

We have reviewed House Bill 1333 which places certain restrictions on the fundraising activities of the Democratic State Central Committee and have concluded that the bill raises serious constitutional problems in light of the Fourteenth Amendment's guarantee of equal protection of the laws.

Specifically, House Bill 1333 amends Maryland Code (1976 Repl. Vol.) Article 33, Section 11-1(b), which sets forth required provisions in the constitution and bylaws of all political parties by adding the following language:

"The constitution of the Democratic State Central Committee shall also contain a provision that no funds shall be solicited, raised, or expended by the State Democratic Party except in the name of the Democratic State Central Committee, and all money raised and all expenditures made by the Democratic State Central Committee shall be held and disbursed by the duly elected treasurer of the Democratic State Central Committee."

The latter requirement, viz. that Democratic State Central Committee expenditures be held and disbursed by its treasurer, is mere surplusage because Article 33, Section 26-4 and Section 26-6 impose such responsibilities on all political committees. However, the requirement that the Democratic party solicit, raise or expend funds only in the name of the Democratic State Central Committee is a new statutory obligation which is not imposed on the Republican State Central Committee or on any local central committee of either major party.

Pursuant to Article III, Sections 42 and 49 of the Maryland Constitution, the General Assembly has pervasive control over the conduct and regulation of elections, including the activities of political parties and party governing bodies. County Council v. Montgomery Association, 274 Md. 52, 60-62 (1975). However, no state can pass a law regulating political parties that violates the Fourteenth Amendment's command that "No state shall...deny to any person... the equal protection of the laws." Williams v. Rhodes, 393 U.S. 23 (1968).

We note that House Bill 1333, unlike other party regulating measures whose constitutionality has been sustained against an equal protection challenge, see Buckley v. Valeo, 424 U.S. 1 (1976) and Kenneweg v. Allegany County, 102 Md. 119 (1905),\* on its face purports to treat one party differently than another. We also should emphasize that political parties "enjoy a constitutionally protected right of political association," Cousins v. Wigoda, 419 U.S. 477, 487 (1975), and restrictions on fundraising can affect that