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(EDITOR: Please consider this Madison Op-Ed for the Commentary page or for broadcast as a guest editorial. Reprint permission is granted.)

FLORIDA GENERAL ELECTIONS: HOW MUCH CHOICE DO WE REALLY HAVE?

by Daniel F. Walker

In the 1952 case of *Alexander v. Booth*, the Florida Supreme Court stated, "The primary meaning of the word 'election' is choice; the act of choosing The word 'election' when standing alone is defined as the act of choosing; choice; the act of selecting one or more from others."

Unfortunately, when the issue turns to Florida general elections, "choice" is more a wonderful theory than a practice.

Some weeks ago the Republican Party crowed about fielding candidates for all 23 U.S. House seats in Florida, with the Democrats fielding candidates for 20 seats. The "non-choice" ratio of only 13 percent of Florida's U.S. House seats is, relatively speaking, good. But consider this: In November, the two major parties will field competing candidates for only 11 of the 20 State Senate seats to be filled, and for only 59 of the 120 State House seats to be

filled. For the 19 State Attorney races, the two major parties will field competing candidates in only four of them; the same ratio applies for the 19 Public Defender races.

Despite their substantial financial resources, millions of registered voters, and media visibility, the major parties in Florida are unwilling or unable to provide what voters would like in an election: ballot-qualified candidates vying with one another and offering competing policy choices.

Unfortunately, this year's general election is just another chapter in a continuing saga of Florida general elections replete with "take it or leave it" un-races to fill partisan public offices. Of the 1320 instances in which State House seats were filled from 1974 through the 1994 general elections, over 49 percent were captured by candidates with no opposition on the general election

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ballot. Of the 201 instances of U.S. House races during the same period, more than 30 percent had only one qualified candidate on the general election ballot. Of 147 instances in which State Senate seats were filled in general elections from 1984 through 1994, 42 percent were won by a sole major-party candidate with no ballot-qualified opponent.

When this happens—when voters only get "a choice of one" in a given race in a given general election—there is a substantive loss of the right to vote.

One could attribute this absence of choice to a general public satisfaction with the status quo. That theory does not jibe, however, with citizens' strong support for term limits and assorted constitutional initiatives designed to achieve objectives not championed by the legislature.

Why the absence of choices in general elections? Where are the independents, Libertarians, and others to fill the competitive void created by the two major parties?

Welcome to the arcane world of ballot-access law.

According to election-law expert Richard Winger, Florida is one of the most electorally anti-competitive states in America. In 1994, for example, an independent or minor party candidate for a statewide office would have had to submit more than 196,000 valid petition signatures just to be allowed on the general election ballot. In terms of number required, that's the highest petition burden in America. (The second most burdensome standard belongs to California—with more than twice as many registered voters and citizens as Florida.) For non-statewide offices (e.g., county commission), a minor-party or independent candidate must obtain petition signatures from at least three percent of the entire registered voter base in the

district of the office sought *and* pay a qualifying fee (if he or she has the funds to do so). By comparison, a Democrat or Republican candidate has no petitioning burden *unless* (s)he cannot pay the qualifying fee and even then must only obtain petition signatures from three percent of the registered voters of *his/her own party*—not the total registered voter base. A stacked deck? You bet.

Establishment politicians and commentators say that campaigns by alternative candidates "crowd" the ballots with "frivolous" choices, causing "voter confusion." Ah, yes—mush-minded Floridians who manage to choose among cereals, physicians, and automobiles might be "confused" with a choice of several candidates for public office. Why are voters presumed capable of discerning subtle and not-so-subtle differences among three, four or five candidates of the same party (at the primary stage), yet presumed "confused" at the general election upon finding a menu of several candidates from different parties?

How ironic. Most Democrats, who love anti-trust laws when one or two companies dominate a market, and most Republicans, who profess to be champions of competition and consumer choice, seem to be terribly anti-choice and protectionist regarding the political marketplace.

The Florida political pie is divided into two slices, one per major party. Voters too often are left with an empty pie tin.

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