

1  
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## COMMITTEE ON CONTESTED ELECTIONS

State Capitol  
Room W-52  
January 23, 1985  
11:00 A.M.

PRESIDING CHAIRMAN:

Representative Schmidle

COMMITTEE MEMBERS PRESENT:

REPRESENTATIVES:

Schmidle, Lyons, Farr

SENATORS:

REP. SCHMIDLE: This meeting will please come to order and,  
Cass. 1. again, I apologize for starting late and I really appreciate  
the fact that you're all here and that you're hanging in with  
us and I'm just really sorry to take up all of your time.

Quickly, to go over what we did yesterday, and I guess most  
of you were here and you know we spent our day deciding on  
a procedure for counting the ballots and then spent the  
bulk of our day actually counting the ballots, as well as  
counting the envelopes, the applications and everything  
else related to all of the ballots. We had a little  
glitz discovered. We didn't have everything from  
Waterbury. We had to send to Waterbury to get all the  
rest of the information and a number of our staff and  
committee stayed until way in the night to work on this,  
to do what needed to be done.

I think we still have - we need to have Al Lenge give us  
a report from the counting that he did and I think you  
all know that the committee that counted the ballots  
changed the readings on a few of the ballots but the  
bottom line remained the same and Representative Hartley is -  
when most of us left last night was still a winner by two  
votes and, Al Lenge, can you report on the activity of your  
committee.

ATTORNEY ALBERT LENGE: Good morning. I'm Al Lenge, the  
Elections Attorney for the State of Connecticut. Morgan  
O'Brien of the Legislative Commissioner's Office, Jan  
Murda, a Clerk of the committee, Stu Bowman, a Clerk of  
the contest committee, borrowed from another committee,  
I understand Human Services, and myself stayed until 8:30  
last night and conducted a count of all of the envelopes,  
the exterior of the envelopes and the inner envelopes and

ATTY. LENGE: (continued)

we determined the following: that all of the outer envelopes for all seven districts were dated, stamped, time stamped and endorsed by the Municipal Clerk and all inner envelopes were signed. In four of the seven districts, the number of outer envelopes and the number of envelopes conformed to the ballot count of the committee conducted earlier yesterday. That includes the total number of votes cast for the candidates and any additional ballots that were invalid or were casting no votes for the candidates.

In three districts there were discrepancies. In District 1 there was one more outer envelope than the total number of ballots counts. The number of inner envelopes conformed and there was one loose ballot. That loose ballot cast a vote for Hartley and it was obviously not a counted ballot.

In District --

REP. FARR: -- Excuse me. Could you just identify where that ballot was found.

ATTY. LENGE: It was found in the depository envelope containing all of the discarded envelopes. It was not in the envelope containing counted ballots.

REP. SCHMIDLE: What do you mean, discarded? Do you mean the ones that had been looked at and then set aside or discarded because they were void or something like that?

ATTY. LENGE: In the depository envelope containing opened outer envelopes and opened inner envelopes. When those envelopes are opened, ballots are removed and set aside for counting. The other envelopes are put in a sealed depository envelope and are locked away and it was in that envelope, and not the envelope containing the counted ballots that the ballot was found.

REP. FARR: Let me just understand then. In that district the count was such that, you're telling me that there were 217 outer envelopes, 216 inner envelopes and a loose ballot?

ATTY. LENGE: That's correct.

REP. FARR: Isn't it logical to conclude that that ballot might have been mailed without an inner envelope?

ATTY. LENCE: That's a plausible conjecture that there was no envelope inside containing a signed statement by the absentee ballot applicant and hence, the ballot was rejected.

REP. FARR: The ballot was not marked?

ATTY. LENCE: The ballot was not marked. We did not find any outer envelope containing a statement that the ballot was rejected and the reason for the rejection was there was no inner envelope.

REP. FARR: Okay.

ATTY. LENCE: In District 4, I'm sorry, in District 2 there was one additional outer envelope and no additional inner envelope. In other words, let me restate that. The number of ballots that were counted was 85. The number of inner envelopes found was 85 but there was one additional outer envelope and in District 4, there were 101 ballots which we found 102 outer envelopes and 102 inner envelopes with no ballot. So there were three discrepancies; in Districts 1, 2 and 4. That's the report of our committee.

REP. SCHMIDLE: Okay. What is your feeling about how this newly found ballot should be treated?

ATTY. LENCE: If the committee desires it could act - I think the most plausible explanation for it that there was an unsigned inner envelope and hence, the ballot should be rejected. If the committee wants to look deeper, it could ask the central counting moderator to explain the discrepancy if there's some other explanation that's in the personal recollection of the central moderator or absentee ballot counters. Do they know for a fact what happened but the most plausible explanation at this time is that there wasn't an inner envelope and it shouldn't be counted. I have no explanation - well, there are any number of explanations for Districts 2 and 4 but the extra outer and inner envelopes in District 4 may have been void of any ballot and the same is true for the outer envelopes in District 2. They may not have contained any ballots. Again, if the committee wants to look deeper, it may request an explanation from the election officials who did

ATTY. LENGE: (continued)

this counting to see if they remember the reasons for these discrepancies.

REP. FARR: Okay. Let me just ask you then, as I understand your testimony, on one district you've got an outer envelope and you're short - this is on the first district - one inner envelope but there was a ballot marked for Hartley and the presumption is that there was no envelope, inner envelope, therefore that would explain why the ballot. Unfortunately, it wasn't marked for that reason. In the next district where there's a discrepancy, you have an outer envelope, you have one more outer envelope than inner envelope but unfortunately none of the outer envelopes is - the outer envelope that might have been empty was not marked as void with no inner envelope.

ATTY. LENGE: That's correct.

REP. FARR: In the last district that there's a problem, you have the right number of outer and inner envelopes but there's one ballot missing and unfortunately, nobody wrote on the envelope, no ballot contained herein.

ATTY. LENGE: That's correct.

REP. FARR: So, okay.

REP. SCHMIDLE: Well, I guess this committee could proceed to try to find out from the central counting ballot moderator what the intent of that ballot was if in fact, the moderator remembers at this point and can determine or the committee can just go on the presumption since that ballot was not included with the counted ballots, that there had been an irregularity with that ballot and they meant for it to be in with the things that were not actually being counted for votes.

ATTY. LENGE: That's correct.

REP. LYONS: I guess at this point the decision would be based on the fact that if indeed this particular ballot is going to substantially change the election, I think it's incumbent - it would be incumbent upon us to make every effort to ascertain what the history of it was. If we feel it is not going to make a difference in the election, we can make a decision on that but if it is, --

REP. SCHMIDLE: -- Just to speak to the ballots that were counted yesterday, as we all know, there were some - we played musical ballots with a couple of them in terms of interpretation but the bottom line remained the same and I think whether or not this ballot was counted would not substantially change the outcome of the election. You know, it might make a candidate feel a little bit better but it would not substantially change the outcome of the election.

REP. FARR: I would indicate then that I feel we ought not to count the ballots because of the fact that there is a missing inner envelope and the fact that the original counter did not count the ballots, with the missing envelopes, would lead me to conclude that they felt that it was improperly cast and that therefore; it ought not to be counted. That's how I feel we ought to count that ballot.

REP. SCHMIDLE: Okay. For the sake of discussion, I will take it that that's a motion?

REP. FARR: Yes, I'll make it a motion.

REP. LYONS: I would have no problem with that if indeed it is a decision then of the committee, and I'm not sure where we're progressing at this point, that we are going to go on the findings that we had last night or if we're going to entertain any more, for want of a better word, evidence allegations, in terms of anything else in this election that would change it from any more cancelled.

REP. SCHMIDLE: From I know and see of the committee, we're not going to be concerned with any more allegations. We never were concerned with allegations really. Yeah, I think the thing that you were referring to was initially when the committee started, it was our decision that we were going to explore every possible avenue to find out as much as we could about the enumeration of this election. The counsel for both sides told us just to be concerned with the absentee ballots, this committee said, we're going to reserve for ourselves a good look at everything that we choose to look at, so, therefore, yesterday we looked at the applications, and we looked at envelopes and a couple of other things that were not recommended to us. We have counted the ballots, we have not looked at the machines, and that's something that can be brought before this committee, that's an unresolved

REP. SCHMIDLE: (continued)

issue that we still have to decide. Do we want to make the history of our work really complete? Do we want to say that we have looked at everything possible in connection with this election and continue and look at the machines?

REP. LYONS: So, at this point, if indeed we consider anything it would be in terms of machines? We're not - I'm trying to get the opinion of the committee that we're not going to go into registry books and things of this type?

REP. SCHMIDLE: Well, I think we did that last night when we were trying - we looked at registry books and we were checking the applications and we were checking the inner and the outer envelopes. Those were available to us. We had them and we were using them for whatever we needed them last night. I don't know whether this committee thinks there's anything else they need to find in the registry books. I don't know that but I do know that the one thing that we did talk about that we haven't resolved doing are the machines.

REP. LYONS: Then I would have no objections if indeed we feel at this point the only other question or determination that we might consider would be to look at the machines.

REP. SCHMIDLE: Okay, let me ask our counsel, is there any other avenue that we have not pursued? Is there any other stone that we haven't turned to glean any additional information? Do you know of anything else that we could do or should do?

ATTY. LENGE: Just in inquiring into the machines.

REP. SCHMIDLE: Just the machines. Can I ask the same question of Morgan O'Brien, who is another one of our counsels. Morgan do you have a - how do you feel? Is there anything else we should do?

ATTY. O'BRIEN: That is the only (inaudible - too far from mike).

REP. FARR: Could I ask just a quick question to clarify in my own mind on these two envelopes. What should have been the process if they opened an outer envelope and found no inner envelope? Should they have documented that?

ATTY. LENGE: Yes. They should have written a decision, the moderator should have written a decision on that exterior

ATTY. LENGE: (continued)

envelope recording that the ballot is rejected because of no inner envelope.

REP. FARR: Okay, then that's on the person where there was a ballot. What happens in the case where they open an outer envelope and find no inner envelope?

ATTY. LENGE: In that case, the same thing. The ballots rejected, no inner envelope, no ballot included. What should be done in District 4 where an inner envelope is removed from an outer envelope, at that time you don't know whether it contained a ballot but there should be one inner envelope with a memorandum of decision, signed by the moderator and dated saying when the inner envelope was opened, it was rejected, no ballot included and then we would have had an exact recollection of the entire events of election day which we do not have.

REP. SCHMIDLE: I'm sorry, I missed part of that last statement. Would you repeat that last part.

ATTY. LENGE: Okay. In District 4, you have an additional, one additional outer envelope and one additional inner envelope with no ballot. There should be one inner envelope marked rejected at the time that they opened that inner envelope and there was no ballot included, signed by the moderator. They, of course, wouldn't have known that at the time that the outer envelopes were separated from the signed inner envelopes because they don't open them at the same time.

REP. SCHMIDLE: All right, some of the other envelopes, on any other envelopes that you saw, did the moderator mark reasons for rejection?

ATTY. LENGE: We saw no markings.

REP. SCHMIDLE: There were no markings on any of them, huh?

ATTY. LENGE: No, not in any of the seven districts. There was one depository envelope, if you remember, where there were seven or eight ballots, I don't remember the exact number, there were some records kept on the exterior of those envelopes as to why they were void. They were marked void and in one case, the person removed from the

ATTY. LENGE: (continued)

jurisdiction, and in two cases, people died, so there was one envelope that did that but in the seven districts there were no rejections.

REP. SCHMIDLE: But even in the envelope they did that simply because it was marked on the outside. There was no way for a counter to be able to tell - or for us to be able to tell which one of those ballots represented a person who died or if it was just marked on the depository envelope, it wasn't marked on the ballot.

ATTY. LENGE: It was marked on the exterior envelope of - which contained the ballot.

REP. SCHMIDLE: Okay, did you compare the absentee ballots against, actually against the registry list?

ATTY. LENGE: Only in one district, for the 12:00 count, we compared all outer envelopes to the list that the Town Clerk gave us in ascending numerical order of ballots issued and there was 100% correspondence and against the registry list to see that all of the people were checked off that were voting by absentee ballot and that corresponded exactly.

REP. SCHMIDLE: In that district you were completely satisfied?

ATTY. LENGE: Yes, in that district and that was the district with the largest number of votes cast.

REP. FARR: I guess --

REP. SCHMIDLE: -- Do we still have a motion?

REP. FARR: Yes, I guess the motion is that we not count that ballot and let me just explain at this point, it seems to me that unfortunately we have three situations that weren't documented. You have a ballot that's loose, you have two envelopes that don't contain one, unfortunately, they didn't leave a paper trail. I think if we have to make a presumption that in counting these they did it properly, and that if they decided not to count that ballot, that was done in the appropriate way because there was no envelope, just as in the other cases the ballots were not there because apparently they weren't in the envelopes and, therefore, to be consistent, we not count this ballot.



REP. SCHMIDLE: Okay, that motion has been seconded. Moira, do you have any other debate or discussion on this?

REP. LYONS: No, just once again, saying that it is therefore my impression that at this point we have looked through all the records that we will in this particular case, except for the machines, and therefore, we're not counting this particular ballot which will not influence the outcome of this election.

REP. SCHMIDLE: Well, I'm not going to presume that the committee does not want to check absentee ballots in the other districts against the registry lists. That's a decision that this committee makes and Al Lenge tells us that they did it in the first district and they were completely satisfied that there was no problem, no concern, but that's up to you people to decide, if in fact you want to continue with that process.

REP. FARR: I don't think that that's - if we varified it completely in one district, I don't think I have any real concerns with it. My concern in the process, simply, is that we haven't documented those decisions that were apparently made and I see no indication that they were improperly made and I just think that they weren't documented.

REP. SCHMIDLE: Are you ready to vote? Okay, we're ready to vote on the motion. Those in favor please signify by saying aye.

COMMITTEE MEMBERS: Aye.

REP. SCHMIDLE: Those opposed? We have a unanimous motion. Okay, we are sustaining the report of the original recanvass in Waterbury, you know, as of our actions yesterday. Under new business, we need to hopefully conclude our examination of the elections and we need to deal with returning all these records that we have. Does anyone have any thoughts on what we should do about the machines?

REP. LYONS: My opinion is that during the entire testimony the machines were never a point to be questioned, agreed upon I believe by both counsels and by the committee in terms of any discrepancies. I feel it is not necessary to go into that aspect of looking at the machines.

REP. FARR: I don't see that it's going to have any impact one way or the other but since we've come this far, an

10  
kpp

## COMMITTEE ON CONTESTED ELECTIONS

January 23, 1985

REP. FARR: (continued)

appointed member of the committee can swing by and look at the machines that were used. I suggest we do that.

REP. SCHMIDLE: I think at this point in time the committee is really a little concerned about their workload, however, I do recall early discussions that the committee had when we said we were going to look at everything and look at as much as possible and if we're going to leave a paper trail, for any subsequent committee or history will want to know what we did, I'd like to be able to say that we looked at the machines. I do not expect any changes in the machines. They've been the same through two counts, but so we can be able to say, yes, this committee conducted and looked at every possible avenue. I would be in favor of looking at the machines.

REP. LYONS: I'm not going to, you know, object to it. I can understand you wanting just to clarify it for future use. I just don't feel it's really necessary.

REP. SCHMIDLE: Well, it may not be necessary but I think it would be good for this committee when we stand up and make our report to the General Assembly to say, yes, in fact we have done that.

REP. FARR: Okay, I think we can do that tomorrow. Let me just ask whether since the attorneys have had a chance to examine some of these books if either one of them want to make some kind of a statement.

REP. SCHMIDLE: Well, okay, we have resolved that the committee is going to pursue looking at the machines. We're not making a motion, just by consensus, we're all agreed that we are going to do that. The other big item, before we get into allowing the attorneys to make a statement is that we have to put together our statement for the General Assembly for tomorrow and Moira, do you have any objections to the attorneys making a statement at all?

REP. LYONS: No.

REP. SCHMIDLE: Okay, Mr. Hartley or Mr. Weichmann. Would you still remember to identify yourself?

11  
kpp

COMMITTEE ON CONTESTED ELECTIONS      January 23, 1985

ATTY. ERIC WEICHMANN: Thank you Madam Chairman, I'm Eric Weichmann. I've been here under many different spellings of my last name last week and I would like to express personally and for Mr. Post who has also been here representing Mrs. Bogen and for Mrs. Bogen herself, our appreciation for the patience and the time and the effort of this committee. The committee has at many times been presented with ways, an easy way out, procedural roadblocks saying they shouldn't have looked into the selection and just let it lie and I think the committee did the right thing. I think it's very important that while obviously it's understandable for someone who's declared a winner to want to get it behind them and to take their role as a member of the General Assembly. The most important thing was the process itself and I don't know about the members of the committee, but I know Mrs. Bogen and myself personally have been approached by many people in Waterbury, both Republicans and Democrats and possibly Independents too, who expressed a strong dose of cynicism about the absentee ballot procedures and they're around the state and I think if we found at least in one aspect that there are lots of various - about the absentee ballots - procedures that are lax enough that either through inadvertence of the state we have a lot of volunteers, or the cynics would say, maybe not here otherwise, through intention of fraud, the absentee ballot process is probably the one area in our election law where there can be room to adjust an election unfairly.

Mrs. Bogen came here, obviously anyone would like to be declared the winner, but came here and she said from day one, to make sure that there was a fair count, because she felt that was what the voters in the 73rd were entitled to. That's what I would like to express for the committee and for Al and Morgan and Jan and Bill, the time you spent yesterday trying to make sure that the counting of the ballots, the recanvassing of the - the recanvass basically was done fairly and you made a great effort in analyzing the ballots, in ruling on them, I can't say I agree with you all of the time, but it was done fairly and we have no objection to it.

Today I think there was some consternation, Mrs. Bogen wanted to do one thing which she wanted to do from the beginning but because records are tied up with the court, we didn't realize that the Town Clerk had certain records until yesterday that we assumed had been delivered and when

ATTY. WEICHMANN: (continued)

we opened the box found they weren't, and that was just to go through some of the public records that any person would be entitled to and her count, which unfortunately was under some pressure, showed discrepancies between number - on the registry list - of ballots received and the ones on the absentee ballots, the outer envelopes received and the actual ballots that you people considered. There are explanations for that. It may have been a miscount, but I think after talking to Mrs. Bogen, she said especially hearing Mr. Lenge say his checking yesterday showed no substantial discrepancy, that what we would do is - well, we're not going to request the committee to pursue it any more. If the committee is satisfied, we will be satisfied. That leaves us with what we think is one lesson that should come out of here, other than obviously you reporting to the committee who should be certified as the representative from the 73rd, and that is the lesson that maybe not this committee, but some committee, should look at absentee ballot reform. We shouldn't have counters who are trying their best, but not being guided, and moderators not understanding what they have to do in either the initial count or the recount. We should make sure that procedures for soliciting absentee ballots or having them handled where there are a lot of provisions, for having them make sure they're kept properly and are done so so you cannot have the cynicism where someone would say, it's not just a close election, it was an election that was stolen.

That can be engendered when procedures become lax, when accusations are made that people are out there doing things they shouldn't do, and I'm not thrusting at the general election now, because we would have come with specifics. But I do think this is something that we've got - we spend so much time with the machines, we spend so much time and money and Al has had instructions and all that this type of reform may avoid a miscount in the future unless you have an absolute dead tie or something.

The second area we would ask that the lawyers do not have to spend so much time on procedure maneuvers. Obviously the House may itself might want to set clear guidelines to any contestant in the future, how they can contest, how they can set this up so that at the time the House is ready to sit, they can make an initial determination as

ATTY. WEICHMANN: (continued)

to whether someone should be sworn in or not so that neither party would be prejudiced prior to the hearing but other than that, I thank you very much and I hope to work with you again in the future.

REP. SCHMIDLE: Well, we also thank you and we would like for you to know that we have already amassed an enormous folder full of information which we're going to pass on to GAE, Government Administration and Elections, which is the committee of cognizance in this area and you better believe they're going to address all of these things. I just want to take one moment to introduce Rep. Hartley. I saw her come in (applause). I hope you understand our deliberations. Mrs. Bogen is also here. Mrs. Bogen we thank you for your participation and your patience and (applause) all. And now we have another Hartley. Sir.

ATTY. HARTLEY: I just want to thank the committee and the members of the staff for all of the time they've given late into the evening last night and all. One thing I think is still unsettling to me and unsettling to many people who are involved in this is the fact that the proponents, protagonists if you will, have not proved one item in this statement, a voluminous statement, not one item has been proved. Yet we have a situation where Mrs. Hartley, Mr. Hertzmont, the Town Clerk and the counters in Waterbury all have had their reputations tarnished, if not irrevocably damaged, by statements contained in here and made to the press. I hope the committee can propagate some rules, some type of regulations, some type of due process procedure that will be followed in the future that will alleviate this type of situation because it has been a very upsetting situation and a very damaging situation for most of the people involved. Thank you.

REP. SCHMIDLE: Okay, thank you. I just want to say one thing in relation to this. I think one of the things that I was going to discuss with the committee was some kind of correspondence that we could send to the members and the people who have been involved in this so that they know our position and where we are coming from in terms of any allegations that have been made because they never came out of this committee. Mr. Weichmann.

ATTY. WEICHMANN: I wanted to end on a positive note but I do have to respond. You, this committee, decided you didn't want to act as a technical court of law but being

14  
kpp

## COMMITTEE ON CONTESTED ELECTIONS

January 23, 1985

ATTY. WEICHMANN: (continued)

a lawyer, Mr. Farr would appreciate we wanted to set forth all accusations that we believe, we hope that we - in the time - the short time frame we had, could substantiate - I'm sure Mr. Hartley knows that many times not everything is proven. As to the reputations of Mr. Hertzmont or the counters, they understand it, Mr. Hertzmont understands it because I talked to him, that accusations of fraud or illegality were never directed towards those gentlemen. They were here, I think the committee recognizes that, and to say here that those accusations were directed maybe the only thing that really damages them because the press may think now that accusations of that nature were directed towards those people. A careful reading of that complaint, if we tried to explain later, to allude on the complaint, because it was the other side that kept saying put it on paper and let's improve it and we were afraid if we didn't put anything that may possibly be there, they'd say you can't prove it. We said through the whole process and as the committee remembers and we didn't agree but we basically gave in to the committee's determination. We didn't go through the whole election process. If Mr. Hartley would later on like to discuss with me what information I have or discuss with Mr. McGuiggan what he may have about concerns concerning the 73rd primary process and what may be fraudulent legality, he can do it.

Pat was not here but if he'd like to raise this and think there is no basis for that, that's something that I just wish he hadn't brought in because it does indicate to - the Mrs. Bogen may not have any basis for that. We didn't bring it up because we really didn't want to bring it up.

REP. SCHMIDLE: Thank you and I'm sure that you gentlemen are going to have a lot to say to each other at the conclusion of this. Can we move along and have this committee discuss some of the things we want to include in our report to the General Assembly. Bob.

REP. FARR: I think that what we want to do is do a brief report to the General Assembly which historically will document what we have done here, that what we ought to be talking about is reporting in such a fashion that in 40 years time if this comes up again, somebody could figure out what we did and we can't figure out what they did in 1939, so I think we better leave a better paper trail.

15  
kpp

## COMMITTEE ON CONTESTED ELECTIONS

January 23, 1985

REP. FARR: (continued)

So, I would suggest that we make a report that covers a number of items. I don't know if Mrs. Schmidle wants to make some suggestions first. Do you?

REP. SCHMIDLE: Just going from our original report that we made to the General Assembly, I think that we have got to give a report on seating the members of the House. We gave a report that was pending and I think we ought to make that positive and you know, say how many members we want to seat. I think we ought to tell the General Assembly that we took evidence in the Notice of Contest, people who wanted to contest, and then the first thing that we did was that we came to the conclusion that in fact we wanted to hear more about the contest in the 73rd district and then I think we ought to tell the General Assembly our conclusions in the 73rd district, that we examined, one, two, three, four and that these are our conclusions.

I think if any members of the committee, and I'm sure they would like to, would care to comment to the General Assembly you know after we make our report, but the report should be clear and concise and you know, just what we did and then any other editorial comments can be made by the committee members subsequently.

REP. LYONS: I have no problem with what you're stating, to give them the factual information first and obviously, to list the pending vote that we had in the meeting last week in the General Assembly. I would like, and I would like the committee to be aware that, in terms of the individual reporting, I would like to say something concerning the actual vote when we made the vote of recanvassing the vote to decide to recanvass of why I felt or why my vote was a negative vote.

REP. SCHMIDLE: Well, is this something you want to do later or is this something you want to do in part of the report and then I think if you record in the report why you voted the way you voted, and then maybe other committee members are going to want to talk about why they voted their way so do you want the report that we make to the House Clerk and the written report that will be part of the historical document to reflect that? Or do you want to make comments later?

16  
kpp

## COMMITTEE ON CONTESTED ELECTIONS

January 23, 1985

REP. LYONS: Yes, I would like this to read that we are attempting to give future generations something to look at so I think it's equally important for them to look at the reasons why we made this decision to actually go into the recanvassing. I think that's as important as the outcome of the recanvassing itself. So, I would - yeah.

REP. SCHMIDLE: Okay, then you're saying then that when the committee made the motion that you want your arguments and you want the arguments on the other side as well?

REP. LYONS: Essentially, I mean I don't feel we have to make it extremely elaborate.

REP. FARR: Let me suggest that what I think we should do is submit a report which would be one and a half pages or so for the General Assembly tomorrow to adopt. That report wouldn't contain arguments or anything, more of just a history of what we did. And then we could submit separately with that a brief statement of first of all, some of the documentation, some of the findings on the particular ballots and what you want to do in terms of arguments and let me just run over what I think are - should be in the report and maybe this will resolve it.

It would be a report that the committee met, that we heard allegations that there was a contest in the 73rd district, that we decided to take evidence from the 73rd district, that we heard the evidence presented in the 73rd district and decided on a vote of 2 to 1 to do a recount of the results in the 73rd Assembly District, that we did a recount on the 73rd Assembly District, and found two differences - a difference of two votes in two different precincts within that district but it made no difference in the final outcome of the election in that district and finally, that the results of the canvass, as reported to us by the Secretary of State in her previous report, should be adopted as accurate and that those members indicated as elected on that report should be deemed to be properly elected by the House.

REP. SCHMIDLE: Thank you --

REP. FARR: -- And seated and then we can insert that this committee will have two weeks in which to present to the House Clerk, documentations, transcripts, and a summary



17  
kpp

## COMMITTEE ON CONTESTED ELECTIONS

January 23, 1985

REP. FARR: (continued)

of the arguments on this decision, if you want, to do a recount.

REP. LYONS: I agree with what you're saying in the report and I think that's fine however, I would reserve the right - I think it's equally important for the General Assembly to know - how important it is to set up your procedures once you have begun a recount, it's also important to know the procedures as to why you would have a recount, even differing, that's fine, but what is deemed evidence, what is deemed a threshold, if there is a rule, if there is a procedure for that. We may differ on that but I still think it's important for someone looking back to be given that experience and then making their decision as to whether they would recanvass.

REP. FARR: Okay, I think that first of all if we submit the transcript to the Clerk, that will be part of the record. Secondly, we can submit a summary of the arguments as well. I'm concerned because tomorrow I think the House has to adopt, accept a report from us so that everybody is properly seated. Right now there's a cloud over every seat and I think we ought to put that to rest and as I said, we can have two weeks in which to file copies of the transcript, the copies of the ballots that have been questioned, and a summary of the arguments as to why we decided to do a recount.

REP. SCHMIDLE: I also think that if we're going to do that kind of a report on that, it requires this committee meeting several times again before we submit that report to make sure that we're saying what everybody wants to say and that we have everyone's opinion of arguments and decisions and you know, clearly set down in this report. I think that the committee should get all of the transcripts of everything that happened and that's going to be part of the paper trail that we leave top.

REP. FARR: I think the alternative would be we could each submit our own statement as to why we felt it was important instead of doing it as a committee. I don't know if we're going to disagree on that.

REP. SCHMIDLE: Well, we still have time for one committee report even if we decide to - on an addendum that it's

REP. SCHMIDLE: (continued)  
incumbant upon us as a committee to make a report.

REP. LYONS: I guess I'm not clear on when you're saying that we will submit within two weeks the information concerning what I have discussed. I'm unclear as to where we're submitting this, simply as written record to be read in by the Clerk?

REP. FARR: I think tomorrow with the General Assembly, I suspect that the questions going to be asked of us on the Floor of the House, how we reached - why we did the recount and our opinions as to whether it would be appropriate to do this. I think we can thrash that out tomorrow on the Floor of the House. My concern is the House has to tomorrow adopt a report from the committee in order to take the cloud off of everybody and I'm trying to come up with a report that we can do right now or have ready by tomorrow that will then be adopted by the House to put to bed all of the questions of contest in any election and have everybody duly seated and then tomorrow after we submit that report, before they adopt it, I suspect the members of the House are going to ask questions and we're going to have an oral transcript of what went on there and we're going to have questions raised as to why we did certain things and we can present that.

If after that we want to do something more in writing, I think we can also submit that but we're not going to get that completed in time for tomorrow and we can't afford to wait any longer.

REP. SCHMIDLE: Okay, what if we did prepare a factual report of this is what happened and this is how we acted and this is the end result and then have each - call on each committee member then to comment on the report or, to you know, in some way add to it?

REP. LYONS: Yeah, as I said I have no objection with what you stated in the report at all and I did want to make a comment as I say which I think is important for historical record concerning the recount. I believe that by doing that ahead of time, and I believe Rep. Farr is right, if you don't say that then you will be innundated with many, many questions from the floor. I think it is better to make your report, make your statements concerning that, because obviously that is going to be a huge question mark. I cannot envision

19  
kpp

## COMMITTEE ON CONTESTED ELECTIONS

January 23, 1985

REP. LYONS: (continued)

people would not ask that. Better to have given the history prior to all the questions, then to sit there for four hours and have questions that weren't even necessary come up.

REP. FARR: Well, that's fine. We can do that through a statement from each of us tomorrow rather than -- we'll never get it worked out in time for tomorrow --

REP. SCHMIDLE: Okay, and I certainly, when I make the report will immediately then ask the Speaker if the members of the committee can comment before there are any questions and that everyone has the opportunity to comment. I do think that even when we draw up, in substance what is agreed on is going to be in this report, and I'm wondering if they shouldn't meet five minutes before the session so that if I'm to draw it up or whoever is to do it that we see the report in advance and we all know what it says.

REP. FARR: I think we should.

REP. LYONS: I agree with that also. I just wonder if indeed at the conclusion of this report, because once again, there will be questions coming up, we should not say that we have recognized that there are holes, however one wants to put it, within the statutes concerning this and the committee of cognizance will be dealing with this.

REP. SCHMIDLE: Certainly and that we will refer the information that we unearthed about the system and about the statute to GAE and you want that part of the report? Okay, no problem.

REP. FARR: Okay. Let me just review what I suggested we do and we can work up the wording later but it would be to -- that the committee would report that we met, we heard allegations of a contested election in the 73rd Assembly District, that we decided to take evidence as to those allegations, we heard evidence, then the committee decided on a vote of 2 to 1 to do a recount of the results in the 73rd Assembly District, that we did a recount, we found two differences in the results -- we found differences in the results of two precincts but that the final results for the district were the same as those presented to us by the Secretary of State and that as a result, we recommend that the -- well, then we report that the report submitted to the Secretary of State on her canvass be accepted by

20  
kpp

## COMMITTEE ON CONTESTED ELECTIONS

January 23, 1985

REP. FARR: (continued)

the House as accurate and that all members of the House be deemed duly elected. And then add to that that the committee has two weeks to submit additional documents as to what its procedures were and what it found during the process and that all questions raised concerning the election process discovered by the committee be referred to GAE. Does that sound reasonable?

REP. SCHMIDLE: I think I would add a few things in there. I think we ought to tell in our report exactly what we examined --

REP. FARR: -- Okay, that's right --

REP. SCHMIDLE: -- How we examined the ballots, that we looked at the envelopes and that we looked at the machines and you know, give them a scope of what we did. Do you want to make any reference to the 44th? Now we did ask if there any --

REP. FARR: -- Right and I think we could put in that there was an indication of a contest in the 44th in both the participant in the election and the Attorney for Mrs. Hartley indicated that they were withdrawing any case for the contest.

REP. SCHMIDLE: Well, I don't know if we had a indication of a contest as much as we had an inquiry from someone in the 44th district. He never said that he wanted to contest it. What he said was --

REP. FARR: -- Why don't we say we got a letter concerning the 44th and make it --

REP. SCHMIDLE: -- Yeah, right, there wasn't a contest --

REP. FARR: -- And then a formal indication from the individual that he was withdrawing and not contesting.

REP. SCHMIDLE: Also, as part of the historical trail, do you think it's important in this report that we tell the General Assembly the way in which we conducted our procedures, that we were completely open about everything, that everyone was always invited. I mean there was no question of meeting behind closed doors or anything like that because people were comparing us with the Kinsella

21  
kpp

## COMMITTEE ON CONTESTED ELECTIONS

January 23, 1985

REP. SCHMIDLE: (continued)

Commission and the Kinsella Commission did almost all of their work behind closed doors. Nobody knew how or what they did or how they arrived at their conclusions and I think that this committee went to very great lengths to be totally and completely open about it; our searches, our investigations, our talking to people, our looking for more information you know when we said to people, is there anyone else out there that might have something to say, I think that's important, from my perspective for the General Assembly to know.

REP. LYONS: We could put it in, that our meetings were open to the public.

REP. SCHMIDLE: Last night I think in some cases the press knew the conclusions before the committee did.

REP. FARR: Okay, is this agreeable then? I would just move that we adopt this report, reserving the right to change the final language when we meet 15 minutes before the session tomorrow.

REP. SCHMIDLE: All right. Fifteen minutes?

REP. FARR: Yes, I think fifteen minutes just to make sure that we --

REP. SCHMIDLE: -- The session's at what, 2:00?

REP. FARR: Two o'clock.

REP. SCHMIDLE: Okay. Then we'll meet at 1:45. The last time we tried to meet around the fountain and that didn't work too well. How about if we try to reserve the Controller's conference room downstairs?

REP. FARR: Yeah, we'll try that.

REP. SCHMIDLE: Jan, please. For anyone here, we'll try to meet in the Controller's Conference room on the first floor at 1:45 tomorrow.

REP. FARR: I just to conclude by thanking everybody for giving me an incredible education about our election process in Connecticut. I know more than I ever wanted to know.

22  
kpp

## COMMITTEE ON CONTESTED ELECTIONS

January 23, 1985

REP. SCHMIDLE: Sir, would you care to have a discussion about the scientific side of election laws? Well, I think one of the very valuable things that will come out of this, and again, the committee sincerely regrets any imposition on -- all the impositions that have been placed upon people who participated and those that we were concerned with but out of this will come a process for all of the towns in the State of Connecticut, will come a system that will be as error proof as possible and that will be as uniform as possible for all the towns to do things and I think that Waterbury is going to be exemplary and remembered forever in history as being the catalyst for us to be able to do this as a state. Right, Moira?

REP. LYONS: Right.

REP. SCHMIDLE: GAE is going to have a lot to do this year. Thank you again. Yes? Sorry.

: Will you return all these things (inaudible, too far from mike).

REP. SCHMIDLE: Oh, it's on my notes. Okay. They all go back to Waterbury? They don't go back to the court at all?

REP. FARR: No, we have to return the documents that were received from the court to the court.

REP. SCHMIDLE: Okay, I'll make a motion that this committee return all of the documents that were received from the court to the court and all the documents that were received from the Town Clerk to the Town Clerk.