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LAW BULLETIN MEDIA

## Con Con delegate election resulted in some surprises — and a lawsuit

The Sept. 23, 1969, primary election for delegates to the sixth Illinois Constitutional Convention was only a prelude to the general election on Nov. 18, 1969. The primary was held to winnow the number of candidates for each district to four. The general election was held to choose two delegates from among those four. The general election produced some surprises.

Only 50 of the 58 districts held primaries. In eight of the 58 districts, there were so few candidates that there was no need for a primary.

In the 50 districts that held primaries, one might have expected the first- and second-place vote-getters would repeat their performance in the general election. In most cases, that was true, but the voters had a surprising change of heart in 40% of the races. In 20 of the 50 contested primary elections, the first- or second-place winner lost to candidates who finished third or even fourth in the primary.

The turnarounds were largely due to shifting alliances among those placing within the top four. Some women delegates told me that they mobilized women voters vigorously after the primary election. Some candidates who finished third or fourth allied themselves with a candidate who had come in first or second. The new partners ran

as a team, often successfully.

The biggest surprise was in the 13th District, which encompassed the Ravenswood neighborhood and other areas on Chicago's North Side. There the two candidates endorsed by the regular Democratic organization came in first and second. Each received more than 10,000 votes. They probably considered themselves elected because the two candidates in the third and fourth place each received under 7,000 votes.

However, those two candidates made common cause after the primary and engineered a double victory in the November election. They were Elmer Gertz and Ronald C. Smith, lawyers who were definitely not part of "The Machine." Elmer and Ron, whom I knew well, told me how they did it.

They ran a true grassroots campaign, block by block. They walked up and down major streets, entering every store and restaurant to "meet and greet" the patrons. They also appeared at every candidates' forum they could.

In short, they outflanked the two candidates endorsed by the Democratic Party, both of whom were relying on the party organizational apparatus to provide votes.

On Nov. 18, their strategy paid off. Elmer received 16,031 votes, while Ron received 15,920 votes, just 219 votes ahead of the third-



**LAW AND PUBLIC ISSUES**

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place candidate and 835 votes ahead of the fourth-place candidate.

The most consequential election was one in which a candidate lost, not won. It was the primary election in the 24th District, in the Hyde Park area of Chicago's South Side. The two highest vote-getters in the primary were Odas Nicholson and Albert A. Raby. Nicholson, who came in first, was endorsed by the

Democratic Party. Raby, who came in second, was not only not endorsed, but a thorn in the side of the party bosses due to his civil rights activism. Each received more than 9,000 votes.

However, the third-place candidate was a young lawyer, Michael L. Shakman, who was not endorsed by the party. He received 7,677 votes.

In the November general election, Raby came in first, with 14,145 votes, while Nicholson came in second with 12,330 votes. Shakman, who again came in third, received 11,707 votes.

Shakman thought that the Democratic Party patronage system, which then controlled most of the local government jobs in Cook County, played a key role in denying him a delegate's seat. He immediately filed a lawsuit in the federal district court in Chicago. Thus began the Shakman Decree litigation.

In essence, Shakman claimed that most government employees owed their jobs to the Democratic Party, that the party controlled their appointment to noncivil service jobs, that they had to perform party work while working for the government, often during working hours, and that they were fired if they did not perform work for the party. Indeed, at that time, even patronage employees who were relatives of people who supported nonendorsed candidates could be fired.

Shakman claimed that this patronage system violated the First Amendment rights of himself, as a candidate, and of his supporters.

The district court dismissed Shakman's action (310 F. Supp. 1398), but the 7th U.S.

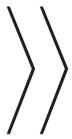
ered a body blow, if not the coup de grace, to the most powerful patronage system in the country, the Chicago Democratic machine.

This case, which attracted little attention in 1969, may well have had as great an

for the opening day of the convention, set for Dec. 8, 1969. Much needed to be done — and fast. Staff had to be hired, space had to be found, officers had to be elected, committees had to be organized.

South Shore area on a "good government" platform, including abolishing patronage.

I worked a little in her campaign. When she recommended me to the executive assistant to the president, her



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Circuit Court of Appeals reversed (435 F. 2d 267).

The litigation and the Shakman Decree settlement that ensued went on for more than 40 years. Unquestionably, the Shakman case deliv-

er impact on Illinois as any provision of the 1970 Illinois Constitution.

The delegates who won told me that they knew of Shakman's lawsuit. However, they were too busy preparing

Dec. 8, 1969, was just around the corner.

Author's note: I was one of the staffers hired as a research assistant. Delegate Mary Lee Leahy, a friend from law school, ran from the Chicago

husband dubbed me "Mary Lee's first patronage employee."

The third and final column in this series will discuss the opening of the convention.