

POLITICAL COMMITTEES: State Central Committees – Congressional District organizations.

The provisions of Act 249, P.A. 1963, apportioning the state of Michigan into 19 congressional districts, are prospective in operation. Members of the State Central Committees of the respective parties selected in February, 1963, being otherwise qualified, are entitled under present statutes to serve until their successors are elected in the spring of 1965.

Act 249, P.A. 1963, has no effect upon congressional district organizations formed in August, 1962, and the officers and members of congressional district organizations are empowered to serve until the fall congressional district conventions are held in August, 1964, or until the time for appointment of members and officers of congressional district committees by the candidates of a political party nominated for the office of representative in Congress in congressional districts comprised of more than one county.

The assets of existing congressional district organizations, upon dissolution, remain in the members for the benefit of the political party. The debts of the congressional district organizations are the debts of the members of the organizations and not the debts of the State Central Committees, unless the debts were authorized or ratified by such committee.

There is no provision in the law that would bar the establishment of informal "ad hoc" committees to assist in the orderly transition of congressional district organizations in light of the reapportionment of congressional districts provided for in Act 249, P.A. 1963.

The State Central Committee is authorized to sponsor meetings of precinct delegates or other persons for the purpose of establishing informal "ad hoc" committees to assist congressional district organizations to be formed in accordance with law.

No. 4209

October 9, 1963.

Hon. Joseph J. Kowalski
State Representative
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You have asked a number of questions relating to the status of the members of the State Central Committees of the respective parties and the congressional district organizations in light of the reapportionment of the state into 19 congressional districts, pursuant to Act 249, P.A. 1963. Your questions will be answered seriatim.

"1. At what time will the present Democratic State Central Committee be replaced by members from the new congressional districts?"

The answers to your questions pertain to both major party organizations alike, and will be answered in that fashion.

Act 116, P.A. 1954, as amended, being C.L.S. 1956 § 168.1 et seq; M.S.A. 1956 Rev. Vol. § 6.1001 et seq., is known as the Michigan Election Law.

Section 597 of the Michigan Election Law provides as follows:

"At its spring state convention in each odd numbered year, each

political party shall select a state central committee as herein provided, which committee shall consist of 2 men and 2 women from each congressional district. Said state convention shall select a chairman and a vice chairman of the state central committee and such chairman and vice chairman shall have the right to vote on all questions arising in said committee. The state central committee so constituted shall appoint a secretary and a treasurer and such other officers as in its judgment may be proper and shall have the power to fill any vacancy that may occur in its membership or any of its offices. The term of service of a state central committee shall continue until the election of its successor."

The spring state convention in each odd numbered year is authorized by Section 593 of the Michigan Election Law.

The presently constituted State Central Committees were duly formed at the state conventions held in February of 1963, consisting of 2 men and 2 women from each congressional district, pursuant to Section 597 of the Michigan Election Law. The members so selected were chosen from the 18 congressional districts as enumerated in Act 20, P.A. 1931, as amended, being C.L.S. 1956 § 3.21; M.S.A. 1961 Rev. Vol. § 4.21. Four of the members were selected from the state at large because of the failure of the legislature to reapportion the congressional districts to provide for 19 congressional districts authorized by the 1960 Federal Decennial Census.

Since the formation of the State Central Committees in the spring of 1963, the legislature has, through the provisions of Act 249, P.A. 1963, apportioned the state of Michigan into 19 congressional districts and has repealed the provisions of Act 20, P.A. 1931, as amended, *supra*.

Section 140 of the Michigan Election Law provides that a representative in Congress in each congressional district shall be elected at each general November election.

Section 133 of the Michigan Election Law states that to obtain the printing of the name of any person as a candidate for nomination of any political party for the office of representative in Congress under a particular party heading upon the official primary ballots in the various election precincts of the congressional district, nomination petitions must be filed either with the county clerk or the secretary of state, as the case may be, containing a certain number of signatures as specified in this portion of the Michigan Election Law.

A plain reading of the provisions of Act 249, P.A. 1963, indicates that the districting provided therein is intended to have a prospective effect only. Its total impact is to facilitate the election of 19 members from the specified districts to the house of representatives in November, 1964, and biennially thereafter. There is nothing in Act 249, P.A. 1963, that evidences an intent on the part of the legislature to affect in any way the presently constituted membership of the State Central Committees formed in 1963.

This ruling is supported by the decision of the court in *Williamson v. Killough* (Ark 1932), 46 S.W. 2d 24, that the members of a county committee of a political party were entitled to serve until their successors were elected, despite subsequent changes in boundaries of the district from which they were elected. The court relied on the decision of the Minnesota court

in *State, ex rel Norwood v. Holden* (Minn. 1891), 47 N.W. 971, where redistricting of county commissioner districts by statute was held not to affect the officeholder despite the fact that the boundaries of the district from which he was elected had been changed by reapportionment, since there was nothing in the language of the statute to indicate that the redistricting was to have any retrospective operation.

Section 597 of the Michigan Election Law, *supra*, requires the conclusion that the members of the presently constituted State Central Committees are eligible under present statutes to serve a term to continue until the election of their successors at the spring state convention to be held in 1965.

The law appears to be well settled in Michigan that the composition of a political committee is in accordance with the customs and usages of the party in the absence of controlling statutes. *Potter v. Deuel* (1907), 149 Mich. 393.

The clear and unambiguous provisions of Section 597 of the Michigan Election Law are controlling. The present membership of the State Central Committees shall continue until the election of their successors in the spring of 1965.

Nor does the Revised Constitution require a different conclusion after January 1, 1964. In Article II, Section 5 of the Revised Constitution approved by the people in April, 1963, the people have provided for a regular election to be held on the first Tuesday after the first Monday in November in each even-numbered year or on such other date as the members of the Congress of the United States are regularly elected, except for special elections to fill vacancies.

It must follow that after January 1, 1964, there will no longer be a spring state election.

Consideration must also be given to Article III, Section 7 of the Revised Constitution which states that statutes now in force, "not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are changed, amended or repealed."

I find nothing contained in Section 597 of the Michigan Election Law repugnant with the provisions of the Revised Constitution. If a spring state convention to be held in the odd numbered years is no longer desirable, this is a question that must be directed to the legislature.

Therefore, it is my opinion that members of the State Central Committees, formed in the spring of 1963, being otherwise qualified, shall serve until their successors are selected in the spring of 1965.

"2. What is the responsibility of the Democratic State Central Committee in changes that will come about in the respective congressional districts organization as a result of the new legislation?"

By statute the secretary of the State Central Committees is authorized to select the members and officers of a congressional district committee in accordance with Section 603 of the Michigan Election Law in the event that the congressional candidate of the political party fails within 15 days following his nomination to select members and designate officers of the congressional district committee.

The Michigan Election Law imposes no further duties upon the State Central Committees or any of their members relative to congressional district organization.

While officers or members of congressional district organizations will not be elected or selected until August of 1964, after the August primary at which candidates of the political parties shall be nominated to the office of member of representative in Congress, the State Central Committees should consider the formation of "ad hoc" committees to assist in the transition of congressional district organizations arising from the reapportionment of congressional districts through the provisions of Act 249, P.A. 1963.

In the absence of statute the composition of political committees is in accordance with customs and usages of the party. *Potter v. Deuel*, supra.

Therefore, it is my opinion that the only responsibility that the State Central Committees have by law to the congressional district organizations is to have their secretary select the members and officers of the congressional district committees in the event that the candidate of the political party for the office of representative in Congress fails to select the members and designate the officers within 15 days following his nomination under Section 603 of the Michigan Election Law.

"3. At what point will the respective congressional district be changed for the purpose of selecting new congressional district officers and setting up a new organization?"

Section 600 of the Michigan Election Law provides:

"At the fall congressional convention provided for in this act, there shall also be elected for each political party a district chairman, secretary, treasurer and committee of 15 members to serve for 2-year terms or until their successors are duly elected and qualified."

The fall congressional convention provided for, referred to in Section 600, is authorized pursuant to Section 592 of the Michigan Election Law which requires such convention to be held not less than 8 days nor more than 19 days after the August primary. Such convention shall next be held in August of 1964.

Where a congressional district is comprised of more than one county, the officers and members of the congressional district committee are selected by the congressional nominee of the political party as specified in Section 603 of the Michigan Election Law. The statute requires only that one or more members be selected by such candidate from each county in the congressional district. Further, under the statute the selection of members and designation of officers of such congressional district committee must be done within 15 days following the nomination of the congressional candidate of the political party.

Reading Sections 600 and 603 of the Michigan Election Law together, it is clear that the officers and members of the congressional district organizations serve a term of two years or until their successors are elected or selected.

Because, as has already been ruled in answer to your first question, Act 249, P.A. 1963 is prospective in its operation, the presently constituted

congressional district organizations are authorized to serve until the fall congressional district convention to be held in accordance with Section 592 of the Michigan Election Law, or until such time as the congressional nominee of the political party selects the officers and members of congressional district committees within 15 days after his nomination in accordance with Section 603 of the Michigan Election Law.

Congressional district organizations formed in August of 1964 shall be in accordance with congressional district boundaries enumerated in Act 249, P.A. 1963.

Therefore, it is my opinion that members and officers of congressional district organizations in line with congressional district boundaries set forth in Act 249, P.A. 1963, shall be elected or selected in August of 1964 as provided by Sections 600 and 603 of the Michigan Election Law.

“4. What will happen to the property assets and debts of existing congressional districts when they are replaced by new ones? Does the Democratic State Central Committee have any legal liability in this transition?”

While the statute has provided for congressional district organizations pursuant to Sections 600 and 603 of the Michigan Election Law, it must be concluded that such congressional district organizations, like other committees of political parties, are voluntary associations of persons who freely act together for certain political purposes in the absence of statute giving other legal status to such organizations. *Bunting v. Board of Canvassers* (R.I. 1959), 153 A. 2d 560; *Cooper v. Cartwright* (Okla. 1948), 195 P. 2d 290; *Holland v. Taylor* (Tex. 1954), 270 S.W. 2d 219.

As a voluntary association the property, assets and debts of existing congressional organizations are reposed in the members of the organization. The Michigan Supreme Court has held in *Sommers v. Reynolds and Blackburn, Trustees*, 103 Mich. 307 (1894), that upon dissolution of a voluntary association the assets of the association belong to its members. In the case of a political organization, the assets of the organization are entrusted to it for the purpose of conducting political activity to advance the interests of the political party.

Since the members of the congressional district organization will, no doubt, continue to serve on congressional district organizations under different numbers because of the redistricting of congressional districts by the legislature through the provisions of Act 249, P.A. 1963, there is nothing in the law that would bar a district congressional district organization from dividing the assets upon a per capita basis and, with consent of the members, to make such assets available to a successor congressional district organization to be formed in the fall of 1964 along district boundary lines set forth in Act 249, P.A. 1963.

The debts of the congressional district organization may be recovered by bringing suit against the unincorporated association in accordance with Section 2051(1) of Act 236, P.A. 1961, being M.S.A. 1962 Rev. Vol. § 27A.2051. This statute also provides legal remedy against the members of the committee. The remedies are cumulative. *Jenkinson v. Wysner*, 125 Mich. 89 (1900).

Unless the debts of the congressional district organization were incurred upon lawful authorization of the State Central Committee or were ratified by it, the debts of the congressional district organization are not the debts of the State Central Committee. *Humphrys v. Republican Central Campaign Committee* (Pa. 1936), 182 A. 366.

Therefore, it is my opinion that the assets of existing congressional district organizations, upon their dissolution, remain in the members for the benefit of the political party. The debts of the congressional district organizations are the debts of the members of the organizations and not the debts of the State Central Committee unless the debts were incurred upon lawful authorization of the State Central Committee, or such debts were ratified by such State Central Committee after they were incurred.

"5. Is it permissible for precinct delegates or other people prior to the transition to establish informal 'ad hoc' committees in preparation for such a transition?"

In the absence of controlling statute the composition of a political committee is according to customs and usages of the political party. *Potter v. Deuel*, supra.

I find no statute that would bar the establishment of an informal "ad hoc" committee in preparation for the transition of the congressional district organization from those presently in existence to those that will be formed pursuant to law and in accordance with the reapportioned districts as set forth in Act 249, P.A. 1963. Thus, it is permissible for precinct delegates or other persons to assist in the formation of such informal "ad hoc" committees.

Therefore, it is my opinion that there is no provision in the law that would bar the establishment of informal "ad hoc" committees to assist in the orderly transition of congressional district organizations in light of the reapportionment of congressional districts provided for in Act 249, P.A. 1963.

"6. Is it permissible for the State Central Committee to sponsor such meetings as raised in question 5?"

The answer to question 5 is also controlling of your last question. The State Central Committee is not barred by any statute from sponsoring meetings of precinct delegates or other persons in the establishment of informal "ad hoc" committees to provide for an orderly transition of congressional district organization under the reapportionment of congressional districts ordered by Act 249, P.A. 1963.

Therefore, it is my opinion that the State Central Committee is authorized to sponsor meetings of precinct delegates or other persons for the purpose of establishing informal "ad hoc" committees to assist congressional district organizations to be formed in accordance with law.

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