

# we shall overcome

# register-vote

THE MISSISSIPPI  
FREEDOM DEMOCRATIC PARTY

Background Information for Supportive  
Campaigns by Campus Groups

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THE MISSISSIPPI FREEDOM DEMOCRATIC PARTY:  
BACKGROUND AND RECENT DEVELOPMENTS

by STEVE MAX

The Mississippi Freedom Democratic Party was founded April 26, 1964 in order to create an opportunity for meaningful political expression for the 438,000 adult Negro Mississippians who traditionally have been denied this right. In addition to being a political instrument, the FDP provides a focus for the coordination of civil rights activity in the state and around the country. Although its members do not necessarily think in these terms, the MFDP is the organization above all others whose work is most directly forcing a realignment within the Democratic Party. All individuals and organizations who understand that when the Negro is not free, then all are in chains; who realize that the present system of discrimination precludes the abolition of poverty, and who have an interest in the destruction of the Dixiecrat-Republican alliance and the purging of the racists from the Democratic Party are potential allies of the MFDP.

BACKGROUND INFORMATION

The Mississippi Democratic Party runs the state of Mississippi with an iron hand. It controls the legislative, executive and judicial benches of the state government. Prior to the November, 1964 election all 49 state Senators and all but one of the 122 Representatives were Democrats. Mississippi sent four Democrats and one Goldwater Republican to Congress last November.

The Mississippi Democratic Party uses its power to exclude Negroes from the electoral process. Though Negroes represent over 40% of the state population, all voter registrars are white. Today only 28,500 Negroes are registered in Mississippi as compared with 500,000 whites. This figure represents only 6.7% of the 435,000 Negroes in Mississippi who are of voting age. While the civil rights movement has made some improvement in Negro registration in many Southern states, in Mississippi, registration dropped by several hundred between 1962 and 1964.

The methods used to prevent Negro voting are well known and do not need to be gone into at length. Suffice it to say in the words of Professor Russell H. Barrett of the University of Mississippi:

The whole pattern of voting requirements and of the registration form is calculated to make the process appear a hopelessly formidable one. The pattern is supposed to bristle with complexities which culminate in the publication of the would-be voter's name in the local newspaper for two weeks. A major purpose of all this is to so overwhelm the voter that he will not have the audacity even to attempt registration.

(Mississippi Free Press, 4/18/64)

For those who do have the audacity, there is a systematic policy of reprisal, for which no white man has ever been brought to justice-- and little wonder, since sheriffs and judges are elected in the Democratic primary and there has not been a Negro office holder in Mississippi since 1892.

The Student Nonviolent Coordinating Committee (SNCC) has documented 140 cases of violence and intimidation in Mississippi from 1961 to February 1964, and has published this material in a pamphlet entitled Mississippi. That figure, however, is representative of a much larger pattern of incidents, mostly unreported. Furthermore, it does not include the violence of the 1964 summer months, which at least, equalled that of the three previous years. We cannot, of course, forget

Schwerner, Chaney and Goodman, and must remember that their names are known because two of them were white and from the north, and not because they were murdered in Mississippi. Documentation of violence up to the spring of 1963 can be found in the April 4, 1963 issue of the Congressional Record.

#### THE ORGANIZATION OF THE MISSISSIPPI FREEDOM DEMOCRATIC PARTY

The Mississippi Freedom Democratic Party was officially established at a meeting in Jackson, Mississippi on April 26, 1964. Two hundred to three hundred delegates attended the meeting and elected a state executive committee of 12. Because they were barred from the "regular" organization, the Freedom Democrats set up a parallel structure at all levels, including their own system of voter registration. Simplified registration forms and procedures based on those used in several northern states were adopted.

Over the summer of 1964, the MFDP, working with the Council of Federated Organizations (COFO) staff and local volunteers, "registered" over 50,000 Negroes of voting age. MFDP candidates ran and were defeated in the Democratic primary of June 2, 1964. Mrs. Victoria Gray, Mrs. Fannie Lou Hamer, Rev. John Cameron and Mr. James Houston ran in opposition to Senator John Stennis, Rep. Jamie Whitten, Rep. William M. Colmer and Rep. John Bell Williams. Following the primary, these candidates filed the necessary number of signatures to be placed on the ballot as independents. This was, however, rejected by the Mississippi State Board of Election.

It was at this point that the MFDP reorganized itself to conduct a mock election and to challenge the credentials of the Mississippi Delegation to the Democratic National Convention. During the weeks of July, 1964, precinct meetings were held in 26 Mississippi counties as alternatives to the "regular" Democratic precinct meetings which barred Negroes. An estimated 3,500 persons attended these meetings. At the end of July, County Conventions were held in 35 counties as part of the policy of structuring the MFDP in a fashion parallel to that of the "regular" Democrats.

Several additional county conventions were held in Jackson, Mississippi when it was judged that it would be too dangerous for some people to hold meetings in their own counties. A total of 282 delegates were elected from the county conventions to a state convention which met in Jackson on August 6th. This FDP state convention elected officers, chose a delegation to the Democratic National Convention, and adopted a platform and principles. At that time they stated: "We deem ourselves part and parcel of the National Democratic Party and proudly announce our adherence to it. We affirm our belief that the National Democratic Platform of recent years has been a great liberal manifesto dedicated to the best intentions of the people of our Nation of all races, creeds and colors..."

#### THE CHALLENGE AT THE DEMOCRATIC NATIONAL CONVENTION

The State Convention of the MFDP sent 68 delegates and alternates to the National Convention of the Democratic Party to challenge the seating of the "regular" Mississippi delegation. The events of the challenge are widely known and since many of you were there or watched the convention on TV, there is no need for a long exposition of the proceedings. Briefly, the MFDP argued against the seating of the regulars on the following grounds:

"The traditional Party has demonstrated its bad faith by:

- \* Excluding Negroes (the group most likely to support President Johnson) from registration and from the Party by harrassment and terror.
- \* Repeatedly proclaiming its independence of the National Party.
- \* Opposing the platform and principles of the National Party.
- \* Spewing hatred upon Presidents Kennedy and Johnson.
- \* Viciously attacking Negroes and Negro organizations.
- \* Enacting laws to keep the National Party off the ballot.
- \* Recessing their state convention so that they can turn to Goldwater.
- \* Coming here (to the Convention - S.M.) only to keep the Freedom Party from being seated.

(MFDP brief submitted to credentials sub-committee of the Democratic National Committee page 61.)

The credentials sub-committee of the Democratic National Committee offered as a compromise to seat two leaders of the MFDP delegation, Dr. Aaron Henry and Rev. Ed King, as members-at-large and to establish a committee which would try to have the delegation to the 1968 convention chosen in a non-discriminatory fashion.

The compromise was rejected by the MFDP on the grounds that:

- 1) It was tokenism.
- 2) The people of Mississippi had chosen 68 representatives and the credentials committee could not simply pick two of them to represent the MFDP. It was felt that to consent to this would be a violation of the trust that the MFDP convention had placed in its delegates.
- 3) The "regulars" would still be recognized although the MFDP delegates had come specifically to unseat the "regulars" whom they considered unrepresentative and illegally chosen by the Mississippi State Convention.
- 4) The compromise offered no real precedent for the future.
- 5) The committee which would try to prevent the choosing of an unrepresentative delegation at the 1968 convention was given no real power.
- 6) The real purpose of the compromise was to prevent a floor fight and was thus an attempt on the part of Johnson-Humphrey et.al. to avoid an open discussion of that which should have been the real issue at the convention -- racism in the country and in the Democratic Party.

The MFDP stated:

Finally it must be understood that the FDP delegation did not come to Atlantic City begging for crumbs. They came demanding full rights for themselves and for one million other human beings. They would have accepted any honorable compromise between reasonable men. The test was not whether the FDP could accept "political realism," but rather whether the Convention and the National Democratic Party could accept the challenge presented by the FDP. The Convention and the National Democratic Party failed that test.

(undated MFDP mailing-  
probably from the end  
of August, 1964)

Prior to the Democratic Convention, resolutions supporting the seating of the MFDP delegation as opposed to the "regulars" were passed by the state Democratic Convention in Michigan, Oregon,

Wisconsin, Minnesota, Massachusetts, Colorado. Similar resolutions were passed by the State Committees of New York and California, as well as by the Young Democrat's Club at the University of Virginia.

### THE FREEDOM ELECTION

After being ruled off the ballot as an independent party, the MFDP organized a freedom election in which all citizens who met the 14th Amendment criteria for voting were eligible to participate. Ballots were cast in 53 of the state's 82 counties and were mailed in from counties too dangerous for the MFDP workers to enter. Needless to say, the application of harrassment, terror and violence was continued by the officials of the state of Mississippi throughout the entire process. Thus, the results of the freedom election have the greatest significance.

President Johnson received 63,839 votes in the Freedom Election as opposed to 52,538 votes in the "official" election. Goldwater received 354,459 votes in the "official election." The returns from the elections that the FDP contested are as follows:

<u>OFFICE</u>	<u>FDP CANDIDATE</u>	<u>FDP VOTE</u>	<u>NEGROES OVER 21</u>
Rep. 2nd District	Fannie Lou Hamer	33,009	159,432
Rep. 4th District	Annie Devine	6,001	56,329
Rep. 5th District	Victoria Gray	10,138	50,985
U.S. Senator	Aaron Henry	61,004	422,256

<u>OFFICE</u>	<u>REGULAR CANDIDATES</u>	<u>REG. VOTE</u>	<u>WHITES OVER 21</u>
Rep. 2nd District	Rep. Whitten	70,201	147,031
Rep. 4th District	Rep. Winstead *	28,057	107,509
Rep. 5th District	Rep. Colmer	83,120	193,970
U.S. Senator	Senator Stennis	343,364	748,266

\* Arthur Winstead lost to Republican Prentiss Walker, 28,057 to 35,277.

Figures for Negroes and whites over 21 are based on the 1960 census.

### THE FDP CONGRESSIONAL CHALLENGE

The Mississippi Freedom Democratic Party is currently carrying its activity a step further by challenging the seating of the entire Mississippi Delegation to the U.S. House of Representatives, and demanding that MFDP candidates be seated in their place. This is being done on the grounds that the November 1964 election in the state was illegal and unconstitutional and therefore void.

THE LEGAL FOUNDATIONS OF THE CHALLENGE: A BRIEF SUMMARY

1. Section 244 of the Mississippi Constitution, which provides for testing an applicant on his understanding of the constitution, is illegal.

In 1954, an amendment to the Constitution of Mississippi was passed by referendum of the voters registered at that time. This amendment required that applicants be tested on their understanding of the constitution of the state. The form of the test and the evaluation of the test were left to the individual registrar. In 1954, sixty-three percent of the white persons of voting age were already registered to vote. Only five percent of the eligible Negroes were registered. Since registration is permanent in the state, already enfranchised voters would not have to be retested, and the amendment would thus apply primarily to Negroes. This is discriminatory. This law therefore violates the Fifteenth Amendment to the U.S. Constitution, which provides that "the right of citizens of the United States to vote shall not be denied on account of race, color, or previous condition of servitude."

Furthermore, the ability of a person to interpret the constitution is a direct function of his education. Mississippi maintains by statute segregated school facilities which are inferior for Negroes. In addition, there is not a reasonable connection between the capacity to interpret the constitution and the capacity to vote.

2. Section 3209.6 of the Mississippi/ Constitution, which formerly provided that voting application forms remain a permanent public record, was amended in 1960 to provide that if an appeal from the decision of the registrar was not made in 30 days, then registrars were not required to preserve any records made in connection with the application of any person to vote. This is illegal.

The Civil Rights Act of 1960 provides that all records relating to registration, payment of poll tax and other matters requisite to voting be preserved and open to the inspection of the Attorney General when such records relate to voting in federal elections.

3. Section 241-A of the Mississippi Constitution, which requires good moral character as a qualification for voting, is illegal.

This section was added to the Constitution of the State in 1960 by referendum. Like the provision for the interpretation of the constitution, it was passed by an electorate which was 95% white and 5% Negro.

Furthermore, the criteria for "good moral character" is undefined. Left entirely to the discretion of the registrar are such questions as: what acts, customs, relationships, ideas, periods of an appli-

cants life, what sources of information, etc., shall be considered in judging "good moral character."

4. The package of voter registration statutes enacted by the Mississippi legislature is illegal.

This package provides that:

- a. Applications be filled out without assistance; that all blanks on the form be properly filled out and that the oath and the application form be signed seperately by the applicant.
- b. Designation of race to be eliminated on county poll books.
- c. Good moral character (see above)
- d. The names and addresses of applicants must be published in a newspaper once a week for two weeks. Within 7 days after the end of the second week, any registered voter may challenge the right of the applicant to be registered. The Registrar shall arrange a hearing and shall pass judgement. Appeal may then be made to the county board of election. If no challenge is made the registrar shall pass on the application within "a reasonable time" to be determined by the registrar.
- e. In the event that an applicant for registration passes, the registrar shall write the word "passed" on the application, but the applicant is not registered unless he subsequently appears before the registrar and requests to be registered.

If the applicant is of good moral character but fails to meet the registration requirements, the registrar shall write the word "failed" on the application, but he shall not state the reason since to do so would be to give assistance to the applicant on future applications.

If the applicant meets the requirements but is not of good moral character, the registrar shall state the reasons that the applicant is not of good moral character.

This package of legislation has the effect of turning the application form into a hyper-technical examination in which any inconsequential error may disqualify a voter.

It places unlimited discretionary power in the hands of the registrar while failing to provide any objective criteria on which the registrar is to base his opinion. The publication of the names of applicants leaves them open to harassment and is a deterrent to applying to vote. These requirements were passed by an all-white legislature but will for already stated reasons be applied primarily to Negroes.

5. Terrorism and violence are part of the symbolic and deliberate disenfranchisement of Negroes in Mississippi.

The FDP brief cites 31 cases of the use of violence in Mississippi as a representative example.

6. The purported elections of June 2 and November 3, 1964 are void.

These elections violate the 1870 compact between the State of Mississippi and the Congress of the United States readmitting Mississippi to representation in Congress after the Civil War. This act of Congress reads in part as follows:

"Whereas the people of Mississippi have framed and adopted a Constitution of State Government which is republican; and whereas the legislature of Mississippi elected under said Constitution has ratified the Fourteenth and Fifteenth Amendments to the Constitution of the United States; and whereas the performance of these several acts in good faith as a condition and precedent to the representation of the state in Congress ; therefore; be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the said state of Mississippi is entitled to representation in the Congress of the United States"

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"And provided further that the State of Mississippi is entitled to representation in the Congress of the United States as one of the states of the Union, upon the following fundamental conditions: first, that the constitution of Mississippi shall never be so admitted or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted under laws equally applicable to all inhabitants of said state: provided that any alteration of said constitution prospective in its effects, may be made in regard to time and place of residence of voters."

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The suffrage provisions of the Mississippi constitution which were never to be amended read as follows:

"Section 2: All male inhabitants of this state except idiots and insane persons and Indians not taxed, citizens of the United States or naturalized, twenty-one years old or upwards, who have resided in this state six months and in the county one month next preceeding the day of election at which said inhabitant offers to vote and who are duly registered according to the requirements of Section 3 of this article, and who are not disqualified by reason of any crime, are declared to be qualified voters."

7. The purported election violates Article One of the Constitution of the United States,

which states in Section 2 that : "the House of Representatives shall be composed of members chosen every second year by the people of the several states..." The representatives of Mississippi were clearly not chosen by the people of Mississippi as only five per cent of the Negro electorate is enfranchised and Negroes compose 40% of the population of the state.

8. The purported election violates the Thirteenth, Fourteenth, and Fifteenth Amendments to the Constitution.

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On the basis of the above legal argument, the MDFP claims that not only is the "official" election in Mississippi void and that those elected in it should be disqualified, but that in fact the MFDP election complies with the provisions of the Constitution of the United States and the compact of 1870 and that the candidates of the MFDP should be seated in place of the "Regular Delegation".

#### THE PROCEDURE OF THE CHALLENGE

The challenges to the contested Congressmen were filed in accordance with a formal statute of Congress...(Title 2, sections 201 to 206, United States Code.)

STEP ONE (December 2-January 3): The challenges have been filed with the contested representatives. The "regular" Democrats have 30 days to reply.

STEP TWO (December 2-January 3): On the opening day of Congress, a group of Congressmen challenged the right of the contested delegates to their seats.

STEP THREE (January 2-February 10): The Mississippi Freedom Democratic Party has 40 days to take their testimony in Mississippi in public hearings.

STEP FOUR (February 10-March 20): The challenged Representatives then have 40 days to take their testimony.

STEP FIVE (March 20-March 30): The challengers then have 10 days to take rebuttal testimony. The overall evidence is presented to the Clerk of the House, and then forwarded to the Public Printer. The briefs are then presented to the Subcommittee on Elections and Privileges .

STEP SIX (May 1-July 1): The challengers then have 30 days to file their briefs; the challenged have 30 days to reply.

STEP SEVEN: At this point all the accumulated evidence, briefs, responses, etc., are handed over to the House Committee on Administration which will in all probability hand the case over to the Subcommittee on Elections and Privileges

### WHAT COULD HAPPEN IN CONGRESS

It is necessary at this point to distinguish between matters such as the challenge which are sent to a House Committee as a matter of statute, those which are referred to a committee by the House itself. Business which comes before a committee by virtue of statute is not subject to measures such as the discharge petition or the newly enacted 21-day rule. In other words, in the case of the challenge, the committee is left to its own initiative or lack thereof. On the other hand, if in the future, a resolution were to be offered in the House calling for the unseating of the "regular" Mississippi delegation or calling for the unseating and the seating of the MFDP in its place, and were that resolution referred to the committee, it would be subject to the usual measures for bringing a bill out of committee, as would a pro forma resolution made by the committee itself.

Regarding the Subcommittee on Elections and Privileges, there are several possible courses:

- 1.) The Subcommittee could hold hearings;
- 2.) The Subcommittee could refuse to act at all;
- 3.) It is possible that action of the full committee could force the Subcommittee to report, but it is not likely that such action would be taken;
- 4.) The Subcommittee could report favorably or unfavorably to the whole committee which would then vote to accept the report;
- 5.) The Committee could vote to kill the challenge;
- 6.) The Committee could uphold the challenge and send its report to the Rules Committee;
- 7.) The Rules Committee could send or be forced to send the challenge to the House for debate and final action.

Another course of action is open to the challengers and it is likely that this will be used rather than allowing the above process to work itself through. At any point, and independently of the status of the statutory challenge, a Member of Congress can (if he is recognized) introduce a resolution calling for the unseating of the Mississippi "regular" delegation or for the seating of MFDP delegates. Such a resolution, as has been mentioned, is at once subject to discharge petition and 21-day rule. This resolution could be based on the evidence collected in Mississippi while the challenge is being investigated, or it could be based on evidence that will come from the Civil Rights Commission hearings on voting, which start in February. Such a resolution could be introduced at any time and a discharge petition (requiring 218 signatures) could be started at once.

## CAMPUS PROGRAM TO SUPPORT THE CHALLENGE

The challenge provides an excellent opportunity for three kinds of programmed activity:

1.) POLITICAL SUPPORT: Congressmen need to be contacted, written to, pressured, and convinced to support the challenge. The first targets should be those Congressmen who voted to close debate on January 4th, when the question of administering the oath of office to the Mississippi delegation came up on the floor. (see appendix) Special attention should be paid to Congressmen who sit on the House Committee on Administration. Congressmen should be urged to sign a discharge petition if one is circulated and to uphold the challenge.

2.) Community Support: Students should seek to bring the case of the MFDP before as many community organizations as possible. This includes civil rights groups, PTAs, trades unions, political clubs, church groups, etc. Students can contact these groups and ask to be allowed to address a meeting, or ask to send a letter out in the next membership mailing the group has. While there is no precedent for this suggestion, someone might try to arrange a debate with a local of the American Legion or some such group. The experience would be unique, to say the least.

Wherever possible, attempt to get organizations to pass resolutions in favor of the challenge and send these resolutions to your local Congressman and to the entire state Congressional delegation.

A petition drive would be a useful technique as it enables you to go door to door explaining the MFDP and giving out a fact sheet or a leaflet. Send the petition to your Congressman and keep a copy for future activity. The MFDP will provide a petition for national circulation. Send the results of your drive to the MFDP office in Washington and to the SDS office in NYC.

Particularly in districts where there is a heavy Negro population, the question of the MFDP should be handled in such a way that it can become an issue in the next election. This is best accomplished if it is tied to a local civil rights issue.

3.) CAMPUS EDUCATION: Chapters should start at once to make the MFDP challenge an issue on campus. The usual means can be creatively employed here. The campus press and other publications can be used, as well as a series of timed letters or articles written to appear once every few weeks. If a debate can be started and carried on in the campus press, all the better. Fund-raising events for the MFDP are necessary and provide an opportunity to publicize the challenge. Where possible, student governments should be urged to adopt resolutions supporting the MFDP. These should be handled in the same way as resolutions by community groups.

There will be calls for demonstrations and pickets when there is action around the challenge in Congress, and probably sooner if attempts to gather evidence in Mississippi are obstructed. Attention should be paid to gaining the support of campus Young Democrats, in cases where they worked in the Congressman's campaign and helped him win. Campus religious organizations should be asked to devote part of their services to the MFDP (and part of their collections.) This also applies to churches in the community. Working on the challenge provides an opportunity to go to those students and organizations who in the past have raised the false arguments of legality, these are the people who say, "I would be with you all the way, but how can you condone trespassing, violation of property rights, sit-ins, unlawful assembly, and deliberate breaking of the law."

For those who play the legality game, there can be no clearer case of the law being on the side of the MFDP, which has carefully documented the fact that violations of the right to vote are not just the acts of individuals but are provided for in the statutes of the state, in violation of the Constitution, the law, and the Compact with the United States.

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APPENDIX

The fight against the seating of the Mississippi Congressional Delegation on January 4 took a complex procedural form, when Congressman William F. Ryan (D, N.Y.), and candidate of the New York Reform Democratic Movement, objected to the administration of the oath of office to the Mississippi delegation. As a result, the oath of office was administered to all except the Mississippi delegation. House Leader Carl Albert (D., Okla.) then moved to administer the oath to the Mississippi delegation.

Mr. Albert yielded for a parliamentary inquiry from Congressman Roosevelt (D., Calif.) who asked the speaker whether the first vote would be on the resolution or on the previous question. He was informed that it would be on the previous question if Mr. Albert so moved.

Mr. Roosevelt then asked whether if the motion for the previous question were voted down it would be in order to offer an amendment or substitute which would provide that the five representatives elect from Mississippi not be sworn in at that time but that the matter be referred to the Committee on House Administration. He was told that it would be.

Mr. Albert then called the previous question. The significant vote was over the issue of keeping debate open so that an amendment could be made. A "yes" vote on the motion to end debate was a vote against the MFDP and for the Regular Mississippi delegation. The motion to end debate carried 276-149 -- against the MFDP challenge.

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THE HOUSE COMMITTEE ON ADMINISTRATION

The House Committee on Administration of the 89th Congress will consist of the following members:

Democrats

Omar Burleson - Tex.  
Samuel Friedel - Md.  
Robert Ashmore - S.C.  
Wayne Hays - Ohio  
Paul Joans - Mo.  
George Rhodes - Pa.  
Watkins Abbitt - Va.  
Joe Waggoner - La.  
Carl Perkins - Ky.  
John Dent - Pa.  
Sam Gibbons - Fla.  
Lucien Nedzi - Mich.  
John Davis - Ga.  
Kenneth Gray - Ill.  
Augustus Hawkins - Calif.  
Jonathan Bingham - N.Y.

Republicans

Robert Corbett - Pa.  
Glenard Lipscomb - Calif.  
Charles Chamberlain - Mich.  
Charles Goodell - N.Y.  
Willard Curtin - Pa.  
Joe Skubitz - Kan.  
Samuel Devine - Ohio

As of this writing sub-committee assignments have not been issued. In the 88th Congress the sub-committee on Elections and Privileges consisted of the following:

Democrats

Ashmore - S.C.  
Abbitt - Va.  
Waggoner - La.  
Gibbons - Fla.  
Davis - Ga.

Republicans

Chamberlain - Mich.  
Goodell - N.Y.  
Curtin - Pa.  
Devine - Ohio