



**JOINT FORMAL ADVISORY OPINION OF
THE CHAIR OF THE STANDING COMMITTEE ON BYLAWS,
THE CHAIR OF THE STANDING COMMITTEE ON RULES
AND THE COUNTY WHIP**

September 15th, 2012

OPINION 2012-J3

Brief Summary

There are only minimal sanctions, that are time consuming, complex and fraught with political implications, that may be taken against National Delegates who violated state binding rules. .

Cindy Lake
Chair
Clark County Republican Central Committee

Dear Madame Chair,

At your direction I am submitting the following advisory opinion.

Question

What are the legal, parliamentary and political consequences of the casting of the votes of the Nevada Delegation to the 2012 Republican National Convention and any subsequent sanctions by the county party?

Analyses

Legal Analysis

I find nothing, either permissive or restrictive, in either statutory or case law, state or federal, making reference to the binding of delegates to national conventions. This includes an analysis of NRS Chapter 293.

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Parliamentary Analysis

The casting of ballots on the first ballot at the convention was done in violation of Section 5 of the Nevada Republican Party Delegate Binding Rules for 2012. However, the state rules were drafted with the presumption that National Delegates were casting their votes individually. This is not the case; national rules stipulate that the Delegation Chair cast each state's vote collectively. For those votes that are in question, there is no conclusive evidence as to whether those votes so cast, were done with the consent of certain individual Delegates. Lastly it should be noted, that certain votes cast for Representative Paul, were in fact cast on behalf of delegates bound to him.

Political Analysis

Certain votes not bound for Representative Paul were nonetheless cast for him. Political arguments exist pro & con for this action. Without speaking authoritatively on behalf of either perspective, I have gathered some of the highlights.

Arguments in favor of the disputed votes cast include ideological issues, resentment with *ad hominem* attacks on Representative Paul and his supporters during the campaign, and opposition to the Rules Report at the convention in a manner that seems to violate parliamentary rules.

Arguments opposed include concerns with the public impact on the general election and the violation of party binding rules.

Conclusions

Legal Conclusion

I find no legal consequences to the ballot casting, or to any subsequent sanctions that the party may invoke.

Parliamentary Conclusion

Some county central committee members have enquired about the feasibility of parliamentary sanctions directed to one or more persons in the Nevada Delegation.

Any possible sanctions do not require justification for either cause or jurisdiction. Options include censure, suspension or expulsion from the party, and for those who hold elected party office, recall. Those who hold office may not be suspended or expelled without first being recalled.

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Parliamentary sanctions are difficult and time consuming. Recall requires a quite high threshold of a two-thirds vote. For officers, they may only be removed at a regular meeting and District Members require a 10% petition first. Censure, suspension or expulsion of individual county central committee members requires an intricate and time consuming disciplinary process that I estimate would likely take anywhere from two to five months. Members who hold office may be censured outside these procedures.

These procedures are prescribed in § 61 of the General Rules of Order. Parliamentary sanctions against persons who are not members of the county central committee are limited to censure, or, if they are a member of the state central committee, sanctions within that body, but this is also very time consuming.

Political Conclusion

Personal resentment from either side of the argument should not be a deciding factor in any election taken. If the Executive Board chooses to take action on it's own through an Executive Resolution to censure anyone or if it chooses to recommend other actions to the county central committee, it would be well advised to consider the political impact on public perception, the diverse membership of the party, relationships throughout the conservative community and most importantly, the general election.

Thank you for your time and attention,

Jordan Ross
County Whip
Chair, Standing Committee on Bylaws
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