

ADMINISTRATIVELY CONFIDENTIAL

June 9, 1976

MEMORANDUM FOR THE VICE PRESIDENT

FROM : Peter J. Wallison *PJW*

SUBJECT: Convention Matters

Problems for the President Ford Committee can arise in three areas prior to the balloting at the convention:

1. Rules - (a) Legally bound delegates.

As we discussed this morning, it is possible that a number of delegates who are legally bound by State law to vote for the President on the first or second ballots may ignore this legal requirement and vote for former Governor Reagan.

At the 1972 Democratic Convention, a dispute arose over whether a delegate slate under the control of Mayor Daley and elected in an Illinois primary would be seated in preference to a McGovern slate which was defeated in that primary.

The Courts of Illinois enjoined the insurgent slate from voting as delegates at the convention, but the convention voted to substitute the insurgent slate for the Daley delegates and the insurgent slate was seated and voted for McGovern.

After the convention, the issue was carried to the Supreme Court, which ruled that on questions relating to the seating of delegates the rules of the convention took precedence over the laws of any State.

At the 1976 Republican Convention, the issue is slightly different. The question is not



whether certain delegates should be seated, which is fundamentally a credentials question, but rather whether they are required under the rules of the convention to vote in accordance with the law of their respective States, or are free to vote as they wish. Although the question is different, it is not clear that the difference is legally significant, and that the Supreme Court would hold that State law governs the voting of delegates even though it does not govern the seating of a delegation.

The question could arise at the 1976 Republican Convention through a vote on a rule requiring delegates to vote in accordance with the requirements of their respective State laws. If such a rule is defeated, then the delegates would be free to vote as they wish, unless the Supreme Court has held that State law is paramount in this area.

Accordingly, the PFC's strategy must have two elements. The first is an effort to enjoin those delegates who wish to vote for Reagan from doing so, and to get the issue before the Supreme Court prior to the convention. The second is a program to win the fight for a rule which requires the delegates to vote in accordance with their State laws; this battle must be fought first in the Rules Committee of the convention, and then on the convention floor.

If the PFC wins either of these contests it can prevent the erosion of the President's support through the defection of legally bound delegates. If it loses both, the defection of legally bound delegates may be large enough to deny the President the nomination. Needless to say, delegates who are legally bound to vote for the President on the first or second ballot are not bound to vote in favor of rules which favor the President's nomination.

At the Maryland convention last week, there were open statements by at least three delegates that they were intending to vote for Reagan despite the requirement of State law that they vote for the President. There may be many more delegates in Maryland who will follow this lead.



In addition, there are indications that substantial numbers of delegates in North Carolina, Florida, Tennessee, and Kentucky may be following the same approach.

It is very important to begin now the development of a two-part program to deal with this threat. A well-known and respected lawyer should be retained immediately to start the legal research required to bring appropriate actions for injunctions in the States where this may be required to prevent defection among Ford delegates who are legally bound on the first ballot.

In addition, the first priority of the PFC's delegate operation should be to identify all delegates who might be likely to support Reagan despite the requirements of State law. These delegates should be approached individually and made to understand what effect their actions would have on the future of the Party.

Finally, the membership of the Convention Rules Committee should be reviewed and assessed to assure that an appropriate rule comes to the floor of the convention which requires delegates who are legally bound to do so to vote in favor of President Ford on the first or second ballot. Although a vote of the convention will ultimately decide this dispute, a favorable report from the Rules Committee will carry a great deal of weight, especially if it is couched in terms of obedience to the law.

At the moment, it appears that the Reagan forces may be able to secure working control of the convention's committees, including Rules.

I spoke to Jack Wells today about lawyers who might be able to handle this matter for the PFC. Jack did not think that Bill Miller had the stature or resources to do the job. However, he thought that Dick Ogilvie, whom he does not know well, might be the best bet as the leader of this task force. Ogilvie has recently joined a sizeable Chicago law firm and as a former Governor he would be impressive to delegates in meetings.



Wells also recommended, as a technician but not as the leader of the task force, a lawyer in Washington by the name of F. Trowbridge vom Bauer. vom Bauer is the senior partner of his firm, and was the lawyer in charge of the Taft effort at the 1952 convention. Wells thinks vom Bauer is very capable.

(b) Apportionment of delegates to 1980 convention.

Another issue involving convention rules may cause problems for the PFC. In 1972, over the objection of the large urban states, the Republican Convention adopted a formula for the apportionment of delegates to the 1976 convention which favored the small states.

This year, the Reagan people could propose another rule which is even more favorable to the small states and would be applicable to the 1980 convention. If the President's supporters oppose this new rule, they might lose a substantial number of delegates in the small states. On the other hand, if they support the new rule, they might lose delegates in the larger urban states which are already under-represented at the convention.

As you know, disputes over these procedural matters frequently convince undecided delegates to favor one nominee over another, and given the fact that a large number of the delegates at the convention will be emotionally (as distinguished from politically or legally) committed to Reagan, a bitter fight on this issue might benefit Reagan substantially in the balloting for the nomination.

2. Platform.

You asked for a list of those platform issues which might be especially divisive at the convention. I would guess that the Reagan forces will try to have planks adopted on:

Abortion
Equal Rights Amendment
Busing
Panama Canal
Detente
Capital Punishment
Gun Control



Any one of these issues would be likely to reveal the convention as far more "conservative" than the President, and if the President opposes the right wing wording which will be chosen for these planks he may lose additional delegates.

Although the platform will ultimately be adopted by the convention as a whole, the recommendations of the Platform Committee will be very important, especially in matters of wording.

Although Bob Ray is Chairman of the Platform Committee it may well be that the Reagan forces will have working control. The President Ford Committee should have a plan for dealing with divisive platform proposals.

CC: S. Herter
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