

MEMBERS PRESENT:

|                  |              |
|------------------|--------------|
| Chairman Westall | Mr. Vergiels |
| Mr. Kovacs       | Mr. Rhoads   |
| Mr. May          | Mr. Brady    |
| Mr. Bremner      | Mr. Stewart  |

WITNESSES AND PRINCIPALS PRESENT:

Mr. W. W. Galloway, Clark County Treasurer  
Mr. George Ullom, Registrar of Voters, Clark County  
Mr. Frank Daykin, Legislative Council Bureau  
Mr. James W. Schofield, Defendant  
Mr. Michael T. FitzPatrick, Claimant

Chairman Westall convened the Meeting at 1:50 P.M.

Chairman Westall stated this was an organizational meeting and a hearing for contested election results between Mr. FitzPatrick, Claimant, and Mr. Schofield, Defendant.

Mr. May moved that the meeting be conducted by parliamentary rules outlined in Mason's Manual.

Mr. Bremner seconded the motion. Motion carried unanimously.

Mr. George Ullom, Registrar of Voters, Clark County, presented information and outlined procedures pertaining to changes of residences, filing of written notices of change of address, and time elements. The voter has 30 days within which to file a change of address.

Included in the written documents presented by Mr. Ullom was an affidavit of Martin A. Trisham, Director of Data Processing for Clark County, outlining practices and procedures of his operation, his personal qualifications, and his opinion of accuracy of results. Also included in the presentation is the decision of the Election Recount Board and tally of votes cast. (EXHIBIT A)

Mr. Stewart asked if determination could be made as to candidate for whom the contested ballots were cast.

Mr. Ullom said such determination could not be made.

Mr. Rusk inquired if a person changed address less than 30 days prior to an election could the voter cast his ballot in the district of his old address.

Mr. Ullom said if a person moved after the voter registration "cut-off" date, he could vote in the district of his previous residence.

Mr. Daykin confirmed Mr. Ullom's statement, adding the intent of the law was not to disenfranchise persons who moved prior to an election.

Mr. FitzPatrick, Claimant, said he was concerned by persons who voted in District 12 who were not residents of the District. He had signed affidavits containing names of 145 persons who were not residents of District 12 at any time on or after October 1, 1980. These persons voted in the election although they were ineligible. He was concerned about the quality control of the ballot itself. Because of the ineligible voters and the potential for erroneously recording votes cast due to deficiencies of the ballot, the outcome of the election in District 12 was clouded. He requested the Legislature call a special election to settle the matter; and also requested the Legislature address the matter of ineligible voters by requiring sufficient identification to prove their actual place residence was that listed on the voter registration. (EXHIBIT B and C)

Mr. FitzPatrick said he did not think it was the responsibility of the candidate to detect and challenge the ineligible voters at the poles. He thinks it should be the job of the State and particularly the Registrar of Voters.

Mr. James W. Schofield, Defendant, presented a written document, prepared by his attorney, detailing his defense. None of the voters were challenged at the poles and proper channels for protesting the election results had not been utilized. (EXHIBIT D)

Chairman Westall declared a five minute recess to allow the Committee to read the written testimony.

Mr. Bremner asked the length of time required to prepare for a special election.

Mr. Ullom said approximately 30 days. The cost would be about \$5000.

Mr. Daykin said 30 days to five weeks. He had conferred with Secretary of State, Mr. Swackhamer, on the matter. This five week period allowed for necessary action by the Legislature.

On rebuttal, Mr. FitzPatrick said he had conferred with his attorney and the only form of contest open to him was the one he had taken.

Mr. Daykin confirmed this statement.

Mr. May commented he had not received any communication of any type from anyone in the District. The concern within the District over the official outcome of the election was not apparent.

Mr. Bremner asked if there was any evidence District 12 had a more transient population than other Districts in Clark County.

Mr. Ullom answered "no". There was a considerable turnover of population throughout the County.

Mr. Bremner stated he did not think it was fair to the people of District 12 to be without representation for the five weeks that would be required for a new election.

Mr. Rush was of the opinion that in this case, where the apparent victor had a 140 vote margin, a new election could not be justified.

Mr. Vergiels moved the Committee find the challenge brought against the seating of Mr. James W. Schofield be denied and this Committee do recommend to the entire body of the Assembly that Mr. James W. Schofield be officially seated and sworn as the Assemblyman from District 12, Clark County, State of Nevada.

Mr. May seconded the motion. Motion carried unanimously.

Meeting adjourned at 1:45 P.M.

Respectfully submitted.



M. ROBERTSON  
Committee Secretary

IN THE STATE ASSEMBLY  
OF THE STATE OF NEVADA

MICHAEL T. FITZPATRICK, )  
 )  
 Contestant, )  
 )  
 vs. )  
 )  
 JAMES W. SCHOFIELD, )  
 )  
 Defendant. )  
 )

ELECTION CONTEST  
ASSEMBLY DISTRICT 12

WRITTEN TESTIMONY OF GEORGE ULLOM, REGISTRAR OF VOTERS,  
CLARK COUNTY, NEVADA

Contestant has presented a number of affidavits which indicate that as many as 145 persons had moved from their address of record sometime prior to the General Election of 1980. Apparently these individuals did not file a change-of-address request with the Election Department, but then voted at their old precinct.

Your committee should be advised as to certain existing practices in the Election Department. Within the two weeks prior to an election day, this office will receive hundreds of calls from individuals asking where they are to vote; that they had not received their sample ballot. Questioning reveals that they have moved during the preceding year. They are advised that it is too late to complete a change-of-address form for this election. They then state that they want to vote and what should they do. Our office advises that they can return to their former voting precinct and try to vote, but that they are subject to challenge. (This office received no written challenges during the course of the November election, and no verbal challenges were made at the polling places.)

Attached is an affidavit signed by Don Bowman, Customer Service Representative, U.S. Postal Service, advising that a number -


of people still receive mail at the address of record. In the instance of Assembly District 12 we find that five persons still receive their mail at the address which affiants claim they no longer live. In addition, one such affidavit claims that Richard Brian Loden is no longer a resident of 1011 Norman Avenue, and is deceased. Our records indicate that Richard Brian Loden registered in 1966 while in the military. He has voted consistently since that time. Pursuant to his written request, a ballot was mailed Mr. Loden on October 14, 1980. Mr. Loden returned his voted ballot on October 22nd. His current address is 750-B Portola Street, Presidio of San Francisco, CA 94129.

For the information of your committee, the following is a party breakdown of the 145 persons:

|                   |          |
|-------------------|----------|
| Democrat.....     | 79       |
| Republican.....   | 57       |
| Non-Partisan..... | 8        |
| Libertarian.....  | <u>1</u> |

TOTAL: 145

Contestant further alleges that "quality control in manufacturing the ballots" may have affected the outcome of his race. Attached is an affidavit signed by Martin Trishman, Director of Data Processing, Clark County, Nevada, regarding that subject.

  
\_\_\_\_\_  
GEORGE JULLOM  
Registrar of Voters  
Clark County, Nevada

A F F I D A V I T

STATE OF NEVADA )  
                  ) ss:  
COUNTY OF CLARK )

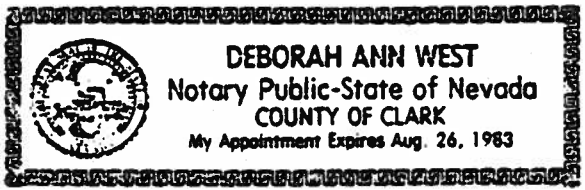
My name is Don Bowman. I am Customer Service Representative for the U.S. Postal Service located at 1001 Circus Drive, Las Vegas, Nevada.

On January 7, 1981, I was requested by the Clark County Election Department to verify mail delivery to forty-two (42) different residents. I personally contacted each individual carrier who delivers to these forty-two (42) addresses and was assured that eleven (11) of the residents (see attachment) still receive mail at the address indicated.

*Don Bowman*  
\_\_\_\_\_  
DON BOWMAN  
Customer Service Representative  
U.S. Postal Service

Subscribed and sworn to before me  
this 15<sup>th</sup> day of January, 1981.

*Deborah West*  
\_\_\_\_\_  
NOTARY PUBLIC in and for said  
County and State.



According to the postal carrier the following persons are still receiving mail at the address indicated:

|  |  |
|--|--|
| Carrier 224<br>Carlos E. Grill   | 106 W. St. Louis   |
| Carrier 411<br>Donald E. Brookhyser  | ✕ 1900 Howard Avenue   |
| Carrier 662<br>Donald L. Perry   | 6050 W. La Madre Avenue  |
| Carrier 747<br>Barbara Couch Gilbert   | 136 Foxdale Way  |
| Carrier 766<br>Mary S. Nolan   | 209 Canyon Drive   |
| Carrier 809<br>Christine E. Hickman  | 6637 Painted Desert Drive  |
| Carrier 2844<br>David L. Nygard  | 121 Redstone Street  |
| Carrier 403<br>Robert B. Page  | ✕ 2109 Ballard Drive   |
| Carrier 404<br>Dorothy Meriam Porter<br>Ronald J. Janesh<br>Roberto Richard Alvergue | ✕ 1605 Euclid Avenue<br>✕ 2317 Wengert Avenue<br>✕ 2120 Wengert Avenue |

A F F I D A V I T

STATE OF NEVADA     )  
                          )  
COUNTY OF CLARK    )

I, MARTIN A. TRISHMAN, being first duly sworn, deposes and says that:  
I reside at 2701 Colanthe Avenue in the City of Las Vegas, County of Clark, State of Nevada.

That acting in my capacity as Director of Data Processing for Clark County, I was in attendance throughout the entire computer count of the Federal, State and Local elections conducted on November 4, 1980. Again, acting in my capacity as Director of Data Processing, I was also in attendance at the computer recount for that November 4th election conducted December 4, 1980, at the request of Michael T. Fitzpatrick, Candidate for Nevada State Assembly.

Having assumed my current position as Director of Data Processing of Clark County on June 9, 1980, I participated in one (1) prior election, the Primary Election of September 9, 1980, and one (1) prior recount held on September 20, 1980. That recount, although smaller than the one in question, resulted in complete verification of the original computer count held on election day. The computer programs have not been changed since the Primary Election.

Data Processing conducted in Clark County, Nevada, is comprised of a wide variety of business applications running on a digital computer. The applications are in support of the Metropolitan Police Department, the Fire Department, Assessments, Treasurer, Building/Zoning, Business License and other County Departments. Programs are run on the computer in both a batch and a teleprocessing communications environment. The Shared Computer Operations for Protection and Enforcement (SCOPE) system running under the Clark County teleprocessing network supports all of the major law enforcement agencies operating in the State of Nevada: the Federal Bureau of Investigation, the Nevada Highway Patrol, the Las Vegas Metropolitan Police Department, the Washoe County Sheriff's Office, the Reno City Police, and



others. The system also transmits information to and from these agencies through a state computer switch to the National Crime Information Center (NCIC) in Washington, D.C., and the California Law Enforcement Telecommunications System (CLETS).

For the period of eight (8) years before joining Clark County, I held the position of Data Processing Division Manager for the Washington Suburban Sanitary Commission (WSSC), 4017 Hamilton Street, Hyattsville, Maryland, a public water and sewer utility providing service to approximately one million people in the Counties of Montgomery and Prince Georges adjacent to the District of Columbia in the State of Maryland.

While in that position I led the Division in the implementation of many on-line communications and batch programming systems: Utility Billing, Maintenance Work Order and Standard Time Reporting, Personnel/Payroll, Permit Processing, Assessment Billing, Network Flow Analysis and other computer applications. In addition, I was responsible for the installation of three (3) analog control computers. One of these systems was installed in a Break Point Chlorination research application for tertiary wastewater treatment. Two other analog computers were used to fully automate a 60 MGD wastewater treatment plant.

Prior to my association with WSSC I was employed for approximately three (3) years by the Radio Corporation of America (RCA), an equipment manufacturer of medium and large scale digital computers used for batch, communications and time-shared Data Processing. During that period as a Senior Systems Specialist in government marketing I participated in many benchmarks and consulted in numerous computer marketing ventures. I led a twenty (20) member benchmark team in preparing a demonstration responding to the Air Force Logistics Request for Proposal. This represented the largest procurement of "off the shelf" computer hardware to that time. I also performed in the capacity of "trouble-shooter", visiting a number of Data Processing organizations, analyzing and correcting serious deficiencies such as excessive downtime, loss of software and inability of equipment to perform

as specified.

During the Vietnam War, I consulted with the U. S. Marine Corps designing and programming large computer models which projected the results of various troop movements and promotion policies. Prior to that I acquired six (6) years of programming experience in a large insurance environment and two (2) years of teaching analog computer circuitry on missile fire control systems in the U. S. Army. At the present time I have accumulated over twenty-one (21) years of experience in analog and digital computers in the field of Data Processing. I am currently a member of the Association for Computing Machinery and the Data Processing Management Association. I also hold the Certificate in Data Processing (CDP) co-sponsored by a large number of computer hardware and software societies, including the two previously stated.

Mr. Michael T. Fitzpatrick, Candidate for Assembly District 12, in support of this election contest, stated in his explanation of the reason for the one (1) additional vote being counted for his opponent was due to the die being utilized to prepunch the ballot cards was misaligned.

Based upon my experience and personal examination of the cards, it is my opinion that the one (1) vote difference between the original count and the recount probably occurred when a voter partially punched a ballot, punched it sufficiently to break only two or three points of the die cut. This partially punched ballot was handled and passed through the card reader causing the piece of chad to break loose causing the hole to be read as an additional vote. This is the most probable cause for the one (1) vote difference.

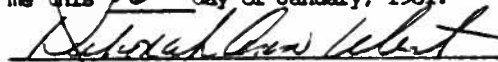
The cards are manufactured at a rate of 800 cards per minute. If the die cutting machine had been significantly out of tolerance it would have been out of tolerance for many cards and thus the voting discrepancy would have been much wider. It is also my experience that normal handling of ballots that are punched to specification and are not partially punched will not cause chad to break off the card.

That only one (1) vote difference occurred in the recount concerning the vote totals of Mr. Fitzpatrick and Mr. Schofield in a race in which a total of 4,530 ballots were cast. Accordingly, it is my opinion that there is no significant difference between the computer count of the November 4th election and the recount held on December 4th. As a result of the fact that the election was held according to the statutes prescribed and that no significant discrepancies were found in the recount, it is my opinion that the result of the original summary of the November 4th election which was submitted to the Secretary of the State and approved by the State Supreme Court is the most accurate record available.

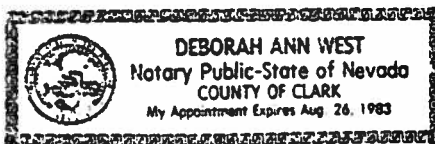
  
MARTIN A. TRISMAN

Subscribed and sworn to before

me this 16<sup>th</sup> day of January, 1981.



NOTARY PUBLIC in and for said  
County and State.



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BEFORE THE ELECTION RECOUNT BOARD  
CLARK COUNTY, NEVADA

IN THE MATTER OF THE RECOUNT OF THE )  
GENERAL ELECTION OF NOVEMBER 4, 1980 )  
FOR THE CANDIDATES FOR STATE ASSEMBLY )  
DISTRICT 12. )

DECISION

This matter having come before this Board on December 4, 1980, for consideration of the numerical accuracy of the result in the above entitled election; the candidates or their authorized representatives having had the opportunity to appear and observe the recount procedure; now, therefore, pursuant to NRS 293.403 et seq., the Election Recount Board hereby finds the following relevant facts and conclusions and enters the following order.

FINDINGS OF FACT

1. That the above entitled election was conducted utilizing a punchcard voting system.
2. That demand for a recount of the vote for the above entitled election result was filed by Mike T. Fitzpatrick in a proper and timely manner.
3. That pursuant to NRS 293.404(3), the following precincts were randomly chosen to be hand counted: Las Vegas 45, Las Vegas 70 and Absentee 30.
4. That the precincts listed above were chosen to be handcounted pursuant to NRS 293.404(3) after consultation with each candidate for the office who was present at this recount proceeding.
5. That this Election Recount Board performed a handcount of all the valid ballots cast in precincts set forth above during the above captioned election for the above captioned office.
6. That the result of this handcount of the ballots cast in the above

1 mentioned precincts resulted in the following tally:

|    |               |             |           |
|----|---------------|-------------|-----------|
| 2  | Las Vegas 45: | Fitzpatrick | 62 votes  |
| 3  |               | Malcolm     | 9         |
| 4  |               | Schofield   | 57        |
| 5  | Las Vegas 70: | Fitzpatrick | 164 votes |
| 6  |               | Malcolm     | 17        |
| 7  |               | Schofield   | 217       |
| 8  | Absentee 30:  | Fitzpatrick | 78 votes  |
| 9  |               | Malcolm     | 10        |
| 10 |               | Schofield   | 72        |

11 Total votes cast  
by candidate:

|    |  |             |           |
|----|--|-------------|-----------|
| 12 |  | Fitzpatrick | 304 votes |
| 13 |  | Malcolm     | 36        |
| 14 |  | Schofield   | 346       |

15 7. That the tally of the handcount is identical in every respect to the  
16 certified abstract of votes.

17 8. That pursuant to NRS 293.404(3) a computer recount of the punchcard  
18 ballots cast in the above mentioned precincts was performed.

19 9. That the result of this computer recount of the ballots cast in the  
20 above mentioned precincts resulted in the following tally:

|    |               |             |           |
|----|---------------|-------------|-----------|
| 21 | Las Vegas 45: | Fitzpatrick | 62 votes  |
| 22 |               | Malcolm     | 9         |
| 23 |               | Schofield   | 57        |
| 24 | Las Vegas 70: | Fitzpatrick | 164 votes |
| 25 |               | Malcolm     | 17        |
| 26 |               | Schofield   | 217       |
| 27 | Absentee 30:  | Fitzpatrick | 78 votes  |
| 28 |               | Malcolm     | 10        |
| 29 |               | Schofield   | 72        |

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|                  |           |
|------------------|-----------|
| Total votes cast |           |
| by candidates:   |           |
| Fitzpatrick      | 304 votes |
| Malcolm          | 36        |
| Schofield        | 346       |

10. That the tally of the computer recount is identical in every respect to both the tally of the handcount and the certified abstract of votes.

11. That pursuant to NRS 293.404(3) the Election Recount Board performed a computer recount of all ballots cast for the above mentioned candidates in the above captioned election.

12. That the result of this computer recount of all the ballots cast resulted in the following tally:

|             |             |
|-------------|-------------|
| Fitzpatrick | 1,816 votes |
| Malcolm     | 173         |
| Schofield   | 1,958       |

13. That the tally of the computer recount of all ballots cast is identical to the certified abstract of votes with the exception that Jim W. Schofield's recount total increased by one (1) vote as compared with his vote total contained in the certified abstract of votes.

CONCLUSION

This Election Recount Board has jurisdiction over this matter to the extent that this Board may resolve the issue as to the numerical accuracy of the above entitled election results.

Therefore, pursuant to NRS 293.403 et seq., it is the conclusion of this Election Recount Board that the certified abstract of votes in the above entitled election for the above mentioned candidates is true and correct with the exception in the vote total for Jim W. Schofield set forth in paragraph 13, supra.

DATED this 11<sup>th</sup> day of December, 1980.

ELECTION RECOUNT BOARD

By George Villon  
GEORGE VILLON, Chairman

OFFICIAL SUM

GENERAL ELECTIONS  
CLARK COUNTY, NEVADA  
TUESDAY, NOVEMBER 04, 1980

|                                 |      |        |             |  |      |        |              |
|---------------------------------|------|--------|-------------|--|------|--------|--------------|
| STATE ASSEMBLY, DISTRICT NO. 12 |      |        | 1 16 OF 161 | COUNTY COMMISSION, DISTRICT A            |      |        | 1 74 OF 741  |
| FITZPATRICK, M.T.               | REP. | 1,016  | 46.08       | BROADBENT, R.M.                          | REP. | 14,385 | 60.08        |
| MALCOLM, C.                     | LIBT | 173    | 4.48        | HAFEN, A.A.                              | DEM. | 6,765  | 32.08        |
| SCHUMFIELD, J.W.                | DEM. | 1,957  | 49.68       |  |      |        |              |
| STATE ASSEMBLY, DISTRICT NO. 13 |      |        | 1 52 OF 521 | COUNTY COMMISSION, DISTRICT B            |      |        | 1 35 OF 351  |
| HARRIS, W.A.                    | LIBT | 970    | 5.28        | HALE, J.L.                               | REP. | 2,590  | 26.28        |
| HAYLS, K.W.                     | DEM. | 11,803 | 62.78       | PETITTI, J.R.                            | DEM. | 7,313  | 73.08        |
| REAGAN, S.                      | REP. | 6,029  | 32.18       |  |      |        |              |
| STATE ASSEMBLY, DISTRICT NO. 14 |      |        | 1 23 OF 231 | COUNTY COMMISSION, DISTRICT C            |      |        | 1 67 OF 671  |
| BINDIE, G.                      | REP. | 2,009  | 35.68       | MILLER, T.                               | DEM. | 9,911  | 46.48        |
| STEWART, J.                     | DEM. | 5,223  | 64.48       | HUNZUNE, R.J.                            | REP. | 11,462 | 53.68        |
| STATE ASSEMBLY, DISTRICT NO. 15 |      |        | 1 16 OF 161 | COUNTY COMMISSION, DISTRICT D            |      |        | 1 49 OF 491  |
| FISLER, J.                      | REP. | 1,455  | 25.68       | BOMLER, S.                               | DEM. | 4,153  | 40.58        |
| HURN, M.J.                      | DEM. | 3,925  | 68.98       | MCLAUGHLIN, K.                           | LIBT | 724    | 7.18         |
| PIEKSON, B.                     | LIBT | 314    | 5.58        | WILSON, W.                               | REP. | 5,385  | 52.58        |
| STATE ASSEMBLY, DISTRICT NO. 16 |      |        | 1 28 OF 281 | PUBLIC ADMINISTRATOR                     |      |        | 1391 OF 3911 |
| HAM, J.                         | REP. | 5,744  | 52.68       | HARRIS, M.I.                             | LIBT | 15,709 | 14.18        |
| HARMON, H.L.                    | DEM. | 4,802  | 43.98       | POLLACK, J.                              | REP. | 41,266 | 37.18        |
| KING, C.                        | LIBT | 384    | 3.58        | SHAFFER, J.                              | DEM. | 54,169 | 48.78        |
| STATE ASSEMBLY, DISTRICT NO. 17 |      |        | 1 9 OF 91   | CUNSTABLE, LAS VEGAS TOWNSHIP            |      |        | 1297 OF 2971 |
| LULLINS, K.J.                   | REP. | 802    | 46.38       | BUNAVENTURA, J.                          | DEM. | 49,475 | 57.48        |
| KNAUTH, M.W.                    | LIBT | 55     | 3.28        | JUNIKKA, E.                              | LIBT | 3,688  | 4.38         |
| PRICE, D.                       | DEM. | 876    | 50.58       | SANDERS, M.L.                            | REP. | 33,073 | 38.48        |
| STATE ASSEMBLY, DISTRICT NO. 18 |      |        | 1 10 OF 101 | JUSTICE OF SUPREME COURT, SEAT A         |      |        | 1391 OF 3911 |
| HILKEY, T.                      | DEM. | 1,522  | 76.28       | FLANGAS, P.L.                            | N.P. | 20,000 | 17.68        |
| WILSON, J.                      | REP. | 475    | 23.08       | MURRAY, J.                               | N.P. | 84,860 | 71.78        |
|                                 |      |        |             | NONE OF THESE CANDID.                    |      | 12,575 | 10.68        |
| STATE ASSEMBLY, DISTRICT NO. 19 |      |        | 1 10 OF 101 | JUSTICE OF SUPREME COURT, SEAT E         |      |        | 1391 OF 3911 |
| GRUBB, L.                       | DEM. | 553    | 21.08       | GOLDMAN, P.S.                            | N.P. | 69,603 | 58.08        |
| MAY, P.W.                       | DEM. | 2,007  | 78.48       | SPRINGER, C.E.                           | N.P. | 43,886 | 36.68        |
|                                 |      |        |             | NONE OF THESE CANDID.                    |      | 6,500  | 5.48         |
| STATE ASSEMBLY, DISTRICT NO. 20 |      |        | 1 10 OF 101 | DISTRICT COURT JUDGE, DEPARTMENT NO. 9   |      |        | 1391 OF 3911 |
| CAPU, P.                        | DEM. | 1,354  | 36.88       | HUFFAKER, S.L.                           | N.P. | 66,891 | 56.48        |
| CHAUDUCK, R.G.                  | DEM. | 2,326  | 63.28       | SHEARING, M.                             | N.P. | 51,635 | 43.68        |
| STATE ASSEMBLY, DISTRICT NO. 21 |      |        | 1 15 OF 151 | REGENT, STATE UNIVERSITY, SUB-DISTRICT A |      |        | 1 42 OF 421  |
| SINA, H.M.                      | DEM. | 1,992  | 46.38       | WHITLEY, J.                              | N.P. | 8,191  | 100.08       |
| THOMPSON, D.L.                  | DEM. | 2,309  | 53.78       |  |      |        |              |
| STATE ASSEMBLY, DISTRICT NO. 22 |      |        | 1 34 OF 341 | REGENT, STATE UNIVERSITY, SUB-DISTRICT C |      |        | 1110 OF 1101 |
| HAFEN, B.K.                     | REP. | 3,429  | 38.88       | JONES, J.M.                              | N.P. | 19,371 | 49.58        |
| JEFFREY, J.E.                   | DEM. | 5,416  | 61.28       | KARAMANOS, C.                            | N.P. | 19,727 | 50.58        |
|                                 |      |        |             | STATE BOARD OF EDUCATION, SUB-DISTRICT A |      |        | 1 42 OF 421  |
|                                 |      |        |             | HULMES, M.F.                             | N.P. | 8,678  | 100.08       |

RETURN SUMMARY

*Stamp: 11:50 PM. Dec 4, 1980.*

GENERAL ELECTIONS  
CLARK COUNTY, NEVADA  
TUESDAY, NOVEMBER 4, 1980

*Thalia M. Dordero  
December 4, 1980  
11:50 PM.*

| REGISTERED VOTERS - TOTAL 153,065          |      |        |       | BALLOTS CAST - TOTAL 100,793           |      |       |       | % OF TURNOUT                           |  |  |  |
|--|------|--------|-------|--|------|-------|-------|--|--|--|--|
| <b>U.S. PRESIDENT &amp; VICE-PRESIDENT</b> |      |        |       | <b>1290 OF 1921</b>                    |      |       |       | <b>STATE ASSEMBLY, DISTRICT NO. 2</b>  |  |  |  |
| ANDERSON & LULLY                           | DEM. | 7,103  | 7.28  | CUSHMAN, T.                            | DEM. | 1,970 | 37.18 | 1 15 OF 150                            |  |  |  |
| CARTER & MUNDALE                           | DEM. | 27,149 | 27.46 | JUBUIS, J.                             | REP. | 2,540 | 60.08 |  |  |  |  |
| CLARK & ALPH                               | LIB  | 1,073  | 1.78  | LIZZIO, S.                             | LIB  | 121   | 2.98  |  |  |  |  |
| CLARK & BUSH                               | REP. | 61,573 | 62.14 | <b>STATE ASSEMBLY, DISTRICT NO. 3</b>  |      |       |       |  |  |  |  |
| NAME OF THESE CANDID.                      |      | 1,011  | 1.04  | BREMER, R.                             | DEM. | 2,500 | 61.54 | 1 13 OF 131                            |  |  |  |
| <b>UNITED STATES SENATOR</b>               |      |        |       | <b>1290 OF 1921</b>                    |      |       |       | <b>STATE ASSEMBLY, DISTRICT NO. 4</b>  |  |  |  |
| GUJARA, A.                                 | DEM. | 40,035 | 43.78 | EMMARI, J.                             | LIB  | 171   | 4.28  | 1 16 OF 160                            |  |  |  |
| HALLER, A.A.                               | LIB  | 1,791  | 1.84  | REED, M.                               | REP. | 1,390 | 34.36 |  |  |  |  |
| LARALI, P.                                 | REP. | 55,208 | 50.24 | <b>STATE ASSEMBLY, DISTRICT NO. 5</b>  |      |       |       |  |  |  |  |
| NAME OF THESE CANDID.                      |      | 1,227  | 1.24  | KISSAM, B.                             | DEM. | 1,006 | 49.08 | 1 10 OF 100                            |  |  |  |
| <b>REPRESENTATIVE IN CONGRESS</b>          |      |        |       | <b>1290 OF 1921</b>                    |      |       |       | <b>STATE ASSEMBLY, DISTRICT NO. 6</b>  |  |  |  |
| MAGUIRE, H.J.                              | LIB  | 2,802  | 3.08  | MALONE, M.                             | REP. | 2,137 | 54.48 | 1 9 OF 111                             |  |  |  |
| SAINTINI, J.                               | DEM. | 66,421 | 68.08 | <b>STATE ASSEMBLY, DISTRICT NO. 7</b>  |      |       |       |  |  |  |  |
| SAUNDERS, V.                               | REP. | 24,495 | 25.14 | BRADY, B.U.                            | REP. | 4,000 | 71.16 | 1 0 OF 70                              |  |  |  |
| NAME OF THESE CANDID.                      |      | 3,023  | 3.98  | LAITA, G.                              | LIB  | 453   | 7.04  | 1 0 OF 70                              |  |  |  |
| <b>STATE SENATE, DISTRICT NO. 2</b>        |      |        |       | <b>1 0 OF 371</b>                      |      |       |       | <b>STATE ASSEMBLY, DISTRICT NO. 8</b>  |  |  |  |
| FALSO, W.                                  | DEM. | J      | .04   | TRINER, A.M.                           | DEM. | 1,417 | 21.98 | 1 9 OF 111                             |  |  |  |
| MURPHY, H.                                 | LIB  | J      | .04   | <b>STATE ASSEMBLY, DISTRICT NO. 9</b>  |      |       |       |  |  |  |  |
| <b>STATE SENATE, DISTRICT NO. 3</b>        |      |        |       | <b>1290 OF 1901</b>                    |      |       |       | <b>STATE ASSEMBLY, DISTRICT NO. 10</b> |  |  |  |
| ASHKIN, K.                                 | DEM. | 56,168 | 16.74 | BERNETT, M.U.                          | DEM. | 263   | 59.08 | 1 10 OF 101                            |  |  |  |
| BILKUP, J.                                 | DEM. | 50,938 | 14.04 | REICHM, J.M.                           | LIB  | 61    | 13.78 | 1 0 OF 70                              |  |  |  |
| CADMAN, P.                                 | REP. | 40,103 | 14.34 | RYAN, P.                               | REP. | 122   | 27.48 | 1 0 OF 70                              |  |  |  |
| CUMMINS, J.                                | LIB  | 2,201  | .78   | <b>STATE ASSEMBLY, DISTRICT NO. 11</b> |      |       |       |  |  |  |  |
| FERNSTADT, B.                              | DEM. | 40,212 | 14.34 | CHANEY, L.                             | DEM. | 0     | .04   | 1 17 OF 170                            |  |  |  |
| LAMU, F.R.                                 | DEM. | 55,454 | 16.54 | HAYES, J.L.                            | REP. | 0     | .04   | 1 17 OF 170                            |  |  |  |
| LAMBERT, L.                                | REP. | 15,147 | 3.94  | <b>STATE ASSEMBLY, DISTRICT NO. 12</b> |      |       |       |  |  |  |  |
| LEAH, J.                                   | REP. | 40,058 | 11.94 | GETZEL, A.                             | LIB  | 87    | 2.08  | 1 12 OF 120                            |  |  |  |
| OWEN, P.                                   | LIB  | 3,302  | 1.04  | HUMPHREY, R.                           | DEM. | 1,577 | 51.04 | 1 12 OF 120                            |  |  |  |
| WHEEL, P.                                  | LIB  | 3,818  | 1.14  | ZIMMER, B.                             | REP. | 1,420 | 46.24 | 1 12 OF 120                            |  |  |  |
| MUNTON, M.                                 | LIB  | 5,270  | 1.54  | <b>STATE ASSEMBLY, DISTRICT NO. 13</b> |      |       |       |  |  |  |  |
| SAUER, A.                                  | REP. | 10,037 | 3.28  | FULLER, M.A.                           | DEM. | 2,190 | 64.38 | 1 10 OF 100                            |  |  |  |
| <b>STATE SENATE, DISTRICT NO. 4</b>        |      |        |       | <b>1 0 OF 171</b>                      |      |       |       | <b>STATE ASSEMBLY, DISTRICT NO. 14</b> |  |  |  |
| MURPHY, B.                                 | REP. | 0      | .04   | HERKULESON, S.                         | LIB  | 410   | 15.78 | 1 10 OF 100                            |  |  |  |
| HEAL, J.                                   | DEM. | J      | .04   | <b>STATE ASSEMBLY, DISTRICT NO. 15</b> |      |       |       |  |  |  |  |
| <b>STATE ASSEMBLY, DISTRICT NO. 1</b>      |      |        |       | <b>1 25 OF 251</b>                     |      |       |       | <b>STATE ASSEMBLY, DISTRICT NO. 16</b> |  |  |  |
| GRILL, J.                                  | REP. | 3,368  | 43.04 | BUSHMILL, S.J.                         | REP. | 1,737 | 37.98 | 1 16 OF 160                            |  |  |  |
| HENDERSON, P.                              | LIB  | 472    | 6.04  | VERWIELS, J.M.                         | DEM. | 2,012 | 30.98 | 1 16 OF 160                            |  |  |  |
| KOVACS, L.                                 | DEM. | 3,965  | 50.98 | YOUNG, L.                              | LIB  | 230   | 5.28  | 1 16 OF 160                            |  |  |  |
| <b>STATE ASSEMBLY, DISTRICT NO. 16</b>     |      |        |       | <b>1 16 OF 160</b>                     |      |       |       | <b>STATE ASSEMBLY, DISTRICT NO. 17</b> |  |  |  |
|  |      |        |       |  |      |       |       | BANNER, J.                             |  |  |  |
|  |      |        |       |  |      |       |       | BLACK, S.K.                            |  |  |  |
|  |      |        |       |  |      |       |       | DEM.                                   |  |  |  |
|  |      |        |       |  |      |       |       | LIB                                    |  |  |  |
|  |      |        |       |  |      |       |       | 2,474                                  |  |  |  |
|  |      |        |       |  |      |       |       | 64.48                                  |  |  |  |
|  |      |        |       |  |      |       |       | 497                                    |  |  |  |
|  |      |        |       |  |      |       |       | 15.68                                  |  |  |  |



RECOUNT SUMMARY

GENERAL ELECTIONS  
CLARK COUNTY, NEVADA  
TUESDAY, NOVEMBER 04, 1980

|                                 |             |  |              |
|---------------------------------|-------------|--|--------------|
| STATE ASSEMBLY, DISTRICT NO. 12 | 1 16 OF 161 | COUNTY COMMISSION, DISTRICT A            | 1 30 OF 741  |
| FITZPATRICK, M.I. REP. 1,016    | 46.08       | BREAGDEN, R.W. REP. 9,069                | 69.58        |
| MULLICH, C. LIB. 173            | 4.48        | MAFEN, A.A. DEM. 2,916                   | 36.58        |
| SCHUFFELU, J.W. DEM. 1,958      | 49.04       |  |              |
| STATE ASSEMBLY, DISTRICT NO. 13 | 1 52 OF 521 | COUNTY COMMISSION, DISTRICT B            | 1 0 OF 351   |
| HARRIS, M.A. LIB. 970           | 5.28        | MALE, J.L. REP. 0                        | .08          |
| HALL, R.W. DEM. 11,034          | 62.76       | PETITTI, J.R. DEM. 0                     | .08          |
| KEAGAN, S. REP. 6,033           | 32.14       |  |              |
| STATE ASSEMBLY, DISTRICT NO. 14 | 1 23 OF 231 | COUNTY COMMISSION, DISTRICT C            | 1 67 OF 671  |
| BOJUTE, G. REP. 2,009           | 35.68       | MILLER, I. DEM. 9,912                    | 46.48        |
| STEWART, J. DEM. 5,222          | 64.48       | MUNZUM, R.J. REP. 11,462                 | 53.68        |
| STATE ASSEMBLY, DISTRICT NO. 15 | 1 10 OF 161 | COUNTY COMMISSION, DISTRICT D            | 1 30 OF 491  |
| FISCH, J. REP. 1,455            | 25.58       | BOWLEN, S. DEM. 3,259                    | 48.78        |
| HARRIS, M.J. DEM. 3,925         | 68.98       | MCLAUGHLIN, K. LIB. 622                  | 9.38         |
| MILSON, D. LIB. 315             | 5.58        | WILSON, M. REP. 2,807                    | 42.08        |
| STATE ASSEMBLY, DISTRICT NO. 16 | 1 20 OF 201 | PUBLIC ADMINISTRATOR                     | 1200 OF 3911 |
| HAM, J. REP. 5,744              | 52.58       | HARRIS, M.I. LIB. 11,963                 | 13.08        |
| HARMON, H.L. DEM. 4,033         | 43.98       | PALLAK, J. REP. 39,132                   | 38.38        |
| KING, L. LIB. 364               | 3.58        | SHAFER, J. DEM. 41,369                   | 41.08        |
| STATE ASSEMBLY, DISTRICT NO. 17 | 1 0 OF 91   | CONSTABLE, LAS VEGAS TOWNSHIP            | 1206 OF 2971 |
| COLLINS, R.J. REP. 0            | .08         | BOHRENTUMA, J. DEM. 40,297               | 57.08        |
| KNAUFF, M.W. LIB. 0             | .08         | JURIKKA, E. LIB. 3,610                   | 4.38         |
| PHILL, D. DEM. 0                | .08         | SANDERS, M.L. REP. 32,774                | 38.78        |
| STATE ASSEMBLY, DISTRICT NO. 18 | 1 0 OF 101  | JUSTICE OF SUPREME COURT, SEAT A         | 1290 OF 3911 |
| HICKEY, T. DEM. 0               | .08         | FRANZAS, P.L. N.P. 19,910                | 17.28        |
| WILSON, J. REP. 0               | .08         | MUNDAY, J. N.P. 61,011                   | 72.38        |
|                                 |             | NONE OF THESE CANDID.                    | 10.58        |
| STATE ASSEMBLY, DISTRICT NO. 19 | 1 0 OF 101  | JUSTICE OF SUPREME COURT, SEAT E         | 1290 OF 3911 |
| WILSON, L. DEM. 0               | .08         | GOLMAN, P.J. N.P. 55,004                 | 59.48        |
| MAY, P.W. DEM. 0                | .08         | SPRINGER, L.E. N.P. 33,373               | 35.58        |
|                                 |             | NONE OF THESE CANDID.                    | 5.28         |
| STATE ASSEMBLY, DISTRICT NO. 20 | 1 0 OF 101  | DISTRICT COURT JUDGE, DEPARTMENT NO. 9   | 1290 OF 3911 |
| LAMU, P. DEM. 0                 | .08         | MUFFAKER, S.L. N.P. 53,070               | 56.78        |
| CHAUDUCK, R.G. DEM. 0           | .08         | SHEARIN, M. N.P. 40,462                  | 43.38        |
| STATE ASSEMBLY, DISTRICT NO. 21 | 1 2 OF 151  | REGENT, STATE UNIVERSITY, SUB-DISTRICT A | 1 0 OF 421   |
| SEMA, M.A. DEM. 0               | .08         | WHITLEY, J. N.P. 0                       | .08          |
| TRUMPSON, D.L. DEM. 0           | .08         |  |              |
| STATE ASSEMBLY, DISTRICT NO. 22 | 1 0 OF 141  | REGENT, STATE UNIVERSITY, SUB-DISTRICT C | 1110 OF 1101 |
| MAFEN, B.K. REP. 0              | .08         | JAMES, J.W. N.P. 19,372                  | 49.58        |
| JEFFREY, J.E. DEM. 0            | .08         | KARAMANUS, C. N.P. 19,726                | 50.58        |
|                                 |             | STATE BOARD OF EDUCATION, SUB-DISTRICT A | 1 0 OF 421   |
|                                 |             | HILMES, M.F. N.P. 0                      | .08          |

REGULATORY SUMMARY

GENERAL ELECTIONS  
CLARK COUNTY, NEVADA  
TUESDAY, NOVEMBER 30, 1980

|  |  |                               |                  |                                |
|--|--|-------------------------------|------------------|--------------------------------|
| STATE BOARD OF EDUCATION, SUB-DISTRICT D<br>KENNEY, J.                         | ( 53 OF 104 )<br>N.P. 15,552 100.00                        | QUESTION NO. 6<br>YES,<br>NO, | 41,904<br>56,282 | (290 OF 391)<br>42.78<br>57.34 |
| TRUSTEE, CLARK COUNTY SCHOOL - DISTRICT A<br>WILKE, P.R.<br>MULST, S.          | ( 39 OF 86 )<br>N.P. 4,730 42.28<br>N.P. 6,473 57.08       | QUESTION NO. 7<br>YES,<br>NO, | 44,078<br>46,589 | (290 OF 391)<br>48.64<br>51.44 |
| TRUSTEE, CLARK COUNTY SCHOOL - DISTRICT B<br>FALSO, W.R.<br>LITTLE, P.         | ( 3 OF 30 )<br>N.P. 401 53.08<br>N.P. 350 47.08            | QUESTION NO. 8<br>YES,<br>NO, | 72,069<br>40,664 | (290 OF 391)<br>77.94<br>22.18 |
| TRUSTEE, CLARK COUNTY SCHOOL - DISTRICT C<br>HENSLEY, V.O.                     | ( 3 OF 20 )<br>N.P. 337 100.00                             | QUESTION NO. 9<br>YES,<br>NO, | 64,269<br>29,313 | (290 OF 391)<br>68.78<br>31.38 |
| TRUSTEE, CLARK COUNTY SCHOOL - DISTRICT E<br>HAYLEN, J.E.<br>LUSH, L.R.        | ( 50 OF 50 )<br>N.P. 6,748 49.68<br>N.P. 6,897 50.48       |                               |                  |                                |
| JUSTICE OF THE PEACE, LAS VEGAS TWP - DEPT 3<br>DARLUM, V.<br>MURPHY, J.S.     | ( 1200 OF 2971 )<br>N.P. 22,399 26.78<br>N.P. 61,470 73.36 |                               |                  |                                |
| JUSTICE OF THE PEACE, LAS VEGAS TWP - DEPT 4<br>DIALEK, J.W.<br>LOULATKA, J.   | ( 1200 OF 2971 )<br>N.P. 49,995 60.94<br>N.P. 32,067 39.18 |                               |                  |                                |
| JUSTICE OF THE PEACE, LAS VEGAS TWP - DEPT 5<br>SLEEPER, J.<br>WHITE JR., E.W. | ( 1200 OF 2971 )<br>N.P. 38,280 45.78<br>N.P. 45,980 54.38 |                               |                  |                                |
| QUESTION NO. 1<br>YES,<br>NO,  | (290 OF 391)<br>73,271 80.46<br>17,857 19.64               |                               |                  |                                |
| QUESTION NO. 2<br>YES,<br>NO,  | (290 OF 391)<br>23,911 26.44<br>66,677 73.64               |                               |                  |                                |
| QUESTION NO. 3<br>YES,<br>NO,  | (290 OF 391)<br>30,671 33.38<br>61,430 66.78               |                               |                  |                                |
| QUESTION NO. 4<br>YES,<br>NO,  | (290 OF 391)<br>47,229 52.58<br>42,999 47.58               |                               |                  |                                |
| QUESTION NO. 5<br>YES,<br>NO,  | (290 OF 391)<br>33,162 36.56<br>57,012 63.56               |                               |                  |                                |

R

GEORGE ULLOM  
Registrar

OFFICE OF THE  
**Registrar of Voters**  
CLARK COUNTY, NEVADA

400 Las Vegas Boulevard South • Las Vegas, Nevada 89101 • Telephone (702) 386-4055

October 22, 1980

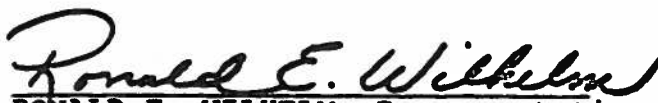
We, the undersigned members of the Computer Program and Processing Accuracy Board, do hereby certify that the computer and the program to be used to count the official ballots for the 1980 General Election went through the following tests:

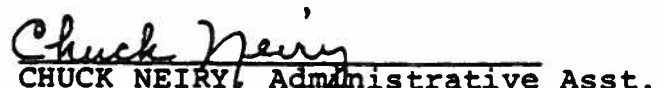
1. To verify that any invalid prepunching of a ballot card will cause the card to be rejected;
2. To verify that votes can be counted for each candidate and proposition;
3. To verify that any overvote for an office or proposition will cause a rejection of the vote for that office or proposition;
4. To verify that in a multiple vote selection the maximum number of votes permitted a voter cannot be exceeded without rejecting the vote for that selection, but any undervote will be counted;
5. To verify that neither a voter's omission to vote nor his irregular vote on any particular office or proposition will prevent the counting of his vote as to any other office or proposition on the ballot.

We do hereby certify that the computer and the program to be used to count the official ballots for the 1980 General Election was tested in accordance with the above provisions and found to be in compliance with the laws of the State of Nevada, NRS 293B.130, 293B.155, and 293B.385, as well as the Rules and Regulations established by the Secretary of State.

  
TIM O'DONNELL, Representative  
Republican Central Committee

  
JOSEPH MORRIS, Representative  
Libertarian Central Committee

  
RONALD E. WILHELM, Representative  
Democratic Central Committee

  
CHUCK NEIRY, Administrative Asst.  
Clark County Election Department

GEORGE ULLOM  
Registrar



OFFICE OF THE

# Registrar of Voters

CLARK COUNTY, NEVADA

400 Las Vegas Boulevard South • Las Vegas, Nevada 89101 • Telephone (702) 386-4055

November 4, 1980

The container with the Program that will be used to count the official ballots for the General Election, November 4th, 1980, was found to be in the identical condition as it was at the time that it was sealed on October 22nd, 1980. All seals and identifying marks were intact. The container was opened and the identifying marks placed upon the program deck were identical with the markings at the time the deck was placed under lock and seal.

We the undersigned members of the Computer Program and Processing Accuracy Board do hereby certify that all the foregoing is a true and correct statement.

  
TIM O'DONNELL, Representative  
Republican Central Committee

  
JOSEPH MORRIS, Representative  
Libertarian Central Committee

  
RONALD E. WILHELM, Representative  
Democratic Central Committee

  
CHUCK NEIRY, Administrative Asst.  
Clark County Election Department


In compliance with the laws of the State of Nevada, NRS 293B.130, 293B.155, and 293B.385, as well as the Rules and Regulations established by the Secretary of State, the computer and program were retested under the same conditions as the test conducted October 22nd, 1980, and were found to comply with or exceed all the requirements necessary.

We the undersigned members of the Computer Program and Processing Accuracy Board do hereby certify the computer and program for the counting of the official ballots for the General Election.

  
TIM O'DONNELL, Representative  
Republican Central Committee

  
JOSEPH MORRIS, Representative  
Libertarian Central Committee

  
RONALD E. WILHELM, Representative  
Democratic Central Committee

  
CHUCK NEIRY, Administrative Asst.  
Clark County Election Department

## Michael T. FitzPatrick's Testimony on Election Contest in Assembly District 12

While there were other avenues available to me in the courts, I preferred to bring this contest to the Assembly because I have faith in the integrity of this house to put partisan politics aside and determine this contest on the facts. The facts are that the law has been broke in every case to be presented. After you examine the facts, I hope you will come to the same conclusion I have, a revote for the assembly in district 12.

The republic form of government's foundation, both federal and state, is the elective process. We have carefully guarded this process by enacting laws to protect it. The states have been the primary protector by legislating voting laws.

In Nevada the Nevada Revised Statutes Chapter 293 deals with voting procedures. The law clearly states that no one may vote who has moved from his residence more than 30 days prior to the election. The reason being that person may re-register at his new address.

The insight of this body in past sessions has much wisdom within. Nevada is the seventh largest state in area and therefore has differnt needs in each part of the state- MX and mining in rural areas, urban sprawl and crime in the south, and water and sewage in the north, to name but a few. To make sure each area had their interests represented, the legislature has created forty distinct assembly districts based primarily on population, but also determined by geo-political boundaries. In this way residents within a certain assembly district could choose the candidate they felt would best represent them and their needs in the legislature. For this is true representation.

But what happens when residents outside the district cast enough votes to determine the election's outcome-Is there still true representation? The answer is definitely NO! Not only has a specific law been broken, but paramount, the spirit of the law has been broken.

Before you are signed affadavits containing the names of 145 persons who were not residents of Assembly District 12 at any time on or after October 1, 1980. They were ineligible to vote in Assembly 12 on election day. Yet they did vote. As it is a secret ballot, we do not know for whom these ineligible voters cast their ballot.

I was able to determine this from my voting lists. I walked 13 of the 14 precients in Assembly 12 and found approximately two-thirds of the residents home. While there, I

confirmed all listed resident voters of the household and scratched off any that had moved. After the election I compared my lists to the sign-in tally sheets and found the aforementioned names on the affidavits as voting. I then visited every residence to confirm that the voter had moved by having the current resident or apartment manager sign the affidavit. I should emphasize that with regards to apartment houses or condominiums, I not only checked with the on-premises manager but with the current resident of the unit.

I am also concerned about the quality control of the ballot itself. Mr. Ullom explained to me after the recount that the punches tend to fall out with handling. This could change the outcome of close elections.

The law states that each house shall determine its own contested election. That is why I am here today. The outcome of the election for Assemblyman in District 12 has been clouded. The confirmed illegal votes cast outnumber the plurality of my opponent. The members of this committee have two problems to solve, one immediate and one within this legislative session.

With regards to the immediate problem, you must resolve this contested election. I am not here today to ask you to seat me over my opponent. In good conscience I could not take the seat as I sincerely do not know the true outcome of the election. In order for all 15,000 residents of Assembly 12 to have their voices truly heard, I ask you to call a special election as soon as possible to settle this matter in the only fair way. It should allow only those who voted in the last election, less those named on the affidavits, to vote.

The second problem to address is how can we make sure this does not happen again. My experience in the banking industry has given me some insight. When you go to a bank to either open an account or cash a check, you are asked for identification, the most common form being a driver's license. If the election law were updated to include showing a Nevada driver's license or DMV identification card, the deputy registrar would be able to confirm the person's identity and address both at time of registration and time of voting. While some people may be slow to update their address on their driver's license, most do it fairly quickly so their license will match their address on their check when writing one

Additionally, when sample ballots are mailed, instructions should be given to the Post Office not to forward but return to the registrar. In turn the registrar could correct the tally sheets to prevent illegal voting.

With regard to the plugs in the ballots, there should be strict supervision and guidelines from the Secretary of States's office to ensure quality control.

The above ideas will put teeth in to the law so all ineligible votes are prevented. We are not talking about one race, but all races for all offices in the future that could be challenged under the present lack of enforcement in the law.

Thank you for your time.

ISSUES PRESENTED BY THE ELECTION CONTEST  
FILED BY MICHAEL T. FITZPATRICK VS. JAMES W. SCHOFIELD

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1. Did the Election Board, in conducting the election and canvassing the returns make errors sufficient to change the result of the election as to the election of James W. Schofield as State Assemblyman in Assembly District 12?

V(3), N.R.S. 293.410(d)

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2. Were there illegal votes cast and counted which, if taken from defendant Schofield, would alter the election in favor of Fitzpatrick?

V(5), N.R.S. 293.410(3)

ISSUE 1 - ANALYSIS AND ARGUMENT

Contestant alleges errors by the election department which, if true, would change the result of the election of Mr. Schofield.

The Supreme Court of Nevada has addressed itself to the issue of irregularities and misconduct by election officials.

Concerning misconduct of officers and others in an election for the office of Attorney General, the court, in THE STATE OF NEVADA, ex rel. William McMillan, Realtor v. Reinhold Sadler, Respondent, 25 Nev. 131, decided July 1899, stated:

When a candidate for an office does not participate in, or have knowledge of, criminal violations of election statutes at a precinct, and when such acts do not make or lose votes for any candidate for such office, or destroy the secrecy of the ballot, or cast uncertainty on the results of the election, and no elector voting in such precinct participates in such acts, or is prevented from voting or properly marking his ballot, and no disqualified person is allowed to vote, the votes cast at such precinct for such office are valid.

at 131.

Concerning irregularities of election officials in elections, the court, in Henry V. NicholSEN, Appellant v. E. A. Comins, Respondent, 33 Nev. 381, decided 1910, stated:

Were irregularity of the election officers in canvassing the ballots at a place other than the polling place will be disregarded under primary election law (Stats. 1909, c.198), Section 1 providing that the law shall be liberally construed so that the will of the electors shall not be defeated by an informality or failure to comply with its provision in respect to conducting the election or certifying its results.

at 381.

Other state Supreme Courts have ruled similarly. Quoting from the Treatise on Elections, 26 Am.Jur.2d, 278:



1 As a general rule, honest mistakes or mere  
2 omissions on the part of the election officers,  
3 or irregularity in directory matters, even  
4 through gross, if not fraudulent, will not void  
5 an election unless they affect the result, or at  
6 least render it uncertain. And even if the acts  
7 of such officers are fraudulent, the votes of the  
8 electors should not be invalidated if it is  
9 possible to avoid doing so.

10 at 278.

11 There is again, no showing of fact by the contestant  
12 that any of the alleged errors or irregularities would have  
13 changed the vote totals in favor of the contestant to the detri-  
14 ment Mr. Schofield. Even if such allegations of irregularities  
15 or errors were true, it cannot be concluded that the errors would  
16 have benefited the Contestant solely. Any votes that might be  
17 invalidated, and we are not advocating that any such vote should  
18 be invalidated, must necessarily be deducted from all of the  
19 candidates based on the same percentages that each candidate  
20 received of the remaining vote totals for the office of Assembly-  
21 man of District 12. Contestant's statement of contest is void of  
22 any fact which would mandate this body deducting any votes from  
23 Mr. Schofield's total, since each and every vote was, in fact, a  
24 secret vote and it has not been proven by Contestant that these  
25 votes were solely for Mr. Schofield. The logic of Contestant's  
26 assertions, and certainly they are merely assertions, is falacious  
27 and any irregularities, if true, are at most minor irregularities.

28 Again, all of these allegations by Contestant do not  
29 factually prove that they affect the election results or render  
30 it uncertain as to the Contestant and Mr. Schofield. Certainly,  
31 there is no showing that Mr. Schofield was a participant in any  
32 alleged irregularity and that therefore, his vote should be re-  
33 duced accordingly. As stated before, any vote reduction would  
34 have to be based on the same percentage of votes received by all  
35 the candidates in this election.

36 Even if the Contestant had proven misconduct by any  
37 election officer, and indeed there is no misconduct proven by the  
38 Contestant in his proofs, there is no showing by the Contestant  
39 that Mr. Schofield participated in, or had knowledge of, such  
40 misconduct. The Nevada Supreme Court, in the McMillan case set  
41 forth the requirements sufficient to validate any votes where  
42 alleged misconduct took place by an officer of the election and  
43 Respondent's petition is void of such proof.

44 Since this body is impowered by statute to hear and  
45 decide an election contest involving an Assembly Seat, you shall  
46 decide if any allegation by the respondent is supported by facts  
47 and then what weight, if any, shall be given to such facts in  
48 accordance with your standing or special rules pertaining to  
49 election contests heard by this body.

#### 50 ISSUE 3 - ANALYSIS AND ARGUMENT

51 Contestant alleges that many illegal votes were cast  
52 and counted, which, if taken from Mr. Schofield, would have  
53 altered the election results that resulted in his election.

1 Again, these allegations are mere conclusions, and again,  
2 are not supported by facts. Contestant bases his allegations on  
3 attached affidavits which Contestant claims support the position  
4 that first, there were illegal votes cast and counted, and second,  
5 that they could have altered the outcome of the election. (N.R.S.  
6 293.410(2)(c) The Statute contains two (2) necessary elements.

7 1. Illegal votes cast and counted for the  
8 defendant, and

9 2. If taken from him (winning candidate) will  
10 reduce his vote total below the number to elect  
11 him.

12 Pursuant to N.R.S.293.303, et seq., any alleged illegal  
13 voter could have been challenged by any registered voter at such  
14 time as such voter attempted to vote. The Election Board, at  
15 such time of challenge, shall, according to the Statute, proceed  
16 to decide the challenge in the manner provided therein. Absent  
17 such challenge at the polls, there is no Statutory relief open  
18 to any candidate after the vote has been cast and counted which  
19 could be applied. It can be concluded that failure to challenge  
20 a vote at the polls constitutes a waiver of such challenge right.

21 The Nevada Supreme Court has not had the occasion to  
22 address itself to the issue of an allegation of illegally cast  
23 votes and what remedies, if any, they would order. However, the  
24 Illinois Supreme Court in the case of Boland v. LaSalle, 370 Ill.  
25 at 387, and the Supreme Courts of Kansas, Michigan, Montana,  
26 Oregon, South Dakota, Wisconsin, and Wyoming have also addressed  
27 this question.

28 The view has been taken the entire vote of a pre-  
29 cinct should not be cast out where election  
30 officers, acting honestly and in good faith,  
31 received illegal ballots less in number than  
32 the majority shown in favor of one of the candi-  
33 dates, and a proportionate deduction of illegal  
34 votes cast in the precinct, based on the number  
35 of votes received in the precinct by each candi-  
36 date, has been resorted to or approved, directly  
37 or indirectly, in many jurisdictions. And some  
38 courts have adopted the view that, in the  
39 absence of proof of fraud or gross irregularities,  
40 the fact that some ballots were cast illegally should  
41 be disregarded.

42 Treatise on Elections, at 26 Am.Jur.2d,  
43 Section 292.

44 We would respectfully suggest that this ruling is the  
45 only fair and unprejudicial way to decide this particular issue.

46 In the instant case, there is no factual showing that  
47 there were, in fact, illegal votes cast. The Affidavits attached  
48 to the petition attempt to show that there were votes cast by  
49 persons who allegedly did not reside within the precinct where  
50 they voted. The Nevada Statutes concerning challenges to persons  
51 applying to vote are set forth at N.R.S. 293.303 et seq. (Para-  
52 phrasing). If the Contestant or any registered voter know of any  
53 person not eligible to vote upon the ground that he or she is not

1 the person entitled to vote as claimed, or has voted before on  
2 the same day, or upon any other grounds provided for in the Title,  
3 the person may be challenged orally. Whereupon the Election  
4 Board shall tender the person an oath as to whether or not the  
5 person is the person whose name appears upon the Affidavit of  
6 Registration in the precinct register. A refusal to take the  
7 oath, or a successful challenge, will render the person unable  
8 to vote. When a challenge is unsuccessful, the person shall be  
9 issued a ballot vote. The Affidavits attached to the Contes-  
10 tant's petition merely allege that the person who voted did not  
11 reside at the address listed in the Abstract of Registration  
12 after October 1, 1980. However, there are no allegations nor any  
13 showing of fact that the person has, in fact, abandoned that  
14 residence, thus making him ineligible to vote in that precinct.

15 The Nevada Statutes pertaining to registration and  
16 qualification of voters, set forth in N.R.S. 293.485 et seq.  
17 provides that any citizen who has continuously resided in the  
18 state and in the county thirty (30) days and in the precinct ten  
19 (10) days next preceding the day of the next general election,  
20 and who has registered in the manner provided by Statute, shall  
21 be entitled to vote at such election. The statutes further  
22 provide that a person may move from one precinct to another with-  
23 in the same county after the close of registration for any elec-  
24 tion, and shall be deemed to retain his residence in the county  
25 or precinct he moved from for the purpose of that election.  
26 There is only a presumption created under N.R.S. 293.495 where  
27 a person, having a fixed and permanent home within a precinct  
28 removes himself to another precinct, the intent to abandon his  
29 former residence is presumed and the burden shall be upon the  
30 voter to prove the contrary. There is no showing of the fact  
31 that any person abandoned his or her residence within the pre-  
32 cinct in which that person voted. Even assuming that such person  
voted illegally, Contestant's petition is entirely void of any  
facts which could possibly lead this body to the conclusion that  
such vote should be deducted from Mr. Schofield's total solely.

33 In conclusion, the Contestant has clearly failed to  
34 sustain his burden on any one of the three issues raised in  
35 Contestant's petition filed in this election contest and we would  
36 urge that this body decide the contest in favor of James W.  
37 Schofield; that upon communication of your decision to the Secre-  
38 tary of State, the Secretary of State shall execute and deliver  
39 a Certificate of Election to Mr. Schofield.

1 MOTION TO DISMISS THE CHALLENGE BY  
2 MICHAEL T. FITZPATRICK TO THE SEATING OF JAMES W. SCHOFIELD  
3 IN THE 1981 SESSION OF THE NEVADA STATE ASSEMBLY

4 INTRODUCTION

5 The challenge of Mr. Fitzpatrick should be dismissed  
6 because it contains within it four fatal errors: (1) he failed to  
7 present a challenge to the voters at the time of their voting as  
8 provided by Nevada statutes; (2) he failed to utilize the method of  
9 challenge to the district courts of the State of Nevada, the clear-  
10 est and most appropriate remedy properly suited to handle this type  
11 of challenge provided by law; (3) the challenge papers on their  
12 face do not contain the proper allegations, if accepted, to sustain  
13 the seating of Mr. Fitzpatrick; (4) the requested result is con-  
14 trary to the law of the State of Nevada, desirable public policy of  
15 the State of Nevada and to the general authority on this subject in  
16 the courts of the United States.

17 Nevada statutes at NRS 293.303 have an extremely clear  
18 and carefully worked out procedure for testing the bonifides of  
19 an intended voter. It is in conjunction with this procedure that  
20 the Nevada Revised Statutes on elections carefully allow for the  
21 attendance of observers upon the election from each of the political  
22 parties and for full access to the voting process by the public and  
23 carefully delineate that the election boards and the election  
24 personnel should be balanced politically. Very elaborate schemes  
25 have been drawn to safeguard the ballot. None of these schemes  
26 work properly unless someone is present to challenge in the case  
27 of irregularity.

28 The clear tenor of the Nevada Revised Statutes is that  
29 it is the duty of any person concerned with their own election and  
30 of their political party to provide proper and informed observers  
31 who must undertake the necessary steps to protect the purity of the  
32 ballot. Mr. Fitzpatrick failed in this duty. The Republican Party  
failed in this duty. They cannot now be heard to say that had they

1 been there and done their duty the election would have been  
2 handled differently.

3 Nevada law does, of course, give Mr. Fitzpatrick another  
4 chance. That chance is found at NRS 293.410. Such statute  
5 contains precisely the grounds upon which he now seeks to  
6 challenge in the Nevada Assembly. It, however, suggests that the  
7 challenge be brought in the District courts of the State of Nevada.  
8 Now, there are a number of reasons of sound public policy for such  
9 a suggestion and procedure: (1) the matter could be disposed of  
10 before the convening of the legislature, a time at which a  
11 challenge is both inconvenient and extremely costly to the citizens  
12 of the State of Nevada; (2) the courts are the proper place to  
13 take care of allegations involving (a) technical matters, such as  
14 computer failure, as alleged; or (b) questions which involve the  
15 cross examination of witnesses, such as asking presumptively  
16 illegal voters as alleged by Mr. Fitzpatrick, whether or not they,  
17 in fact, voted for Mr. Schofield.

18 Now, clearly there is no definitive and clear resolution  
19 of this matter that would satisfy the Fitzpatrick supporters but  
20 to take such testimony. They had time to do so, but they failed  
21 to do so. They failed in this despite the fact that NRS 293.415  
22 expressly allows for a deposition procedure and one that is  
23 clearer, easier and swifter than normal courtroom procedure so that  
24 these matters could be settled in a timely fashion before the  
25 convening of the legislature.

26 Similarly, the legislature has spoken its desire as to  
27 how these matters should be handled by its discussion in  
28 NRS 293.413 which has extremely tight time limits and gives election  
29 contest precedence over all regular business of the court so that  
30 "... Results of election shall be determined as soon as  
31 practicable."

32 The failure of Mr. Fitzpatrick and his supporters and the

1 Republican party to take this clear, speedy, flexible and proper  
2 remedy demonstrates their insincerity, and if this challenge is  
3 taken for political purposes only, it should not be dignified by  
4 any sort of a hearing by this honorable body and the challenge  
5 should be dismissed forthwith.

6           Despite the elaborate challenge by Mr. Fitzpatrick and  
7 his careful efforts to supply expertise in computer statistical  
8 matters by his witnesses, he has one exceedingly strange omission  
9 in his allegations. Nowhere is it alleged that if the matters  
10 he complained of were rectified, that Mr. Fitzpatrick would be  
11 elected an Assemblyman in the State of Nevada for the 1981 session.

12           Not once, at any point, in any of his contest material  
13 does he, in fact, allege that any of the votes he discusses went  
14 to Assemblyman James Schofield. One could read Mr. Fitzpatrick's  
15 allegations forever and not ascertain who he thought won the elec-  
16 tion. Clearly, at most, if you accept fully his statements,  
17 Mr. Fitzpatrick is trying, however weakly, to furnish the grounds  
18 for a new election. He is positively not furnishing any grounds  
19 for himself to be seated in the place of Mr. Schofield.

20           Needless to say, the only purpose of your meeting today  
21 is to answer his request that he be seated in place of Mr. Schofield.  
22 His refusal to give you allegations, much less facts upon which  
23 they could be properly taken, is fatal to his cause and would cause  
24 you to appropriately dismiss this challenge without hearing any  
25 further presentation. He failed to challenge initially. He failed  
26 to utilize a clear and proper and perhaps effective procedure and  
27 having done that, he further insults the Assembly and the people  
28 of the State of Nevada by asking you to undertake an action without  
29 even giving you reasons to do so. One simply cannot ask to be  
30 seated as the winner of an election without in some way alleging  
31 that one won the election or would have won the election but for  
32 illegal or improper activity. Mr. Fitzpatrick has not done this.

1 He has simply said there were things about the election that in his  
2 opinion were not proper or would cause doubts to be cast. That is  
3 just not sufficient.

4 THIS CHALLENGE IS CONTRARY TO NEVADA LAW AND THE  
5 WEIGHT OF AUTHORITY IN THE UNITED STATES

6 NRS 293.410 tells us what the law of the State of Nevada  
7 is on this subject. Insofar as Mr. Fitzpatrick's challenge is  
8 concerned, he has to show, following NRS 293.410 (c), that illegal  
9 votes were cast and counted for the defendant which if taken from  
10 him will reduce the number of his legal votes below the number  
11 necessary to elect him. Now clearly, as discussed above,  
12 Mr. Fitzpatrick has not even alleged this. He does not say the  
13 votes were cast for the defendant. He does not say they ought to  
14 be taken from him. He just says that certain people ought not to  
15 have voted and since they ought not to have voted he should be an  
16 Assemblyman. The weakness of this argument is apparent.

17 An examination of 26 AM JUR 2d, §292 at page 116, shows  
18 that the law of the United States in these matters is strongly in  
19 favor of the same position that anybody with a particle of common  
20 sense would take on this subject.

21

22 ...  
23 To warrant a court's taking cognizance of the  
24 matter, a charge that illegal votes were cast in  
25 favor of a candidate is necessary, and the party  
26 disputing an election on the basis that illegal  
27 votes were cast has the burden of proving for which  
28 candidate the illegal votes were cast. Where the  
29 record does not clearly show what the result of an  
30 election should be, the court will not substitute  
31 its judgment for that of the electorate as declared  
32 by the proper authorities.

33 The candidate receiving the greater number  
34 of votes should be not charged of course with  
35 excess ballots where it is not known for whom  
36 illegal ballots were cast. ..."

37 Probably the leading case on this subject in the United  
38 States is Boland V. LaSalle, 19 N.E. 2d, 177, (Sup. Ct. Ill. 1939).

39 The invalidation of what are otherwise  
40 good ballots, and consequent disen-

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franchisement of legal voters, should not rest upon vague surmise or assumptions not warranted by record.

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Where votes cast exceeded by one the number of names on poll book, and excess ballots had not been withdrawn according to law, it could not be attributed to either side of proposition voted upon, and it should have been deducted from total votes cast on a pro rata basis, the fraction of vote to be deducted from total vote on each side of proposition being in the proportion votes on that side of proposition bore to total votes...

SUMMARY

Mr. Fitzpatrick has not followed the procedures. He has not made the proper allegations. He has not furnished you with any law as in his favor. An examination of the law shows that it is directly contrary to his position and yet he asks this body to declare him to be a state assemblyman.

Mr. Fitzpatrick was defeated in the election, has shown you no good reason to declare otherwise and should be defeated in his effort to seek a hearing on his challenge.

Respectfully submitted,



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