

Credentials of Contested Delegations at Democratic National Conventions

I. History

There have been contested delegations at Democratic National Conventions since the Party's second such gathering in 1836. The resolution of these controversies most often has been to seat both opposing groups and to split the state's vote between them. This was true as early as 1830 (Pa.) and as recently as 1960 (Pa.) and as recently as 1960 (P.R.) (For a summary of these contests up through 1960 see Appendix A.)

On several occasions the real issue has been over the rival candidates. In 1964 this may prove to be the case of the Alabama delegation (with one pledged to Governor Wallace and another to President Johnson). The case of Mississippi is, however, centered about the civil rights issue and is linked to the loyalty pledge controversy.

There have been several instances of defection of state party Democrats from the National party and the national ticket. The most famous occasion was of course in 1948 when several southern states, Mississippi among them, disassociated themselves from the national Democratic party nominees and supported states' rights candidates. The Democratic National Committee declared the seats of committeemen from Alabama, Louisiana, and Mississippi vacant in retaliation.

In 1952 the issue of loyalty came before the credentials subcommittee, appointed by the National Committee to act before the National Convention met. The "regular" delegates from Texas and Mississippi were challenged by rival delegations from those states and the "regular" delegates were asked by the subcommittee whether they would abide by and subscribe to the actions of the convention. They replied yes and were consequently recommended for seating on the temporary roll.

However, at the Convention, the issue was once again raised when the famous Moody (Blair Moody of Mich.) Loyalty oath was presented stipulating that "no delegate be seated unless he shall give assurance to the Credentials Committee that he will exert every honorable means available to him to support the nominees of this convention and bring about their election."¹ In part because several Southern delegations argued that state laws prohibited

¹Quoted in Abraham Holtzman. "The Loyalty Pledge Controversy in the Democratic Party," Case Studies in Practical Politics #20 (New York: McGraw Hill Book Co., 1960), p.3.

the assurances required by the resolution and they were 'bound' ("morally"-not legally) by state party resolutions not to make such commitments, the Credentials Committee amended the Moody Report to read "that for this convention, only, such assurance shall not be in contravention of the existing law of the State, nor of the previous instructions of the State Democratic governing bodies."² It is obvious, however, that the more important reason for this clear capitulatory action was to preserve party unity and to prevent a repetition of the 1948 episode. Although Virginia, Louisiana, and South Carolina were challenged over compliance with the requirements of the amended Moody Resolution (chiefly by Kefauver supporters who knew they would not get the votes of those states for their men anyway and had less to lose by their absence from the convention), the "regular" delegations from those three states were seated after evasive verbal pledges had been made by them and with the assistance of Stevenson backers in Illinois and Pennsylvania.³

Yet a number of Democratic Party officials in certain Southern states did not support the Stevenson-Sparkman ticket in 1952 and National Democratic Chairman Steve Mitchell sought to rectify this situation by having the Call to the Convention declare the state party responsible for placing on the ballot the convention's nominees or electors pledged to them under the State Democratic Party designation and label. The idea was that responsibility would be shifted from the convention's delegates, who were under no obligation to carry out this pledge, to state party officials who were under such an obligation.

What finally emerged after a series of meetings by the National Committee in 1955 and 1956 was a special annex to the Call of the Convention and which was later modified and accepted by the 1956 Convention as follows:⁴

The Democratic National Committee has adopted for consideration and ratification by the Democratic National Convention the following resolution:

Resolved, That it is the assumption and understanding that a state party, in selecting and certifying delegates to the Democratic National Convention, thereby undertakes to assure that voters in the State will have the opportunity to cast their election ballots for the Presidential and Vice-Presidential nominees

²Richard C. Bain. Convention Decisions and Voting Records (Washington: The Brookings Institution, 1960), p.289.

³See Paul T. David, Malcom Moos, and Ralph Boldman. Presidential Nominating Politics in 1952, Vol. I, "The National Story," (Baltimore: The Johns Hopkins Press, 1954), pp. 136-179 for an account of this event. The episode was an excellent illustration of how the issue of contested delegations became involved with the fortunes of the rival candidates at the Convention, in this case Kefauver and Stevenson.

selected by said Convention, and for electors pledged formally or in good conscience to the elction of these Presidential and Vice-Presidential nominees, under the Democratic Party label and designation, and this understanding shall be set forth in the calls to the Democratic National Conventions; and be it further

Resolved, That it is understood the delegates to the Democratic National Convention, when certified by a State Democratic Party, are bona fide Democrats who have the interests, welfare and success of the Democratic Party at heart, and will participate in the Convention in good faith, and therefore no further additional assurances shall be required of delegates to the Democratic Nation Convention in the absence of Credentials contests or challenges; and be it further

Resolved, That it is the duty of every member of the Democratic National Committee to declare affirmatively for the nominees of the Convention, and that his or her failure to do so shall be cause for the Democratic National Committee or its duly authorized subcommittee to declare affirmatively for the nominees of the Convention, and that his or her failure to do so shall be cause for the Democratic National Committee or its duly authorized subcommittee to declare his or her seat vacant.

In 1956 it was chiefly the second "Resolved" of the Convention Call which formed the basis for challenges of the credentials of the Mississippi and South Carolina delegations. The case against the loyalty of the two groups rested on four points:

- 1) That the "regulars" were not interested in furthering the cause of the nominees of the party.
- 2) That many delegates had participated in the Dixiecrat revolt of 1948 and/or had openly supported the Eisenhower - Nixon Republican ticket in 1952.
- 3) That the state party machinery in Mississippi at least, was in readiness to denounce the convention's nominees and that presidential electors were named who were not pledged to those candidates.

⁴Holtzmann, op. cit, pp. 17-18; 22.

- 4) That these delegates were not bona-fide Democrats who had "the interests, welfare and success of the Democratic Party at heart."

However, the contesting delegates did not challenge the legality of the delegates certified by the Democratic Party state officials of South Carolina and Mississippi and the absence of this charge gave the National Committee the necessary out by which it ruled that the official party delegations be placed upon the temporary list of delegates.⁵ This was challenged before the Convention's Credentials Committee. A representative of the Mississippi Democratic Party assured the Committee that their electors would support the Convention's nominees and the regulars from the contested states were seated.⁶

The 1960 Convention re-adopted the resolutions governing loyalty which had been accepted as part of the rules in 1956 and the National Committee intends to recommend their adoption for the 1964 Convention.⁷ In 1960 only the officials from Mississippi refused to comply with and sign the pledge. Following the Convention, Governor Ross Barnett recommended that Mississippi bolt the ticket and support a third party candidate for President. The Mississippi Democratic State Executive Committee voted to reconvene the State Convention which, on August 16, endorsed a slate of independent presidential electors. The word "Democratic" was retained on the title under which these electors were listed on the ballot. Kennedy-Johnson electors were also placed on the ballot but not under the State Party name and emblem. Mississippi's 8 electoral votes went to the independent slate which cast them for Senator Harry Byrd of Virginia.

II. The Case for the Mississippi Freedom Democratic Party. (See Appendix B)

III. Questions and Points for Consideration

- 1.. Can credentials be challenged through any other committee than that on Credentials? (Note Appendix A, 1856, when Committee on Arrangements handled the issue of credentials.)
2. Can the loyalty of the 1964 Mississippi delegation be contested on the basis of the action taken by the 1960 Mississippi Democrats and on the basis of the loyalty pledges extant in 1960? (See pages 4 6

⁵Proceedings, 1956 Democratic National Convention, pp. 818-827.

⁶The 1956 Convention passed a rule that delegates on the temporary roll of a convention were not to vote on their own credentials. Ibid., p. 146.

⁷U.S. Congress, Senate Library. Nomination and Election of the President and Vice-President of the United States including the Manner of Selecting Delegates to National Political Conventions (Washington: G.O.P., 1964), p. 28.

3. To what level has the challenge by the Mississippi Freedom Democratic Party been carried?

- A. As I understand it, the first opportunity to contest would be at a meeting of the National Committee which approves the temporary roll and then passes the roll to the Credentials Committee at the National Convention. Each state delegation must be certified at least 15 days before the meeting of the National Convention.

The Committee's Subcommittee on Credentials hears whatever contests exist, decides each contest temporarily in favor of one side or the other and makes up the temporary roll of the Convention. When the Convention meets all of these contests are referred without discussion to the Committee on Credentials. Neither Ex-Committeeman Judge David Rabinovitz or National Committeeman Pat Lucey have any information as to when the National Committee or its Sub-Committee on Credentials intend to hold hearings on convention delegations and approve a letter has been sent to Chairman John Bailey requesting this information as well as copies of the Proceedings of the 1960 Democratic National Convention and the Call to the 1964 Convention.

- B. A letter has been sent to the Mississippi Freedom Democratic Party

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requesting information concerning its activities and plans.

4. How do you plan to answer the Old Mississippi argument that their delegation should not be penalized because of actions taken by the State Party Convention or because the position of their delegation is circumscribed by state statute and/or custom? (For relevant statutes, see Appendix C) Moreover, can the 1964 delegates be charged personally and proven disloyal on the basis of Mississippi's disloyalty in 1960 and an anticipated situation in 1964? Does Steve Mitchell's formula of 1956 exclude the delegates from responsibility? (See pp. 3-4)
5. What other criterion besides "loyalty" does the National Committee and the Credentials Committee exercise to establish legitimate credentials? Procedure of selection? Adherence to statutes? (See Appendices B and C) The 1956 contesting delegations, it has been

noted (p. 5), did not question the legality of the selection of the delegates certified by Democratic State Party Officials.

- If the traditional Mississippi delegation is not seated, does it necessarily follow that the Mississippi Freedom Democratic Party delegates will be seated? What are the possibilities of both delegations being seated?

IV. EVALUATION

It would appear that the Mississippi case rests upon the two-fold criteria of (1) segregationist and discriminatory practices repugnant to the principles of the Democratic Party and of (2) the notorious disloyalty of the traditional Democratic Party of Mississippi to the National Party. The two elements are historically and organically related. However, historical precedent would seem to indicate that the case will win or lose on the latter criterion, unless some other matter is introduced into the situation. And here the question arises as to whether the rules regarding loyalty are in fact strong enough and clear enough to leave no doubt as to the legitimacy of the contest. Finally, the Mississippi Freedom Delegation must convince the Credentials Committee and the National Convention of the legitimacy of their credentials as opposed to those of the traditional party delegation.

APPENDIX A

Summary of Contested Delegations - Democratic National Conventions 1836 - 1956¹

<u>Year</u>	<u>State</u>	<u>Action</u>
1836	Pa.	Both delegations seated and split vote of the state.
1848	N.Y.	Both delegations appeared before Credentials Committee without voting rights. Both seated and split vote of the state.
1852	Ga.	"
1856	Mo.	Delegation seated which was originally approved by the Committee of Arrangements.
1860 (Charleston, S.C.)	N.Y.	Majority report of Credentials Committee approved, seating pro-Douglas delegation.
1864	Ky.	Both delegations seated and split vote of the state.
1868	Md.	Both delegations seated but contesting slate had no voting rights on the convention floor.
1880	Mass. N.Y.	Both delegations from Mass. seated and split vote of state. Only one faction from N.Y. was seated.
1896	Nebraska	Ruling by the Credentials Committee favoring contesting delegates reversed a decision by the National Committee.
1904	Ill.	Contesting delegation lost in a floor vote on credentials.

¹Adapted from Richard C. Bain. Convention Decisions and Voting Records (Wash. The Brookings Institution, 1960).

<u>Year</u>	<u>State</u>	<u>Decision</u>
1912	S.D.	Floor upheld delegation approved by the National Committee and defeated that substituted by the Credentials Committee.
1936	P.R. C.Z. Minn.	Both sets of delegations from each state seated and their votes were split.
1944	Tex.	Both delegations seated and split vote of state.
1952	Tex. Miss.	"Regular" delegation seated while contesting delegation lost out.
"	Va. La. S.C.	Delegation challenged over compliance with requirements of the Moody (Loyalty Oath) resolution. All, however, were seated following verbal pledges of support.
1956	Miss. S.C.	Delegation challenged over loyalty issue again. Ultimately seated after giving assurances of loyalty.
1960	P.R.	Both delegations seated and split vote of state. ²

²New York Times, July 12 and 13, 1960.

Appendix c

Mississippi Statutes Governing Delegates to National Conventions¹

Senate Bill #1522 (March 2, 1963), amending Mississippi Code, 1943, Recompiled #3107:

A state convention shall be held by each political party in the state, in the year 1964, and every four (4) years thereafter, at the time and place to be designated by the state executive committee in the year in which candidates for president and vice-president of the United States are elected, appropriate notice of which shall be given by said committee, to appoint delegates to the national convention, at the discretion of said State Convention, to select a state executive committee, to select one or more slates of presidential electors to be nominated as hereinafter provided, to nominate a candidate for president and vice-president of the United States, adopt a platform, promulgate principles, and take such further action deemed proper by the convention. And the said convention may adjourn from day to day, or to such times and place, or times and places, as it may appear proper and desirable. County delegates and their alternates shall be certified to the secretary of the state executive committee of said political party, and a roll call at the state convention of the county delegates and alternates and no other shall participate or vote in the state convention except county delegates or alternates so certified. It is expressly provided that the state convention shall not in any ways be limited in the nomination of candidates for president and vice-president by any nomination made by any other convention. Each county shall be entitled in the state convention to a number of votes equal to double the representation in the House of Representatives. The delegates are to be selected by county delegate conventions, to be held in each county. Delegates shall be apportioned equally among the supervisors' districts of each county, or each precinct in the county may be given representation in the county delegate convention in proportion to the votes cast at the preceding presidential election for its party candidates. The state executive committee, or the chairman thereof, shall designate date, giving at least ten (10) days' notice, for the precinct elections, on which date the electors at such precinct shall meet at ten o'clock A.M. at the usual voting places, and by secret ballot elect delegates to represent such voting precincts in the county convention. The county executive committee shall designate the

¹U.S. Congress, Senate Library. Nomination and Election of the President and Vice-President of the United States including the Manner of Selecting Delegates to National Political Conventions (Washington: G.O.P., 1964), pp.90-91.

number of delegates to be elected, and if it fails to designate a number each precinct will be entitled to one delegate in the county convention.

Laws 1948, ch. 309 (April 12, 1948), amending sections 3129 of the Mississippi Code, 1942:

No person shall be eligible to participate in any primary election unless he intends to support the nominations made in the primary in which he participates, has been in accord with the party holding such primary within the two preceding years, and is in accord with the statement of the principles of the party holding such primary, which principles shall have been declared by the State convention of the party holding the primary, and unless he is not excluded from such primary by any regulation of the State executive committee of the party holding such primary; provided, however that nothing herein is intended or shall ever be understood as applying to elections of President or Vice-President of the United States, wherein votes may be cast entirely without regard to party lines and without any penalty for so doing. Any member of the party holding such primary, or any primary election officer, may challenge any person offering to vote, and cause him to answer, under oath, and in writing if demanded by the challenger, questions relating to his qualifications and whether or not he is in accord with the principles of the party stated by the State convention of such party as hereinbefore provided.

Senate Bill #1522²

Sec. 3. At said state convention (see earlier excerpt from Senate Bill #1522), upon motion supported by ten per cent (10%) of the membership of said state convention, a slate of electors composed of the number of electors allotted to this state, which said electors announce a clearly expressed design and purpose to support the candidates for president and vice-president of the national political party which the said party of this state has had an affiliation and identity of purpose heretofore, shall be designated and selected for a place upon the primary election ballot to be held as herein provided.

Also upon motions supported by ten per cent (10%) of the membership of the state convention, a group of electors equal to the number of electors to which this state is entitled,

- which said electors announce a clearly expressed design and purpose not to support the candidates of the political party to which the said party of this state has had an affiliation and identity of purpose heretofore, or to be freed from

²Ibid., pp. 208-209.

any obligation to do so, shall be designated and selected for a place upon the ballot for the primary election to be held as herein provided.

Sec. 4 A primary election shall be held the first Tuesday in September in the year of the general election for president and vice-president, and the group of electors receiving the most votes at said election shall be placed upon the ballot in said general election as the electors of the said political party in this state, and no other group of electors shall be placed upon the said ballot as such electors of the said political party in this state.