



Office of the Secretary of State
March Fong Eu

Executive Office
1200 J Street
Sacramento, California 95834

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January 29, 1992

Mr. Kent Smith
Green Party of California
1087 7th Street, #580
Sacramento, California 95814

Dear Kent:

We have received your letter dated January 27, 1992, regarding the apparent decision of the Green Party of California to disregard the provisions of Elections Code sections 9955 (designation of procedures for activities of newly qualified party) and 9956 (designation of procedures for conducting presidential primaries) and requesting that the Secretary of State accept provisions with respect to conducting the direct primary which are different than those prescribed by statute for qualified political parties. Please be advised that this office has no authority to disregard statutory provisions which are not, on their face, unconstitutional or which have not been declared to be unconstitutional by an appropriate court. To the extent that you are requesting the Secretary of State to ignore clear, presumptively constitutional statutory provisions and to invoke other provisions not provided for by law, we must respectfully decline your requests.

We are mindful, of course, of the Court's decision in Eu v. San Francisco County Democratic Central Committee (1989) 489 U.S. 214. In that decision, the Court held that the state's ban on primary endorsements by qualified political parties violated the First and Fourteenth Amendments' rights of free speech and association. The Court also held that state regulation of the internal affairs of political parties (dictating the organization and composition of governing bodies, limiting the term of office chairs, etc.) infringed upon constitutionally protected rights of association. We believe your requests, as outlined in your letter of January 28, 1992,