



# THE VIEW

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## ONE FINE MESS

BY

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Jaws dropped last Friday when United States District Judge W. Allen Pepper of the Greenville Division of the Northern District of Mississippi rendered his decision in *Mississippi State Democratic Party, et al. v. Haley Barbour, Governor et al.*

Most of the news stories have discussed the provisions of Judge Pepper's ruling that could potentially require the re-registration of all Mississippi voters and in the process require that they declare a party preference or declare as unaffiliated, and further that voter ID's reflecting such party preferences be issued at least for the purpose of voting in future primaries. Such learned political observers as Jere Nash, Andy Taggart, David Hampton, and Bill Minor have done excellent jobs in remarking at the historical nature of this ruling. Rather than rehashing their comments I prefer to attempt to look at some of the practical impacts that may await us in the immediate future by taking the liberty of simply remarking at a couple of the ironies associated with the filing of this case and the subsequent ruling.

The case brought by attorney Ellis Turnage in behalf of the Mississippi Democratic Party centers upon a statute in the Mississippi Code that states, "No person shall be eligible to participate in any primary election unless he intends to support the nominations made in the primary in which he participates." Thus, the Democratic Party, frustrated with recent efforts by Republicans to cross over to vote in Democratic primary elections, chose the route of the federal courts in search of a solution to this problem. The Democrats use this statute on which to base their constitutional claim that the First Amendment's guarantee of freedom association also guarantees the

“freedom not to associate.” In short, the Democrats maintain that it is they who should have the power to decide who will be recognized by the party for purposes of choosing Democratic candidates in primaries. The irony is that the Democrats, many of whom fought long and hard during the bad old days to open up Mississippi’s closed political system are attempting to make their own case for “freedom not to associate”!

Be that as it may, there appears to be two options on the table at this juncture. One contains the route mentioned at the outset to determine a voter’s party preference through a complete re-registration and enable verification of that declaration through the mandatory issuance of party voter ID cards. All of this is to protect the language in the above-stated statute. The second possibility would be for the Mississippi Legislature to get rid of the statute, and then devise a new approach entirely to the handling of party primaries. Both approaches are almost imponderable in the upheavals that may potentially result from their implementation. In the first case, counties would be looking at the re-registration of some one and a half to two million voters in time for the fall 2008 Presidential elections in which there will also be Congressional elections. If indeed this route is taken, and the April 1, 2008 deadline for legislation is met, then following the Voting Rights Act pre-clearance by the United States Justice Department, all of these voters would have to be registered in a four to six month period of time. Keep in mind that such legislation must be addressed by a newly organized legislature whose membership will not be known until November 2007. Furthermore, the Secretary of State, the state’s chief election officer, will be a rookie as will a number of county circuit clerks who will be on the front line of the registration process. The second option which throws the solution virtually totally into the legislature’s court is equally intriguing. I should remind readers that in an already highly partisan world nothing is more partisan than setting the rules of how the political game will be played. I would only ask you to recall the battle that ensued after Mississippi lost a Congressional district. In the case at hand Republican and Democratic legislators under the watchful eye of a powerful Republican Governor will be asked to somehow devise a new primary system that both sides will agree is fair to the other. Some will say that such a scenario is perfectly reasonable, but that is simply not the way the game is played.

Party labels are taken on in order to gain political advantage. Indeed, that is why the suit was brought in the first place. The political realities of the 2007 elections offer a sufficient example. There are approximately 3,000 candidates on the primary ballots for the August primaries. Of these some 2,500 are Democrats and 500-plus are Republicans. How will these numbers change in



future elections as a result of new rules put in place now? If there is a massive wave of new Republican registration will that result in huge growth in the number of that party's candidates at the grassroots? Will the Democratic Party be able count on sufficient numbers of re-registered Democrats to maintain there historical advantage at the local level? Will an effort toward some form of open primaries by the legislature pass muster with the courts?

While appeal to the Fifth Circuit is very much a possibility, it is safe to say that gallons of ink will be used on this issue before the dilemma of maintenance of party purity is settled.

## ABOUT THE AUTHOR:

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William Martin Wiseman is Director of the John C. Stennis Institute of Government and Professor of Political Science at Mississippi State University. He received his Ph.D in 1986, his MPPA in 1980, his MS in 1974, and his BA in 1973, all awarded from Mississippi State University. In addition to his duties at Mississippi State, Dr. Wiseman is a guest professor at Jackson State University. Dr. Wiseman's areas of academic interest include American government, intergovernmental relations and federalism, county and municipal management, public personnel administration, and innovations in state and local government management.

Wiseman is a sought-after speaker on state and local government, state and local politics, political theory and rural development. Often a guest editorial writer in Mississippi daily and weekly newspapers, he can also be relied upon to evaluate federal, state and local election results for all media.

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