARGUMENT

Our research and scholarship confirm that cross-party coalition building was widespread and consequential when Wisconsin drafted and ratified its constitution. The historical record indicates that Wisconsin's constitutional drafters would have understood cross-party coalition building as a fundamental principle to maintenance of a free government.

I. Fusion Played a Crucial Role Nationally Throughout the 19th Century.

For nearly as long as the United States has had formal political parties, "third" or "minor" parties have leveraged their cross-nominations to support and elect competitive candidates. Howard A. Scarrow, *Duverger's Law, Fusion and the Decline of American "Third" Parties*, State Univ. of N.Y. (1986). In the 1840s and 1850s, when the two major parties either acquiesced in slavery's perpetuation or sought its expansion, the Liberty Party, Free Soil Party, and other antislavery minor parties used cross-nominations strategically to elect abolitionists at the state and federal level. This dynamic was not peripheral—it was historically foundational to the formation of the antislavery Republican Party as the new major party to replace the ambivalent Whig Party.

Fusion voting enabled many of the electoral successes recorded by minor parties later in the 19th century. From 1874 to 1892, such parties received at least 20% of the vote in one or more elections in more than half of the non-southern states based upon their cross-nominations. *See* Peter H. Argersinger, “A Place on the Ballot”: *Fusion Politics and Antifusion Laws*, 85 AM. HIST. REV. 287, 289 (Apr. 1980). As a result, in several states where the two major political parties competed on thin vote margins throughout this era, the minor parties played a critical role and held the balance of power. *Id.* (“Between 1878 and 1892 minor parties held the balance of power at least once in every state but Vermont, and from the mid-1880s they held that power in a majority of states in nearly every election.”). These minor parties and their social movements became consequential forces in important areas of public policy: economic development, governmental reform, and the political rights of African-Americans and the working class. Fusion voting permitted legislatures to secure long-lasting reforms in states such as North Carolina and Kansas, where different varieties of partisan polarization had previously prevented what would otherwise be majority-coalition candidates from occupying public office.

Cross-nominating’s ubiquity throughout 19th-century elections prevents an exhaustive accounting of the era. *See generally* Scarrow, *supra*. The following survey of fusion’s role in several states illustrates fusion’s national pervasiveness and importance, consistent with Professor Disch’s presentation of cross-party coalition building’s foundational role in Wisconsin.

A. New Jersey

More than one hundred candidates for elective office in 19th and early 20th centuries New Jersey received cross-nominations. Minor-party cross-nominations started in New Jersey as early as 1826, when congressional candidate George Holcombe ran on both the Democratic Party line and a minor-party line. *See* Bruce A. Bendler, *The Steam Mill and Jacksonian Politics*, 4 NJS: AN INTERDISCIPLINARY JOURNAL 41, 56 (2018). In 1856, just two years after the Republican Party's founding, two New Jersey congressmen were elected through a Republican-American Party fusion. *See* Michael J. Dubin, *United States Congressional Elections, 1788-1997*, 87, 176 (1998).

New Jersey's 1878 congressional elections highlight fusion's importance. In that election, as was often true during this political era, the Greenback Party (which focused on anti-monopoly, pro-labor policies such as non-gold-backed paper currency, an eight-hour workday, and union protections) mostly nominated Democratic candidates for office. The Democratic candidates whom the Greenbackers supported typically won, while those without that support lost. *Annual Returns of the General Elections of 1876-1884* (Camden, NJ: The Courier Publishing Association, 1885). Fusion voting proved critical in allowing voters to freely associate *and* actually impact election outcomes. Cross-nominations continued into the early 20th century. *See In re Malinowski*, 332 A.3d 755, 762 (N.J. Sup. Ct. 2025).

B. Pennsylvania

Pennsylvania's growing union movement in the early 1800s produced the Working Men's Party. *See* Helen L. Sumner, *Citizenship (1827-1833)*, History of

Labour in the United States 201 (1918). The party's zenith came in the 1828 elections, when it jointly nominated twenty-one candidates with the Jackson Democrats, all of whom were elected. *Id.* at 198. *Both* major parties tried to ally themselves with the Working Men's Party, which placed labor interests at the forefront of the elections. *Id.* at 199. At a time when land-ownership requirements barred many workers from running for office themselves, fusion allowed voters who supported the Working Men's Party platform to pursue their goals in elections otherwise limited to the two major competitive parties. *See id.* at 198; Robert J. Steinfeld, *Property and Suffrage in the Early American Republic*, 41 Stanford L. Rev. 335, 341–42 (1989) .

C. Iowa and Vermont

In the decades preceding the Civil War, minor parties committed to slavery's abolition used fusion to successfully champion their agenda despite long-standing complicity or antagonism from the two major parties, the Whigs and Democrats. Iowa and Vermont shared in the fusion experience that Wisconsin's abolitionist voters underwent.

In Iowa, the cross-nomination strategy of Whigs and antislavery advocates elevated slavery into a predominant electoral issue. After the Kansas-Nebraska Act was introduced, the Iowa Free Soil Party persuaded the Whig Party to nominate antislavery candidate James Grimes for governor, whom the Free Soil Party also cross-nominated. Free Soil support proved decisive: Grimes won narrowly, while Whigs and Free Soilers divided the anti-Democratic vote in down-ballot races where they ran separate, non-cross-nominated candidates. The success of cross-party fusion voting paved the way for a new major party—the Republicans—to emerge and better

represent the electorate's evolving views on slavery and other social issues. As governor, Grimes supported antislavery policies, and he later won reelection as a Republican in 1856. See *Muscatine Journal*, Mar. 10, 1854, Bloomington, IA.; Michael F. Holt, *The Rise and Fall of the American Whig Party* at 866–68 (1999); Robert R. Dykstra, *Bright Radical Star: Black Freedom and White Supremacy on the Hawkeye Frontier* at 116–17 (1993); William Salter, *The Life of James W. Grimes, governor of Iowa, 1854-1858; a senator of the United States, 1859-1869*, at 115–16 (1876).

In strongly antislavery Vermont, Free Democrats and Whigs nominated the same candidates for many offices in the 1854 elections, again in response to the Kansas-Nebraska Act. The Whig Party nominated Free Democrat Ryland Fletcher for lieutenant governor to win antislavery voters. Reciprocally, Free Democrats supported two Whig candidates in congressional races, while choosing their own non-cross-nominated candidate in a third congressional race. Fletcher received approximately 1,000 votes more than other statewide Whig candidates, demonstrating that cross-nomination facilitated support from voters with strong antislavery sentiment who did not otherwise support Whigs. Free Soilers could, in turn, view this as a victory for both the party and the cause. Fusion voting allowed Vermont Whigs to maintain control of state government while compelling them to adopt an antislavery agenda that had previously received little attention despite its popularity with voters there. As in Wisconsin and Iowa, fusion voting elevated the abolitionist cause so significantly that the Vermont Whig Party and the rest of the state's antislavery political community reconstituted themselves as the new Vermont

Republican Party. *See* Ryland Fletcher to John Porter (Chair of Vermont Whig State Committee), July 28, 1854, Burlington Free Press (Aug., 21, 1854); Montpelier Green Mountain Freeman (Sept. 14, 1854); Montpelier Daily Journal, (Oct. 14, 1854); Holt, *supra*, at 871–72, 940.

D. North Carolina

North Carolina's Populists-Republican alliance in the late 1800s and early 1900s helped defeat of the segregationist "Bourbon Democratic" machine. Without fusion, neither increased Black political participation and electoral success nor important policy reforms would have occurred. *See* Helen G. Edmonds, *The Negro and Fusion Politics in North Carolina, 1894–1901* at 218 (1951). The Populist-Republican fusion produced the highest turnout—85% for both white and Black voters—in a post-Reconstruction southern election, leading to education and economic reforms that benefited Black Americans. *See* J. Morgan Kousser, *The Shaping of Southern Politics: Suffrage Restriction and the Establishment of the One-Party South, 1880–1910* at 182–87 (1974); J. Morgan Kousser, *Progressivism for Middle-Class Whites Only: The Distribution of Taxation and Expenditures for Education in North Carolina, 1880–1910*, 46 J. S. HIST 169 (1980).

North Carolina's electoral fusion involved an alliance between local Populists—rooted in the Farmers' Alliance, which represented smallholding white farmers—and Republicans, whom many white voters were unwilling to support because of their identification as the party of Abraham Lincoln and Black voters. This coalition won control of state government in North Carolina's 1894 elections. *See* Edmonds, *supra*, at 37–38. The newly elected Populist-Republican legislature

immediately enacted laws addressing farmers' concerns, including lending reform, a school tax, and the designation of federal monies to deliver on the promise of four months' public school. It then further "crowned its achievements" with two rounds of election reform, first in 1895 and then again after another sweeping fusionist victory in 1897. *Id.* at 41. These new laws vindicated grassroots demands: the legislature was "[r]esponsive to their black and poor white core," and "put through a remarkably (small-d) democratic program." J. Morgan Kousser, *When African-Americans Were Republicans in North Carolina, The Target of Suppressive Laws Was Black Republicans. Now That They Are Democrats, The Target Is Black Democrats. The Constant is Race* at 10 (ACLU 2014).

Specifically, the legislature enacted electoral reforms to secure the voting rights of "tenant farmers, sharecroppers, [and] city workers, white and black." Edmonds, *supra*, at 70, 77. Reform began in 1895 with a wholesale repeal of the election laws of 1877, designed by Democrats to give themselves sole control over supervising elections and to suppress the votes of "unwary Negroes from 1876 to 1894" and those of "Populists from 1892 to 1894." *Id.* at 70. The fusion-elected alliance repealed such laws, including "intricate" voter registration requirements that Democrats employed to reject or even arrest voters on Election Day. The Populist-Republican fusion replaced such draconian laws that suppressed Black voting with laws that restricted voter challenges, which Democrats had used to deny registered voters at the polls.

The fusion-enabled alliance's election reforms prompted an increase of greater than 15,000 additional votes cast in the "Black counties" from 1892 to 1896, almost doubling the number of votes cast in those counties. *Id.* at 56. Indeed, North Carolina had "probably the fairest and most democratic election law in the post-Reconstruction South"—and it occurred only because fusion permitted two culturally distinct but politically aligned groups to set aside differences and meaningfully work together. Kousser, *The Shaping of Southern Politics*, *supra*, at 187.

Fusion victories "sent shock waves across the South. White men willing to join blacks in voting against white supremacist interests in a leading Redeemer state like North Carolina represented an existential threat to white supremacy everywhere—from Virginia to Louisiana." David Zucchino, *Wilmington's Lie: The Murderous Coup of 1898 and the Rise of White Supremacy* at 67 (2020). "[T]he 1890s political upheaval altered the status quo in North Carolina in unprecedented and profound ways." Richard A. Paschal, *Jim Crow in North Carolina: The Legislative Program from 1865 to 1920* at 76 (2021). Wilmington, the state's largest city, became "the leading majority-black city in the South." Democratic leaders "were appalled when black men took over positions previously held by whites in Wilmington—as aldermen, magistrates, deputy sheriffs, police officers, and registers of deeds." Black voters elected a white Fusionist mayor and police chief, and Fusionists "dominated city and county government." Zucchino, *Wilmington's Lie*, *supra*, at 68. In a violent backlash, plotters led by the editor of the state's leading newspaper and a future U.S. Senator conspired to end "what they called Negro rule and restore Democrats in the November

1898 elections.” To win, the Democrats “stuffed ballot boxes with Democratic votes and destroyed Republican ballots.” In the days after Fusionist rule was overthrown in November, 1898, white mobs, no longer restrained by Black and white Fusionist officials, massacred or exiled Wilmington’s Black leaders and burned Black areas of the city, a holocaust from which Black Wilmington did not recover for several generations. Zucchino, *Wilmington’s Lie*, 69, 174–75 and *passim*.

Wilmington’s experience encapsulates how electoral fusion strengthens representative democracy by enabling distinct parties and constituencies to build effective governing coalitions—and how partisan motives conspired to eradicate fusion’s successes. David S. Cecelski & Timothy B. Tyson eds., *Democracy Betrayed: The Wilmington Race Riot of 1898 and Its Legacy* (1998); Omar H. Ali, *In the Lion’s Mouth: Black Populism in the New South, 1886–1900*, at 1–3 (2010).

E. Kansas

Kansas Populists and Democrats used fusion strategically in the early 1890s to increase their power over “strictly local and state political matters.” Peter H. Argersinger, *The Limits of Agrarian Radicalism: Western Populism and American Politics* at 21, 105 (1995). The Populist-Democrat fusion arose in response to an increasingly dissatisfied farmer population, which did not see itself represented by either Democrats or Republicans. Due to economic downturns, farmers in Kansas began demanding reforms but were ignored by both major parties, both of whom were hostile to the interests of small landholders. See Jeffrey Ostler, *Why the Populist Party Was Strong in Kansas and Nebraska but Weak in Iowa*, 23 WESTERN HIST. Q. 451, 471 (1992).

The Populists' alliance with Democrats in 1897 gave the Populists a majority in both state legislative houses, allowing for the enactment of major reforms. These included "laws providing for railroad regulation, ballot reform, stockyard regulation, the creation of a state grain-inspection department, banking regulation, a school-textbook commission, taxation of deficiency judgments, regulation of life insurance companies, municipal ownership, antitrust legislation, conservation, and a series of labor protections . . . [such as] anti-blacklisting, . . . and improved health and safety conditions for miners." Argersinger, *Limits of Agrarian Radicalism*, *supra*, at 189. The Populists thrived in Kansas and neighboring Nebraska because fusion encouraged farmers to form an *independent* political party that could then align with major party candidates willing to represent their priorities.

II. In the Guise of Ballot Reform, Two-Party Entrenchment Usurped Fusion Voting.

The replacement of the "party ticket" system with the so-called "Australian Ballot" in the 1890s precipitated minor political parties' national decline. This was not a preordained result, however. Partisan motivations saddled ballot reform with laws entrenching two-party dominance.

The party-ticket system required voters to select their chosen party's ballot and deposit it in the ballot box. *Id.* at 157. By contrast, the Australian Ballot was a uniform, state-sponsored, state-regulated ballot used by all voters and listing all state-approved candidates. Its adoption was ostensibly intended to curb the "unsavory aspects" of elections, including corrupt practices such as vote-buying and

ballot-box stuffing seen in the fraudulent presidential elections of the 1880s.¹ *Id.* at 136. Although the Australian Ballot succeeded in that respect, the two major parties controlled the implementing state legislatures, and “those who controlled the state . . . [had] the power to structure the system in their own behalf, to frustrate or weaken their opponents, in a manner that would have astounded their predecessors and that was not only effective but by definition legal.” *Id.* Most states adopted threshold requirements that allowed nominees of political parties “securing a certain percentage of the total vote in the preceding election” to be listed on the ballot simply by filing a certificate of nomination. *Id.* at 159. That preferential access based on past performance “bestowed benefits on the major parties that were not immediately available to the frequent but evanescent third parties of the period.” *Id.*

The two major parties orchestrated dozens of states to pass laws either expressly or functionally prohibiting cross-nominations, putting minor-party “voters in a straightjacket”: they could either run a futile independent candidate or be co-opted into voting for the nearest major-party candidate, who might be unresponsive to their priorities. Argersinger, “*A Place on the Ballot*,” *supra*, at 292. These new state laws thwarted fusion by simply barring the listing of a candidate’s name “more than once” on the ballot. Many legislatures coupled the ban on multiple listings with a provision “requiring the candidate of two or more parties to be listed within the column of the party first filing nomination papers.” Argersinger, *Limits of Agrarian*

¹ Some scholars have observed that the Australian Ballot also had the intentional effect of making voting more difficult for illiterate voters, including newly free Black voters. See J. Morgan Kousser, *The Shaping of Southern Politics*, *supra*, at 54.

Radicalism, *supra*, at 139. This additional provision not only prevented fusion but also fostered “divisive competition” between parties that otherwise might have cross-endorsed and cooperated. *Id.*

These protectionist laws triggered a collapse of once viable third parties and the electoral competition they provided, thus restricting their voters’ associational rights. But these anti-fusion laws were not a necessary adjunct to implement ballot reform. A Republican lawmaker in Michigan conceded the partisan opportunism behind these unnecessary measures: “We don’t propose to let the Democrats make allies of the Populists, Prohibitionists, or any other party, and get up combination tickets against us. We can whip them single-handed, but don’t intend to fight all creation.” Argersinger, “*A Place on the Ballot*,” *supra*, at 296. Major-minor party cross-nominations had no bearing on the problems of party-ticket voting that ballot reform set out to address. Indeed, in eighteen states, the Australian Ballot reform operated successfully for years without any anti-fusion provisions. *See* Steven J. Rosenstone, Roy L. Behr & Edward H. Lazarus, *Third Parties in America* at 20 n.5 (2d ed. 1996).

Justice John B. Winslow contemporaneously documented the anti-fusion law’s partisan protectionist motivation and contravention of Wisconsin’s foundational principles of a free government. *See State ex rel. Runge v. Anderson*, 100 Wis. 523, 537–38, 76 N.W. 482 (1898) (Winslow, J., dissenting). Justice Winslow was no voice in the wilderness. The California Supreme Court, too, found the *Anderson* majority’s rationale legally hollow. *See Murphy v. Curry*, 70 P. 461, 483–84 (Cal. 1902). The

Murphy court declared anti-fusion bans “unjust, discriminating, and illegal” by desiring to “deprive” one political “party of the right to place the name of its nominee . . . upon the official ballot.” *Id.* at 484. “[I]n the ideal democracy, where intelligence is universal and knowledge widespread, the state, if it adopted the [Australian] ballot, would do no more than print the designation of the offices to be filled, leaving blank spaces for the voters, within which they could indicate the man or men of their choice.” *Id.* at 463. But because “the legislature, under the Australian ballot law, saw fit to recognize political parties as entities, and to circumscribe their spheres of action, it became its duty to treat all justly and impartially.” *Id.* The *Murphy* court concluded that only partisan protectionism could explain the anti-fusion ban:

Why, if it be the nominee’s right to have the information conveyed to the voters, and if it be the state’s duty to convey the information that he is the choice of one political party, should the law deprive him of the right to have the electors know that he is the choice of more than one party? The answer to this question will be found in what must have been the intent of the lawmakers,—to prevent the combination or fusion of two or more political parties by their selection in common of the same candidates.

Id. at 463. Because no one could show that fusion voting “is violative of the constitution of the United States or of [California], or is against public policy,” the anti-fusion ban constituted an unlawful attempt to “exercise illegal control over political parties and their nominees” that “aimed an unwarranted blow at a vital principle of our republican government.” *Id.* at 463–64.

III. Anti-Fusion Laws Have Had Serious Anti-Democratic Effects.

Anti-fusion laws suppress votes and entrench the less representative two-party system. For example, in 1897, amid an anti-fusion campaign in Iowa, one Populist

critic characterized the fusion ban as intending “to stifle [third-party] voters and either prevent [their] voting or divide them up into different parties, though they may agree.” Argersinger, *Limits of Agrarian Radicalism*, *supra*, at 142. Another underscored how running a fusion candidate under the “Democratic heading,” would suppress turnout by curtailing the Populist Party’s longevity: he predicted that it would “produce many ‘stay-at-home votes, as it wipes us out so that in the future we will have to get on the ballot by petition.” *Id.* at 150.

Oregon’s 1892 presidential race proved these critics correct. In that election, voters received differently configured ballots depending on whether they voted in counties under Democratic or Republican control. Democratic-controlled counties designed the ballot to facilitate fusion by twice listing the name of Nathan Pierce, a Democratic-Populist elector for Grover Cleveland, once on each of the two political party lines. In Republican counties, Pierce’s name appeared on the ballot only once, identified as a Populist-Democrat. The Republican ballot design thus forced Pierce supporters to support him as a Democrat, while the Democrat-designed ballots allowed both Populists and Democrats to vote for Pierce on the party line of their choice. In Democratic counties, Pierce received near-unanimous support from Populist voters and 92% of the Democratic vote. In counties with the Republican-designed ballots, 9% of the Populists withheld their votes, as did even higher numbers of Democrats. In those counties, Pierce barely edged out his Republican opponent. In short, the aggregated ballot design apparently suppressed approximately 5,000 Democrat and Populist votes. Argersinger, “*A Place on the Ballot*,” *supra*, at 294.

Anti-fusion laws also entrenched two-party dominance nationally. Following the 1896 presidential election, “when the possibility of defeat through a fusion of their opponents had thoroughly alarmed Republicans,” anti-fusion legislation spread rapidly throughout Republican-dominated legislatures. Argersinger, *Limits of Agrarian Radicalism*, *supra*, at 20. Once the political significance of anti-fusion laws “became evident in the 1893 and 1894 elections,” the “law became so widely adopted in other states—and so useful politically to the dominant party—that its provisions came to be seen *as logically necessary and unexceptionable*.” *Id.* at 161, 165 (emphasis added). Anti-fusion laws transformed a multi-party competitive political landscape where fusion with consequential minor parties was commonplace into one where the two major parties usually face no threat at the ballot box.

By ossifying a pure two-party system, anti-fusion laws diminished the “responsiveness of the party system to changing political circumstances.” Mark Kornblush, *Why America Stopped Voting: The Decline of Participatory Democracy and the Emergence of Modern American Politics* at 125 (2000). When voters must support one major party or the other to cast a meaningful vote, party incentives shift toward mobilizing core voters rather than adjusting priorities to reflect public sentiment. But when a minor party can offer a cross-nomination, major-party candidates have both an opportunity and an imperative to engage a broader swath of the electorate. As the 19th-century history teaches, the major parties largely neglected key public concerns—from slavery to monopolistic abuses—until voters formed new minor parties that prioritized those issues and conditioned cross-

nominations on candidate support. The historical lesson is clear: fusion voting in the United States facilitated a more robust political dynamic than exists without it.

IV. Modern Fusion Voting: New York and Connecticut as Models.

The persistence of electoral fusion resembling the 19th-century practice in New York and Connecticut proves that fusion still promotes the more representative and responsive democracy envisioned during Wisconsin's admission to the union.²

A. New York

New York's highest court repeatedly rebuffed attempts to ban fusion voting during the early 20th century as violative of the New York constitution. *See The Constitutionality of Anti-Fusion and Party-Raiding Statutes*, 7 Colum. L. Rev. 1207, 1211–12 (1947). While Democrats and Republicans remain New York's dominant political parties, influential minor parties have arisen at any given time. As voter preferences, key issues, and areas of major party neglect change over time, so too have the minor parties in the Empire State. These minor parties have often generated increased political activity, provided the margin of victory for many competitive candidates, and facilitated greater government responsiveness.

For instance, John F. Kennedy won New York's electoral votes (and thus the 1960 presidential election) with a margin of victory owing to the number of votes he received on the Liberal Party line. *See William R. Kirschner, Fusion and the Associational Rights of Minor Political Parties*, 95 COLUMBIA L. REV. 683, 683 n.2

² A few other states, such as California, New Hampshire, Vermont, and Oregon, either allow fusion in specific, limited circumstances or allow multiple nominations but prohibit parties from having their own lines on the ballot.

(1995). Similarly, in the 1993 New York City mayoral election, Republican nominee Rudolph Giuliani also ran on the Liberal Party line, and, as a result, prevailed in his election over incumbent mayor David Dinkins. *See* Melissa R. Michelson & Scott J. Susin, *What's in a Name: The Power of Fusion Politics in a Local Election* at 306 (2004).

B. Connecticut

Cross-nominations have routinely appeared on Connecticut ballots over the last few decades. In the early 1990s, a coalition of moderate Democrats, Republicans, and independents supported the formation of the politically moderate A Connecticut Party (“ACP”). *See* Kirk Johnson, *The 1990 Elections: Connecticut – Battle for Governor; Weicker Triumphs Narrowly as Loner in a 3-Way Race*, N.Y. Times (Nov. 7, 1990). The ACP cross-nominated a mix of Democratic and Republican candidates, and among the cross-nominated candidates who won was the Democratic Secretary of State Miles Rapoport, whose 127,000 ACP votes far exceeded his 2,700-vote margin of victory.

Although key ACP leaders’ retirements led to the party’s decline, the ACP mobilized meaningful support for a moderate “good government” agenda. But for the leadership vacuum, the ACP may have continued to grow and consolidate itself, as many predicted it would. *See* Andrew L. Yarrow, *Third Party Celebrates Its Second Year*, N.Y. Times (July 27, 1992).

More recently, the Independent Party of Connecticut has likewise used its cross-nomination to support moderates on both sides of the aisle. The Connecticut Working Families Party (WFP) was founded in 2002 by labor unions and activists,

and by 2008 it had become a qualified party with default ballot access statewide. *See* Bilal Sekou, “The New York and Connecticut Working Families Party,” in *Beyond Donkeys and Elephants: Minor Political Parties in Contemporary American Politics* (Richards Davis, ed.) (2020), at 108–09. In the close 2010 gubernatorial election, Democratic candidate Daniel Malloy received 26,308 votes on the WFP line, exceeding his margin of victory over Republican Tom Foley. *See* Alana Semuels, *Can the Working Families Party Keep Winning?*, *The Atlantic* (Aug. 15, 2016). Malloy subsequently pursued an aggressive reform agenda, including minimum-wage increases and a first-in-the-nation paid-sick-leave law. Although the WFP typically nominates Democratic candidates, it has also nominated philosophically aligned Republicans. *See* Brian Lockhart and Keila Torres Ocasio, *Working Families Party Claims Big Victory*, *C.T. Post* (Feb. 28, 2015); Sekou, *supra*, at 111. Fusion in Connecticut has thus brought new voices and new voters into the political process. *See* Sekou, *supra*, at 109.

New York and Connecticut’s contemporary fusion voting shows how alliances between and among various political parties preserve voters’ associational rights, facilitate a more dynamic and responsive political system, and still make all the difference even in modern elections.

CONCLUSION

These amici’s combined decades of political and historical research and scholarship uniformly confirm that fusion voting is not a historical footnote or anomaly but instead a foundational democratic practice—one that enabled voters and political parties to organize around shared principles, build majority coalitions, and

make government more responsive to public concerns that the dominant parties neglected. From Wisconsin's coalitional founding through the antislavery, Reform, Greenback, Labor, and Populist movements, cross-party coalition building, including cross-nomination practices, allowed minor parties and their voters to participate effectively without surrendering their political identities. New York and Connecticut illustrate that fusion continues to function beneficially in modern politics and within the Australian ballot system.

Wisconsin's 1897 anti-fusion law reversed that tradition. It did not merely regulate ballot form; it stripped minor parties of the ballot-line autonomy and electoral leverage that made coalition politics meaningful, entrenched two-party dominance, and burdened voters' ability to speak, associate, and cast an effective vote for the candidate of their choice. The historical record therefore reinforces Professor Disch's conclusion that cross-party coalition-building was a first principle of Wisconsin politics, and it supports Plaintiffs' constitutional claims that Wisconsin's fusion ban violates the guarantees of free government, equal political participation, political speech, and associational freedom protected by the Wisconsin Constitution.

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AXLEY LLP

Electronically signed by Zachariah J. Sibley

Zachariah J. Sibley, SBN 1116323

2 East Mifflin Street, Suite 200

Post Office Box 1767

Madison, WI 53701-1767

P: (608) 257-5661

F: (608) 257-5444

E-Mail: zsibley@axley.com