

MINUTES OF THE
TEMPORARY CREDENTIALS COMMITTEE
SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE

January 19, 1981

The Senate Temporary Credentials Committee appointed for the contest of Peggy Cavnar as to the election of William Hernstadt to the Senate was called to order by the Chairman, Senator Melvin D. Close, at 1:30 p.m. on Monday, January 19, 1981, in Room 213 of the Legislative Building, Carson City, Nevada. Exhibit A is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Melvin D. Close, Chairman
Senator Don Ashworth
Senator Jean Ford
Senator Lawrence E. Jacobsen

? OTHERS PRESENT:

Peggy Cavnar
Attorney Larry Johns
William E. Hernstadt
Attorney I. R. Ashleman
Frank Daykin, Legislative Counsel

WITNESSES PRESENT:

George Ullom
Kathleen A. Misenor
Scott Doyle
Martin Trishman

STAFF MEMBERS PRESENT:

Iris Parraguirre, Committee Secretary
Shirley LaBadie, Committee Secretary

Attorney I. R. Ashleman of Las Vegas, Nevada, was present, representing William Hernstadt during the proceedings.

Attorney Larry C. Johns of Las Vegas, Nevada, was present, representing Peggy Cavnar during the proceedings.

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Frank Daykin, Legislative Counsel, was present for the purpose of guiding the Committee in its deliberations. Mr. Daykin stated the hearing of the contest was not a judicial proceeding but that the Constitution provides that each House is the judge of the election of its members and that each proceeding of this kind is to some degree unique because each House in this Legislature controls its own proceedings and in this case, has not adopted any formal rules to govern. However, he stated that the Committee would be guided as if the hearing were a judicial proceeding, in that the members are sitting in the position of triers of the fact as to the election and will be guided by the same precedence as a court of law would be guided for the same purpose.

* Mr. Daykin stated that the duty is upon the contestant to show any incorrectness in the election proceedings and to show by a preponderance of the evidence that whatever irregularity existed would have altered the outcome of the election if it had not occurred. Lisa v. the Board of Elections, 357 N.E. 2d, 1013, attached herewith as Exhibit B.

Mrs. Cavnar was then asked to go forward with her evidence and her opening statement is attached hereto as Exhibit C.

Following Mrs. Cavnar's opening statement, I. R. Ashleman, attorney for William Hernstadt, presented his evidence to the committee, which consisted of a Motion to Dismiss the Challenge by Peggy Cavnar to the Seating of William Hernstadt in the 1981 Session of the Nevada State Senate, attached hereto as Exhibit D. Also presented to the Committee was a chronological list of events, attached hereto as Exhibit E. Mr. Ashleman then gave a brief opening statement, in which he stated that many of the matters could have been handled if Mrs. Cavnar had utilized her ability to have observers to challenge voters at the time of voting. Secondly, he stated that nothing prevented Mrs. Cavnar from going to Court, getting depositions etc., and disposing of the contest issue before the Senate was to convene to avoid time and expense. Thirdly, Mr. Ashleman stated that the challenge papers do not contain the proper allegations to sustain the seating of Mrs. Cavnar. Fourth and finally, Mr. Ashleman stated that it was the duty of Mrs. Cavnar to present some reason to believe that, but for the irregularities, she would have won the race.

Following Mr. Ashleman's opening statement, Mr. Johns presented his case for Mrs. Cavnar, stating there were four specific grounds for the contest of the election.

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The grounds were set forth in the Petition to Contest the Election of William Hernstadt, which is attached hereto as Exhibit F.

The comments of Larry Johns included ten questions, which are attached hereto as Exhibit G. His conclusion was that Mrs. Cavnar had met the burden of 293.410 of the Nevada Revised Statutes. He submitted that the race was too close to call, and it was a tie by all mathematical standards.

The closing statement of Mrs. Peggy Cavnar is attached hereto as Exhibit H.

A recess was taken until 3:00 o'clock.

The meeting of the Senate Temporary Credentials Committee reconvened at 3:15 p.m.

Mr. William Hernstadt made a brief statement in which he stated that he felt he had won the election fair and square. He asked his attorney, I. R. Ashleman to make the presentation on his behalf as to the arguments from a legal standpoint. He stated that there were five individuals connected with the Clark County Election Department, headed by Mr. Ullom, who would explain what they did and answer any questions that might have been raised from the Cavnar presentation.

Mr. Ashleman presented his arguments on behalf of Mr. Hernstadt and referred to his Motion to Dismiss, (See Exhibit D) which was made part of the record.

Mr. George Ullom, Registrar of Voters, Clark County, Nevada, presented his written testimony which is attached hereto as Exhibit I and made a part of this record.

Kathleen A. Misenor, Senior Systems Analyst for Clark County Data Processing, Las Vegas, Nevada, testified at the request of Mr. George Ullom concerning the Recount Summary dated November 4, 1980, attached hereto as Exhibit J. Ms. Misenor's Affidavit is attached hereto as Exhibit K.

Scott Doyle from the Clark County District Attorney's Office, legal counsel for the Election Department, testified and referred to the Decision and Findings of Fact of the Election Recount Board, attached hereto as Exhibit L.

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Martin Trishman, Director of Data Processing for Clark County, testified concerning the computer recount and operation of the computer. His Affidavit is attached hereto as Exhibit M.

With regard to Mr. Ullom's testimony (See Exhibit I), Chairman Senator Close marked the recount summary dated November 4, 1980, as Exhibit No. 1 (refer to Minute's Exhibit J) and the written testimony of Mr. Ullom as Exhibit No. 2. (Refer to Minute's Exhibit I.) During further testimony of Mr. Ullom (See Exhibit I), the Affidavit of Ann Campbell, Chairman of the Election Board for Las Vegas Precinct No. 31, was marked by Chairman Close as Exhibit No. 3, which is attached hereto and referred to herein as Minute's Exhibit N.

A recess was taken at 4:00 p.m. The committee is to reconvene after the meeting of the Senate.

The meeting of the Senate Temporary Credentials Committee reconvened at 4:30 p.m. on January 19, 1981.

Mr. Ullom continued his testimony regarding the recount proceedings and referred to Mr. Trishman's memorandum dated 12/10/80, which is attached hereto marked Exhibit O. The Affidavit of Lew M. DeWolf was referred to and was marked as Mr. Ullom's Exhibit No. 4, attached hereto and referred to herein as Minute's Exhibit P. The Affidavit of Margaret Rille was marked Exhibit No. 5 and is attached hereto and referred to as Minute's Exhibit Q. The Affidavit of Lauretta Matthews was marked Exhibit No. 6 and is attached hereto and referred to herein as Minute's Exhibit R. The Affidavit of Dan Bowman was marked as Mr. Ullom's Exhibit No. 7, and is attached hereto and referred to herein as Minute's Exhibit S.

With regard to the necessary residency requirements to vote, Senator Ashworth quoted NRS 293.490 as follows:

"293.490 Removal from county or precinct: When residence not lost. Any registered voter removing from one county to another in the state, or from one precinct to another within the same county, after the close of registration for any election shall be deemed to retain his residence in the county or precinct removed from for the purposes of that election."

The certification of the members of the Computer Program and Program Accuracy Board, which was part of Mr. Ullom's testimony, is attached hereto as Exhibit T.

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It was requested by the Committee that Mr. Ullom produce for examination by Mrs. Cavnar and the members of the committee the buff and blue books for precinct 91 containing voter's signatures kept by the Election Department.

The meeting was adjourned at 5:00 p.m.

Respectfully submitted by:

Iris Parraguirre, Secretary

APPROVED BY:

Senator Melvin D. Close, Chairman

Date: _____

ATTENDANCE ROSTER FOR

COMMITTEE MEETINGS

SENATE COMMITTEE ON _____

DATE: 1-19-81

EXHIBIT A

PLEASE PRINT NAME	PLEASE PRINT ORGANIZATION & ADDRESS	PLEASE PRINT TELEPHONE
TRICK WHITE	ASSOCIATED PRESS	
Pat Vogel	LAS VEGAS RUND - JAMES	
Don Downey	KLAS-TV	
CHRIS WOODWARD	Z V SUN	
ROD JACKSON	KTNV-TV - LAS VEGAS	
PAUL PRENBAMAN		
JACK JEFFREY		
Chris Schmitt		
Brian Dase		
William Whitworth		
Loan Kavass		
Tim Kovacs		
SCOTT DOYLE		
Arthur Stone		
W. F. ...		
J. D. ...		
Marionne Reno Nev	
James ...		
Mike ...	riggs	
Sam ...	CAVUM	
Mark ...	Tis ...	
Keith Reno	
Nicholas Reno	

LISA v. BD. OF ELEC. OF CITY OF N. Y. N. Y. 1013

Cite as 357 N.E.2d 1013

Robert A. Lifson, Huntington, for John J. Flanagan and others, respondents.

Howard E. Pachman, County Atty., for Board of Elections, respondent.

MEMORANDUM.

The order of the Appellate Division should be affirmed.

The record discloses that there were 1,617 signatures on the designating petition; 1,500 were required under the statute. It was stipulated at Special Term that 75 signatures were invalid. We conclude that another 134 signatures must be invalidated for omission or error with respect to the election or assembly district of subscribing witnesses (*Matter of Rutter v. Coveney*, 38 N.Y.2d 993, 384 N.Y.S.2d 437, 348 N.E.2d 913; cf. *Matter of Berry v. Dodd*, 38 N.Y.2d 995, 384 N.Y.S.2d 438, 348 N.E.2d 914). There accordingly were insufficient signatures to validate the petition. We neither reach nor consider the other issues tendered (see *Matter of White v. McNab*, 40 N.Y.2d 912, 389 N.Y.S.2d 359, 357 N.E.2d 1014, decided herewith).

BREITEL, C. J., and JASEN, GABRIELLI, JONES, WACHTLER, FUCHSBERG and COOKE, JJ., concur.

Order affirmed, without costs, in a memorandum.



40 N.Y.2d 911

In the Matter of Joseph F.
LISA, Appellant,

v.

BOARD OF ELECTIONS OF the CITY
OF NEW YORK, and Ivan C.
Lafayette, Respondents.

Court of Appeals of New York.

Oct. 27, 1976.

In an election contest, a new election was directed by the Supreme Court, Queens

County, Mario J. Cariello, J., but the Supreme Court, Appellate Division, reversed, denied the application and dismissed the proceeding, 387 N.Y.S.2d 876. On further appeal, the Court of Appeals held that petitioner had the burden of proving that alleged voting irregularities were of such nature as to establish probability that the result of the election would be changed by a shift in, or invalidation of, questioned votes, i. e., of showing causal connection between alleged incidents of campaign fraud and outcome of election. The burden was not sustained by mere showing of irregularities or showing that the election was mathematically close.

Order of Appellate Division affirmed.

Elections ⇔ 154(10)

Petitioner had burden of proving that alleged voting irregularities were of such nature as to establish probability that result of election would be changed by shift in, or invalidation of, questioned votes, i. e., of showing causal connection between alleged incidents of campaign fraud and outcome of election, and burden was not sustained by mere showing of irregularities or showing that election was mathematically close. Election Law § 330, subd. 2.

Sol R. Dunkin, New York City, for appellant.

Paul H. Asofsky, New York City, for Ivan C. Lafayette, respondent.

MEMORANDUM.

Even if we were to assume that the campaign practices complained of constituted frauds or irregularities within subdivision 2 of section 330 of the Election Law, petitioner failed to sustain his burden of proving a causal connection between the alleged incidents of campaign fraud and the outcome of the primary election in question.

As to the 179 invalid or suspect votes found by Special Term, petitioner did not

meet the burden of proving that the irregularities were of such a nature as to establish the probability that the result of the election would be changed by a shift in, or an invalidation of, the questioned votes. That burden is not sustained by a mere showing that the election was mathematically close (see *Matter of Stevenson v. Power*, 27 N.Y.2d 152, 314 N.Y.S.2d 705, 263 N.E.2d 225; *Matter of De Martini v. Power*, 27 N.Y.2d 149, 314 N.Y.S.2d 609, 262 N.E.2d 857).

We neither reach nor decide any other issue.

The order of the Appellate Division should be affirmed, without costs.

BREITEL, C. J., and JASEN, GABRIELLI, JONES, WACHTLER and COOKE, JJ., concur in memorandum.

FUCHSBERG, J., taking no part.

Order affirmed.



40 N.Y.2d 912

In the Matter of Margaret M.
WHITE, Respondent,

v.

Everett F. McNAB et al., Constituting
the Board of Elections of the County
of Suffolk, et al., Respondents,
and

Paul E. Harenberg, Appellant.

Court of Appeals of New York.

Oct. 27, 1976.

The Supreme Court, Suffolk County, granted petition to validate designating petition, and appeal was taken. The Supreme Court, Appellate Division, 387 N.Y.S.2d 692, reversed and invalidated petition, and appeal was taken. The Court of Appeals held

that error on part of subscribing witness with respect to election district required elimination of 45 signatures from designating petition and that additional 200 signatures had to be eliminated because of undated and uninitialed alterations, and that, accordingly, insufficient signatures remained to validate petition.

Order of Appellate Division affirmed.

Elections ⇌ 144

Error on part of subscribing witness with respect to his election district required elimination of 45 signatures from independent nominating petition designating candidate for public office in general election, and additional 200 signatures had to be eliminated because of undated and uninitialed alterations concerning number of signatures witnessed and errors in assembly and election districts despite fact that such alterations resulted in manifestation of correct information, and, accordingly, insufficient signatures remained to validate petition.

E. Thomas Boyle, St. James, for appellant.

Nicholas Vincent Campasano, Freeport, for petitioner-respondent.

Howard E. Pachman, County Atty., for Board of Elections, respondent.

MEMORANDUM.

The order of the Appellate Division should be affirmed.

The designating petition contained 1,925 signatures; 1,349 were required to validate. The deletion of 468 signatures at Special Term is not challenged on appeal. We conclude that another 45 must be stricken for error on the part of a subscribing witness with respect to his election district (cf. *Matter of Rutter v. Coveney*, 38 N.Y.2d 993, 348 N.E.2d 913, 384 N.Y.S.2d 437). From the record supplemented by representations on oral argument we have also concluded that an additional 200 signatures must be elimi-

Contested Election for Senate District 3

EXHIBIT C

Mr. Chairman, members of the committee:

Right up front let me tell you that I am not here with a frivolous or simply self-serving request for overturning the election between Senator Hernstadt and myself in Senate District 3. Nor are we spending thousands of dollars and hundreds of hours of time on this contest simply to keep my name in the papers for future elections.

Neither am I here to ask you to seat me instead of Mr. Hernstadt at this time because I honestly do not know which of us actually won this election. That can only be determined after careful and complete consideration of all the facts and then a revote in the areas where there is sufficient evidence.

I am calling for action which includes a re-vote between Bill Hernstadt and myself in one precinct, Las Vegas 91, where absolute evidence shows several cases of fraudulent voting occurred along with other irregularities. Where people went to vote and were told they had already voted as evidenced by their 'signatures' which had already been signed by someone else.

I am calling for a possible re-vote between Mr. Hernstadt and myself in Las Vegas precinct number 31, where we found the precinct poll sign-in book contained at least 74 "signatures" all written by one person and at least 13 more written by another person.

I'm asking you to consider action in several other precincts after a full and complete investigation by this committee of some specific and very serious happenings which occurred in the November 4th, 1980 General Election. Serious happenings which could also affect you unless the practices are prevented from repeating in the future. Many of them happening, by the way, despite adequate laws on the books which - if properly enforced - could have prevented much of what occurred.

Please let me say at the start that I am here before this body today because, having worked with you in the legislature as one of your colleagues and because I chose to give up my seat in the Assembly and seek to join you in the State Senate, I have a great deal of trust in your competence, integrity and sense of fair play. When we are dealing with the very lifeblood of the American system of government - free and honest elections - there is no room for laxity or excuses for not properly conducting all aspects of those elections.

Another avenue open to me in contesting this election included the courts. However - with no disrespect intended or implied in any way for the courts - I decided to forego that approach at this time because I sincerely believe that you will set aside partisan politics or expediency for facts. I feel confident you will each give a full and complete hearing to all aspects of the evidence and questions we are presenting today.

I emphasize the full and complete hearing because there are those who say the matter is "cut and dried" because of the 14 to 5 majority held by the Democrats. Or, those persons not fully realizing the seriousness of the facts, believe this matter can be settled here by this committee and the full Senate today or tomorrow. That simply is not possible when the computers which erred; the voting equipment which was either tampered with or was faulty; and the people who were involved in outright fraud or misfeasance - and even possible malfeasance - are not present to be questioned. This contest cannot be settled fairly unless evidence is investigated at the source in Clark County.

There have been suggestions that this matter be taken to the federal courts because federal elections were also on the ballot. Faulty computers, fraudulent voting, malfunctioning voting equipment and illegal voting certainly could affect each and every candidate on the ballot. We have resisted this avenue so far because - as in most things - we prefer to see federal involvement only as a last resort and because of the obvious fact that a federal court could order a complete new election for each and every office on the November 4th ballot.

Let me elaborate a little further on my statement that what has happened in this election can happen to anyone or all of you in your next election two or four years from now.

1. We have been assured over and over that our system of punch card voting is one of the best and safest available. ~~Yes~~ Any individual or small group of individuals could - with the insertion of one small foreign object - in your ballot position - totally alter your election next time out - by simply assuring that your votes are not punched - if we don't make certain that precautions which are already provided for in the law are fully carried out. That possibility strongly exists in this election.

Only with an inspection of the voting machines - which we understand have been locked-up in complete compliance with the law since the election - can that possibility be proven or disproven.

2. We are continually told that the computer figures were correct and accurate. Yet, the computer in this election could not properly add it's own numbers of two and two and get four when the recount figures were spewed out last December 4th. Documentation to prove that fact is provided in the computer print out sheets supplied as the official results of the recount. Ladies and Gentlemen, simply sit down and add up the computer's 290 precinct totals for Senate District 3, as reported on the recount print-outs and you will see that the computer made a ten vote error just in Mr. Hernstadt's and my totals alone.

IN ADDITION
This is an error in just adding the totals of the precincts. Based on this fact, we must assume that similar errors were made in adding the votes within each precinct.

Validity was given to this premise when differences were also found when the results of the hand re-count of 15 precincts was compared to the computer recount of the same precincts during the official recount proceedings. We paid nearly \$6,000 for this recount using the same computer that was unable to add properly.

Why, we don't know. But, any computer expert will tell you that if a computer cannot balance with it's own figures, then the reliability of that computer is no longer valid. Thus, the election results provided by that computer can no longer be considered valid. The outcome of this election cannot be determined without a full and complete investigation - by impartial experts - of the computers and the computer program.

Since we have legislated that the election outcome will be determined by the results tallied by a computer, then it is a computer rather than the electorate which determines who will be seated in this legislature when the computer does not function properly.

3. In precinct Las Vegas 91, individuals impersonated legitimate voters

and voted fraudulently before the real voters appeared to cast their own votes. We must wonder how many other signatures were forged but not discovered because the legitimate voter did not appear to vote. Several other acts occurred which make the results of that entire election in that precinct highly suspect. We had been informed that Libby Bargiel, the election board co-ordinator for the entire polling place, called the police to report the illegal voting and her belief that two men voted in each of the John C. Fremont School precincts. Only a careful inspection of the poll roster books in each of those eight precincts by experts will determine if there were any additional forgeries.

Also, in precinct LAS 91, the ballots were taken home by poll workers as reported by the Secretary of the Board of Elections and were not delivered to the counting center until late election night upon the demand of officials from the Registrar of Voters office. Television stations covering the results of the elections reported I was leading Mr. Hernstadt by 12 votes before the last precinct was counted. Nearly an hour went by before that last precinct was counted and reported. The "final" count that night showed me to be 8 votes behind. The following day we were informed that a part of one precinct had not been counted the previous night. Following that count I was then 28 votes behind. We have never had a satisfactory answer as to why only part of a precinct was not counted nor why it took so long for the last precinct to be tabulated.

4. In precinct Las 31, there are so many discrepancies in signatures and mix-up of names that once again the vote outcome is highly questionable.
5. Spot checks in other precincts indicate that many persons voted illegally. In fact, from Assembly District 12 alone we have affidavits showing that approximately 5% of the voters who cast ballots on November 4, 1980 did so illegally. This indicates the possibility exists that as many as 5,000 voters in Senate District 3 may have voted illegally. The law of Nevada is clear on this matter. The Registrar of Voters should be required to pursue every avenue possible to purge the inelligible voters from the rolls prior to the election so as to prevent the dilution of the legitimate persons' votes.

When we tried to determine some of the answers to these problems we were frustrated by what appears to be the advice of counsel to the Registrar of Voters wherein they refused to supply us with answers to legitimate questions which were presented in writing as well as verbally. Other answers simply could not be made available under the law which required that certain materials and equipment be placed under lock and key until the proper authorities involved in the decision of this contest determined otherwise.

Thus, not only am I asking you to take appropriate action based upon the facts in this case which cannot be fully determined without inspecting the voting equipment, the computer, the computer program and interviewing - in Clark County - all persons with information pertinent to this election but, I will also recommend areas where the law must be further bolstered to insure carrying out it's full intent.

The affidavits and supporting evidence with more precise figures, for what I have just discussed with you will now be presented by Counsel, Mr. Barry Johns.

1 MOTIÒN TO DISMISS THE CHALLENGE BY
2 PEGGY CAVNAR TO THE SEATING OF WILLIAM HERNSTADT
3 IN THE 1981 SESSION OF THE NEVADA STATE SENATE

4 INTRODUCTION

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

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

29 The clear tenor of the Nevada Revised Statutes is
30 that it is the duty of any person concerned with their own
31 election and of their political party to provide proper and
32 informed observers who must undertake the necessary steps to

1 protect the purity of the ballot. Ms. Cavnar failed in this
2 duty. The Republican Party failed in this duty. They cannot
3 now be heard to say that had they been there and done their
4 duty the election would have been handled differently.

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

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

30 Similarly, the legislature has spoken its desire as
31 to how these matters should be handled by its discussion in NRS
32 293.413 which had extremely tight time limits and gives election

1 contest precedence over all regular business of the court so
2 that ". . . Results of election shall be determined as soon as
3 practicable."

4 The failure of Ms. Cavnar and her supporters and the
5 Republican party to take this clear, speedy, flexible and
6 proper remedy demonstrates their insincerity, and that this
7 challenge is taken for political purposes only. It should not
8 be dignified by any sort of a hearing by the honorable body and
9 the challenge should be dismissed forthwith.

10 Despite the elaborate challenge by Ms. Cavnar and her
11 careful efforts to supply expertise in computer statistical
12 matters by her witnesses she has one exceedingly strange omission
13 in her allegations. Nowhere is it alleged that if the matters
14 she complained of were rectified, that Mrs. Cavnar would be
15 elected a Senator in the State of Nevada for the 1981 session.

16 Not once, at any point, in any of her contest material
17 does she, in fact, allege that any of the votes she discusses
18 went to Senator William Hernstadt. One could read Ms. Cavnar's
19 allegations forever and not ascertain who she thought won the
20 election. Clearly, at most, if you accept fully her statements,
21 Ms. Cavnar is trying, however weakly, to furnish the grounds
22 for a new election. She is positively not furnishing any
23 grounds for herself to be seated in the place of Senator Hernstadt.

24 Needless to say, the only purpose of your meeting
25 today is to answer her request that she be seated in place of
26 Senator Hernstadt. Her refusal to give you allegations, much
27 less facts upon which they could be properly taken, is fatal to
28 her cause and would cause you to appropriately dismiss this
29 challenge without hearing any further presentation. She failed
30 to challenge initially. She failed to utilize a clear and
31 proper and perhaps effective procedure and having done that,
32 she further insults the Senate and the people of the State of

1 Nevada by asking you to undertake an action without even
2 giving you reasons to do so. One simply cannot ask to be
3 seated as the winner of an election without in some way alleging
4 that one won the election or would have won the election but
5 for illegal or improper activity. Ms. Cavnar has not done
6 this. She has simply said there were things about the election
7 that in her opinion were not proper or would cause doubts to be
8 cast. That is just not sufficient.

9 THIS CHALLENGE IS CONTRARY TO NEVADA LAW AND THE
10 WEIGHT OF AUTHORITY IN THE UNITED STATES

11 NRS 293.410 tells us what the law of the State of
12 Nevada is on this subject. Insofar as Ms. Cavnar's challenge
13 is concerned, she has to show, following NRS 203.410 (c), that
14 illegal votes were cast and counted for the defendant which if
15 taken from him will reduce the number of his legal votes below
16 the number necessary to elect him. Now clearly, as discussed
17 above, Ms. Cavnar has not even alleged this. She does not say the
18 votes were cast for the defendant. She does not say they ought
19 not to have voted and since they ought not to have voted she
20 should be a Senator. The weakness of this argument is apparent.

21 Now let us contemplate what is behind the public
22 policy. Obviously, the reason why you have to show they were
23 counted for the defendant was that clearly they could have gone
24 to somebody else. Four people received more votes than Ms. Cavnar:
25 Senators Ashworth, Lamb, Bilbray and Hernstadt. Proportionately,
26 they received far more votes. If doubtful votes were cast,
27 is it not reasonable to assume they were cast in the same
28 proportion as nondoubtful votes? Certainly, there is no showing
29 that Senator Hernstadt caused these doubtful votes to be cast.
30 There is no showing that anyone did except the voters. There
31 is no showing that these voters were in any way different than
32 any other voters in the county. But if these votes were somehow

1 to be different than the county voting pattern, at least we
2 must presume that those persons who received more votes than Ms.
3 Cavnar would have gotten, at least, a proportionate share with
4 her. Ignoring all of the other losers, beside Ms. Cavnar, that
5 means we must divide her challenged votes by five. If we do so
6 and take one fifth of the number of the challenged votes from
7 each of the five top vote getters Mrs. Cavnar will still lose.
8 She has the duty of showing this body that somehow if those
9 votes were not cast, she would have prevailed in the election
10 instead of Senator Hernstadt. She has not only not shown that to
11 the body, she has nowhere in her papers even claimed that she
12 could show that to this body. The same reasoning, of course,
13 applies to NRS 293.410(e).

14 Now, as to 293.410(f), that discussion centers on a
15 showing that there was a possible malfunction of any voting or
16 counting device. Her evidence simply shows that one individual
17 had difficulty with the device, but apparently was able to
18 satisfactorily use it.

19 Calvin Warner's affidavit demonstrates, beyond all
20 question, two facts: (1) that he was able to vote properly;
21 and (2) that whatever machine had previously had a problem had
22 had its stylus changed, i.e., the problem was corrected, presumably,
23 when it first occurred.

24 As evidence that the citizenry of the State of Nevada
25 are on their toes and that the election officials correct
26 election difficulties immediately, the affidavit cannot truly
27 be challenged. As evidence that there was anything wrong with
28 the election, the affidavit is totally deficient.

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

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

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

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

The invalidation of what are otherwise good ballots, and consequent disfranchisement of legal voters, should not rest upon vague surmise or assumptions not warranted by record.

* * * * *

Where votes cast exceeded by one the number of names on poll book; and excess ballot 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

Ms. Cavnar has not followed the procedures. She has not made the proper allegations. She had not furnished you with any law as in her favor. An examination of the law shows that it is directly contrary to her position and yet she asks this body to declare her to be a state senator. One should not, even out of an excess of feeling of fair play, dignify a challenge this weak by conducting a hearing.

Ms. Cavnar was defeated in the election, has shown you no good reason to declare otherwise and should be defeated

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...
...

1 in her effort to seek a hearing on her challenge.

2 Respectfully submitted,

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5 I. R. ASHLEMAN, II, Esq.
6 Attorney for Senator William Hernstadt
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IN THE NEVADA SENATE
PEGGY CAVNAR v. WM. HERNSTADT
(Election Contest)

I. Chronological List of Events:

A. 11/4/80 election (official abstract of votes)

Hernstadt	48,212	
Cavnar	48,182	
	30	(thirty vote plurality for Hernstadt)

B. 11/26/80 canvass of votes by the Nevada Supreme Court

Hernstadt	48,212	
Cavnar	48,182	
	30	(thirty vote plurality for Hernstadt)

C. 12/1/80 contestant Cavnar, filed demand for recount with Clark County Registrar of Voters

D. 12/4/80 hand recount of 5% of 290 precincts (15 precincts) was conducted in Senate District 3 by Election Recount Board pursuant to Statute.

1. Showed discrepancy of less than 1% of votes cast in these precincts.

2. Pursuant to N.R.S. 293.404(3).

E. 12/4/80 computer recount ordered by Election Recount Board of the 15 precincts previously hand counted.

1. Vote total was identical to vote total in the official abstract of votes for Hernstadt and Cavnar.

2. Pursuant to N.R.S. 293.404(3).

F. 12/4/80 Election Board performed a computer recount of all ballots for all candidates in the 11/4/80 election for Senator in Senate District 3.

1. That the results of computer recount of all votes cast for Hernstadt and Cavnar was as follows:

Hernstadt	48,212	
Cavnar	48,183	
	29	(twenty-nine vote plurality for Hernstadt)

2. That candidates Ashworth, Bilbray, Cavnar, Cornett and Lear received one additional vote as compared to official abstract of votes canvassed by Justice of the Supreme Court.

3. That candidate O'Brien received one vote less.

1 4. That the rest of the candidates' vote totals
2 were identical.

3 G. 12/9/80 Cavnar files election contest

4 II. Recount Board Decision dated December 15, 1980

5 A. Outlines their findings of fact which para-
6 llels the above chronological list of events.

7 B. Concludes that the discrepancy between the votes
8 was less than 1% or more for any candidate and
9 thus only a computer recount is authorized by
10 statute.

11 C. Discrepancy between the computer recount and
12 the official abstract of all votes in Senate
13 District 3 was that Ashworth, Bilbray, Cavnar,
14 Cornett and Lear received one additional vote
15 each and O'Brien received one vote less in the
16 recount summary than the official abstract of
17 votes canvassed by the Justice of the Supreme
18 Court.

19 D. That the discrepancy between Hernstadt and Cavnar
20 was less than 1% in the 15 precincts hand counted
21 by the Board.

22 E. Certified that the abstract of votes is true
23 except for the additional votes received by
24 Ashworth, Bilbray, Cavnar, Cornett & Lear and
25 the one vote reduction received by O'Brien.
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ISSUES PRESENTED BY THE ELECTION CONTEST
FILED BY PEGGY CAVNAR vs. WM. HERNSTADT

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2
3 1. Was there a malfunction of a computer or voting machine
4 which constituted a manifest discrepancy in the votes
cast for the contestant Cavnar and the defendant Hernstadt?

5 IV(1) (2) (4) N.R.S. 293.410(f)

6 2. Did the Election Board, in conducting the election and
7 canvassing the returns make errors sufficient to change
the result of the election as to the election of William
8 Hernstadt as State Senator in Senate District 3?

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

10 3. Were there illegal votes cast and counted which, if taken
11 from defendant Hernstadt, would alter the election in
favor of Cavnar?

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

13 ISSUE 1 - ANALYSIS AND ARGUMENT

14 There is no factual basis for the claim by Contestant
15 that there is a substantial discrepancy of votes cast amounting
16 to a malfunction of any voting machine or counting device. On
the contrary, there is a mere six (6) vote discrepancy between
17 the official abstract of votes and the canvass by the Nevada
Supreme Court, and the computer recount conducted by the Clark
County Recount Board - amounting to less than 6/1000ths of 1%
of all votes cast in Senate District 3. Contestant suggests that
18 the only way to accurately determine the extent of any computer
malfunction would be to hand count the entire 290 precincts.

19 Under the present law of Nevada which addresses this
20 question, i.e. N.R.S. 293.404(3), the County Clerk of any county
shall order a hand recount of all ballots cast for any office
21 affected, only when a hand recount and computer recount of 5%
of the precincts selected at random (in this case, 15 precincts)
22 indicates a discrepancy of 1% or more from the official abstract
of votes.

23 In the matter before this body, since the hand recount
24 and computer recount of the 15 precincts chosen indicates a dis-
crepancy of less than 1%, the Clerk of Clark County correctly
25 directed a computer recount of all votes cast for all candidates
for Senate District 3, based on N.R.S. 293.404(3). The Contes-
26 tant was awarded one additional vote than what she received in
the official abstract of votes giving Mr. Hernstadt a plurality
27 of 29 votes. There is no Nevada statutory authority for a hand
count of all 290 precincts as requested by Contestant unless the
28 hand recount and computer recount of the 5% of the 290 precincts
chosen and counted indicated a discrepancy of 1% or more.

29 Furthermore, there are no cases decided by the Nevada
30 Supreme Court that would indicate the contrary is, or even should
be, the law of this State.
31
32 . . .

1 Contestant further contends that there is a manifest dis-
2 crepancy demonstrating a malfunction in the computer in that the
3 unofficial tabulation of the 290 parcels by Mssrs. Donald Parker,
4 Gregory Millsbaugh and Calvin A. Borders, indicating that the vote mar-
5 gin was reduced to 26 votes as between Contestant and Defendant.
6 There being no statutory authority for such unofficial proceedings,
7 which are self-serving at best, this argument should be summarily
8 dismissed by this body. Again, the only statutory authority for
9 total hand recount of any election is given to the Secretary of
10 State pursuant to N.R.S. 293.404 (3) and only under the condi-
11 tions and circumstances set forth therein.

12 Contestant also alleges a possible malfunction of a
13 voting machine as a further basis of her challenge to Mr. Hernstadt.
14 Contestant relies solely upon a statement that there may have been
15 problems in one voting machine in one precinct. However, again,
16 there is no factual basis for this allegation. Further, there is
17 no showing that any such possibility of malfunction in a voting
18 machine was, in fact, prejudicial to the contestant or would tend
19 to alter the results of the election. Therefore, this claim
20 should not be given any weight whatsoever which would alleviate
21 the burden of proof on the contestant.

22 In passing, it should be noted that even by Contestant's
23 own unofficial tabulations, Mr. Hernstadt received a plurality of
24 at least 26 votes.
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1 ISSUE 2 - ANALYSIS AND ARGUMENT

2 Contestant alleges errors by the election department
3 which, if true, would change the result of the election of
4 Mr. Hernstadt. Specifically, Contestant contends that (1) in one
5 precinct the ballot count showed 371 ballots, but when the ballots
6 were put into the computer there were only 370 ballots counted, a
7 loss of one ballot; (2) there were certain irregularities involv-
8 ing the transfer of ballots from the polling place of one precinct
9 to the computer counting place; (3) the Poll Book in one precinct
10 appeared to have the signatures of 87 voters entered into the
11 Poll Book by two (2) persons.

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

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

18 When a candidate for an office does not partic-
19 ipate in, or have knowledge of, criminal
20 violations of election statutes at a precinct,
21 and when such acts do not make or lose votes
22 for any candidate for such office, or destroy
23 the secrecy of the ballot, or cast uncertainty
24 on the results of the election, and no elector
25 voting in such precinct participates in such
26 acts, or is prevented from voting or properly
27 marking his ballot, and no disqualified person
28 is allowed to vote, the votes cast at such
29 precinct for such office are valid.

30 at 131.

31 Concerning irregularities of election officials in elec-
32 tions, the court, in Henry V. Nicholson, Appellant v. H. A. Comins,
Respondent, 33 Nev. 381, decided 1910, stated:

33 Mere irregularity of the election officers in
34 canvassing the ballots at a place other than
35 the polling place will be disregarded under
36 primary election law (Stats. 1909, c.198),
37 Section 1 providing that the law shall be
38 liberally construed so that the will of the
39 electors shall not be defeated by any informality
40 or failure to comply with its provision in
41 respect to conducting the election or certifying
42 its results.

43 at 381.

44 Other state Supreme Courts have ruled similarly. Quot-
45 ing from the Treatise on Elections, 26 Am.Jur.2d, 278:

46 As a general rule, honest mistakes or mere
47 omissions on the part of the election officers,
48 or irregularity in directory matters, even
49 though gross, if not fraudulent, will not
50 void an election unless they affect the result,
51 or at least render it uncertain. And even if
52

1 the acts of such officers are fraudulent, the
2 votes of the electors should not be invalidated
if it is possible to avoid doing so.

3 at 278.

4 There is again, no showing of fact by the Contestant
5 that any of the alleged errors or irregularities would have
6 changed the vote totals in favor of the contestant to the detri-
7 ment of Mr. Hernstadt. Even if such allegations of irregularities
8 or errors were true, it cannot be concluded that the errors would
9 have benefited the Contestant solely. Any votes that might be
10 invalidated, and we are not advocating that any such vote should
11 be invalidated, must necessarily be deducted from all of the
12 candidates based on the same percentages that each candidate
13 received of the remaining vote totals for the office of Senator
14 of District 3. Contestant's statement of contest is void of any
15 fact which would mandate this body deducting any votes from
16 Mr. Hernstadt's total, since each and every vote was, in fact, a
17 secret vote and it has not been proven by Contestant that these
18 votes were solely for Mr. Hernstadt. The logic of Contestant's
19 assertions, and certainly they are merely assertions, is fallacious
and any irregularities, if true, are at most minor irregularities,
e.g. (1) the claim that there was one ballot missing would clearly
fall into the category of a discrepancy of less than 1% - requir-
ing a computer recount of all votes cast, which, as stated before,
was ordered and completed by the Clark County Clerk; (2) the
claim that there was an irregularity in the transfer of ballots
is amply covered by the Henry C. Nicholson Appeal to the Nevada
Supreme Court and by the Treatise previously cited in Am.Jur.2d,
278; and (3) the claim that the poll book from one precinct
appeared to have two (2) signatures for 87 persons has been amply
explained or will be amply explained, by the Recount Board. In
short, names were signed by the proper voter in the wrong book
and such names were then transferred by an election officer to
the correct book, both books having been produced.

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

24 Even if the Contestant had proven misconduct by any
25 election officer, and indeed there is no misconduct proven by the
26 Contestant in her proofs, there is no showing by the Contestant
27 that Mr. Hernstadt participated in, or had knowledge of, such
28 misconduct. The Nevada Supreme Court, in the McMillan case set
forth the requirements sufficient to validate any votes where
alleged misconduct took place by an officer of the election and
Respondent's petition is void of such proof.

29 Since this body is empowered by statute to hear and
30 decide an election contest involving a Senate Seat, you shall
31 decide if any allegation by the respondent is supported by facts,
and then what weight, if any, shall be given to such facts in
accordance with your standing or special rules pertaining to
election contests heard by this body.

1 ISSUE 3 - ANALYSIS AND ARGUMENT

2 Contestant alleges that many illegal votes were cast
3 and counted, which, if taken from Mr. Hernstadt, would have
altered the election results that resulted in his election.

4 Again, these allegations are mere conclusions, and again,
5 are not supported by facts. Contestant bases her allegations on
6 attached affidavits which Contestant claims support the position
7 that first, there were illegal votes cast and counted, and second,
8 that they could have altered the outcome of the election. [N.R.S.
9 293.410(2) (c)] The Statute contains two (2) necessary elements:

- 10 1. Illegal votes cast and counted for the
11 defendant, and
- 12 2. If taken from him (winning candidate) will
13 reduce his vote total below the number to
14 elect him.

15 The petition, after stating such conclusion, immediately
16 shifts to a different position, and maintains that the count of so
17 many illegal votes could have altered the election in favor of the
18 Contestant. Using Contestant's own logic, but, reversing it to
19 Mr. Hernstadt's favor, it could also be stated that if, in fact,
20 illegal votes were cast, they contributed to Contestant's vote
21 total so as to alter the election more favorably for the Contes-
22 tant, but not sufficiently so to give the Contestant a plurality
23 over Mr. Hernstadt. The Contestant takes the position that any
24 illegal votes cast could have altered the election in Mr. Hernstadt's
25 favor, but conversly, would not have improved her own vote total.
26 Clearly, the reasoning is erroneous.

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

33 The Nevada Supreme Court has not had the occasion to
34 address itself to the issue of an allegation of illegal cast
35 votes and what remedies, if any, they would order. However, the
36 Illinois Supreme Court in the case of Boland v. LaSalle, 370 Ill.
37 at 387, and the Supreme Courts of Kansas, Michigan, Montana,
38 Oregon, South Dakota, Wisconsin, and Wyoming have also addressed
39 this question.

40 The view has been taken the entire vote of a
41 precinct should not be cast out where election
42 officers, acting honestly and in good faith,
43 received illegal ballots less in number than
44 the majority shown in favor of one of the candi-
45 dates, and a proportionate deduction of illegal
46 votes cast in the precinct, based on the number
47 of votes received in the precinct by each candi-
48 date, has been resorted to or approved, directly
49 or indirectly, in many jurisdictions. And some

1 courts have adopted the view that, in the
2 absence of proof of fraud or gross irregu-
3 larities, the fact that some ballots were
4 cast illegally should be disregarded.

Treatise on Elections, at 26 Am.Jur.2d,
Section 29A.

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

7 In the instant case, there is no factual showing that
8 there were, in fact, illegal votes cast. The Affidavits attached
9 to the petition attempt to show that there were votes cast by per-
10 sons who allegedly did not reside within the precinct where they
11 voted. The Nevada Statutes concerning challenges to persons
12 applying to vote are set forth at N.R.S. 293.303 et seq. (Para-
13 phrasing) If the Contestant or any registered voter knew of any
14 person not eligible to vote upon the ground that he or she is not
15 the person entitled to vote as claimed, or has voted before on
16 the same day, or upon any other grounds provided for in the Title,
17 the person may be challenged orally. Whereupon the Election
18 Board shall tender the person an oath as to whether or not the
19 person is the person whose name appears upon the Affidavit of
20 Registration in the precinct register. A refusal to take the
21 oath, or a successful challenge, will render the person unable to
22 vote. When a challenge is unsuccessful, the person shall be
23 issued a ballot to vote. The Affidavits attached to the Contes-
24 tant's petition merely allege that the person who voted did not
25 reside at the address listed in the Abstract of Registration
26 after October 1, 1980. However, there are no allegations nor any
27 showing of fact that the person has, in fact, abandoned that
28 residence, thus making him ineligible to vote in that precinct.

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

29 In conclusion, the Contestant has clearly failed to
30 sustain her burden on any one of the three issues raised in
31 Contestant's petition filed in this election contest and we would
32 urge that this body decide the contest in favor of William
33 Hernstadt; that upon communication of your decision to the Secre-
34 tary of State, the Secretary of State shall execute and deliver
35 a Certificate of Election to Mr. Hernstadt.

RECEIVED
DEC 9 1980

IN THE STATE SENATE
OF THE STATE OF NEVADA

SECRETARY OF STATE

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PEGGY CAVNAR,)
)
 Contestant,)
)
 V.) ELECTION CONTEST
)
 WILLIAM HERNSTADT,)
)
 Defendant.)

The Petition to contest the election of William Hernstadt to State Senate District 3 respectfully shows:

I.

That Peggy Cavnar is the Contestant herein and is a registered voter in State Senate District 3.

II.

That William Hernstadt is the Defendant herein. That this contest was filed against only William Hernstadt, although there were four State Senators elected in Senate District 3, for the reason that Mr. Hernstadt placed fourth in the election tabulations. His margin of votes over Contestant was only 30 votes, while the next nearest elected State Senator was James Bilbray, whose margin over Contestant was 1,755 votes.

III.

That the canvass of the votes in State Senate District 3 was completed by the Nevada Supreme Court on or about November 26, 1980, and showed the following votes as between Contestant and Defendant:

PEGGY CAVNAR 48,182
WILLIAM HERNSTADT 48,212

IV.

That on or about December 1, 1980, Contestant filed a

HINS & JOHNS
ATTORNEYS AT LAW

1 Demand for Recount with the Clark County Registrar of Voters
2 and a recount of fifteen precincts or 5% of the 290 precincts
3 in Senate District 3 was conducted on December 4, 1980.

4 V.

5 That Peggy Cavnar contests the election of William
6 Hernstadt upon the following grounds:

7 1. "That there was a possible malfunction of a
8 counting device." N.R.S. 293.410 (f)

9 Contestant avers that the computer recount conducted
10 as part of the Demand for Recount on December 4, 1980, yielded
11 a result significantly different from the computer count con-
12 ducted by the same computer on November 4, 1980, reading the
13 same punch cards.

14 The results of the two counts by the same computer
15 are stated below.

16 November 4, 1980

17 Peggy Cavnar 48,182

18 William Hernstadt 48,212

19 December 4, 1980

20 Peggy Cavnar 48,183

21 William Hernstadt 48,212

22 Contestant contends that there is a manifest discrep-
23 ancy which demonstrates a malfunction in the computer, since
24 the same punch cards were inserted into the computer on the
25 two dates in question. Contestant has attached to this
26 Petition affidavits of Donald Parker, Exhibit "A", Gregory
27 Millspaugh, Exhibit "B", and Calvin Borders, Exhibit "C",
28 all three of which state that "no trustworthy, verifiable
29 tabulation can be obtained or certified by any responsible
30 official to be in compliance with N.R.S. 293.403 - 293.405."

31 That as a result of the second count on the computer
32

1 the vote disparity between Contestant and Defendant was only
2 29 votes. In an election in which 100,793 ballots were cast
3 in Senate District 3, a computer error of less than 1/30th of
4 1%, or 30 votes, could alter the election result.

5 That a tabulation of all of the precincts (290)
6 was done independently by Messrs. Millspaugh, Borders, and
7 Parker in the presence of the Contestant. The results of
8 that tabulation are reflected in Exhibits "A", "B", and "C"
9 and reveals that there is a variance of nine votes between
10 the Recount Summary of December 4, 1980, and the tabulation
11 of the individual precinct results of all 290 precincts.
12 In fact, the tabulation of the 290 precincts individually
13 shows that the vote margin was reduced to 26 votes as between
14 Contestant and Defendant. See Exhibits "D" and "E"

15 The foregoing discrepancies render the reliability
16 of the Computer count or the computer program highly suspect.

17
18 2. Contestant asserts there is further evidence
19 that the computer counting device malfunctioned, a basis for
20 contest pursuant to N.R.S. 293.410(f), in that the hand recount
21 conducted for fifteen precincts on December 4, 1980, showed
22 significant discrepancies between the hand recount in certain
23 precincts and the computer recount of those same precincts.
24 Specifically, in Desert Hills 007, there was a change in the
25 vote count for Contestant and Defendant of 3 votes total out
26 of 759 cast. Said hand recount was tallied by three talliers
27 appointed by the Election Department. All three of said
28 talliers reached an identical result for the Contestant and
29 Defendant and that result was different by three votes from
30 the computer result.

31 That there is no explanation for the discrepancy
32 between the hand count and the computer other than some internal

1 malfunction in either the computer or the program for the com-
2 puter. That a discrepancy of a single vote out of one precinct
3 when multiplied by the total precincts involved (290) could
4 yield a result which would render the Contestant the winner
5 in Senate District 3. The only way to accurately determine
6 the extent of the computer malfunction would be to hand count
7 the entire 290 precincts.

8 3. That the election board, in conducting the election
9 and canvassing the return, made errors sufficient to change
10 the result of the election as to any person who has been declared
11 elected. N.R.S. 293.410(d).

12 Attached to this Contest are three affidavits which
13 directly relate to errors by the election department in the
14 conduct of the election. Those affidavits are attached hereto
15 as Exhibits "F", "G", and "H". Exhibit "F" demonstrates that
16 there is an investigation of certain irregularities involving
17 precinct Las Vegas 091. Exhibit "G" demonstrates further
18 irregularities concerning Las Vegas 091 including the fact that
19 the ballot count for this precinct showed 371 ballots, but when
20 the cards were put into the computer there were only 370 ballots.

21 In addition, in Las Vegas 031, as the affidavit of
22 Myrtle Krier reflects, Exhibit "H", the Poll Book had the
23 signatures of a total of 87 persons, and these signatures appear
24 to have been entered by two persons; i.e. 74 in blue ink by
25 one person and 13 in black ink by another person. Such an
26 irregularity which affects 87 votes in that precinct could very
27 easily alter the result of the election.
28

29 Contestant avers that the foregoing irregularities
30 singly or in combination constitute errors sufficient to change
31 the result of the election of Defendant.

32 4. That there was a possible malfunction of a voting
device. N.R.S. 293.410(f).

1 As the affidavit of Calvin Borders reflects, Exhibit
2 "I" there is a possibility that numerous individuals were not
3 able to vote for Peggy Cavnar in Country Club 004 due to an
4 improper or malfunctioning voting device. That such a mal-
5 function could have effected the outcome of the election is
6 manifest.

7 5. That there were many illegal votes counted and
8 cast which if taken from the Defendant would alter the election.
9 N.R.S. 293.410(c).

10 Attached hereto as exhibit "J" are a number of affi-
11 davits which demonstrate that a number of persons voted and
12 their votes were counted in Senate District 3. The individuals
13 according to the affidavits were not entitled to vote because
14 of their not residing in the precinct. It is unquestionable
15 that the count of so many illegal votes could have altered the
16 election in favor of Contestant.

17 Wherefore, Contestant urges that the election of
18 the Defendant be set aside on the grounds stated and a cert-
19 ificate of election be issued to Contestant.

20 Peggy Cavnar
21 PEGGY CAVNAR

22 County of Clark)
23) SS
24 State of Nevada)

25 PEGGY CAVNAR, being first duly sworn, deposes and says:

26 That she has read the above and foregoing Election
27 Contest, knows the contents thereof, and the statements made
28 therein are true and correct to the best of her knowledge and
29 belief, except as to those matters stated on information and
30 belief, and she beleives the same to be true.

31 Peggy Cavnar
32 PEGGY CAVNAR

Subscribed and Sworn to before me this 9th day of December, 1980.

[Signature]
Notary Public



Notary Public - State of Nevada
CLARK COUNTY
Larry C. Jones
My Commission Expires Oct. 24, 1983

RECEIVED

DEC 9 1980

SECRETARY OF STATE

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

AFFIDAVIT

I, Donald L. Parker, being first duly sworn on oath depose and say:

1. That I have participated in a manual verification of the vote tabulation reports generated by the election recount of Senate District #3, conducted on December 4, 1980.

2. That the election returns purported on the "Recount Summary" comprised of 290 of the 392 precincts have been compared with the individual precinct reports generated by the same recount on the central computer processing facility.

3. That the numeric vote counts presented on each of the different reports directly contradicts the numeric counts presented on the alternate report, to wit:

The tabulated, checked, and rechecked precinct returns add to a total that is significantly different from the "Recount Summary" for both Peggy Cavnar and William Hernstadt, severally.

The totals taken from the 290 precincts of Senate District #3 were computed independently and the following results were shown:

Peggy Cavnar	48,180
William Hernstadt	48,206

The final "Recount Summary" tabulation of the votes in the same 290 precincts of Senate District #3 resulted in the following totals:

Peggy Cavnar	48,183
William Hernstadt	48,212

That it is impossible without some defect in the program for the computer to tabulate a different result from the 290 precincts in Senate District #3 than the aggregate total of each of the 290 precincts.

4. That the contradiction of the "Summary Report" by the individual precinct reports invalidates the representation of the "Summary Report," and vice-versa; and further that in absence of a complete, 290 precinct, hand count, no trustworthy, verifiable, tabulation can be obtained or certified by any responsible official to be in compliance with NRS 293.403 - NRS 293.405.

5. That within the substantial professional expertise of the deponent, there does not exist any feasible or accurate procedure or mathematical algorithm which would enable any person, or group of persons, to conclusively determine a truthful or accurate tabulation of the actual election votes within a level of error sufficient to overturn the result of that election and recount; unless a full hand recount of all votes cast in Senate District #3 is conducted.

6. That the direct contradictions of the vote tabulations within each type of report conclusively demonstrate that the computer programs provided by the Clark County Election Department fail to meet the statutory requirements of NRS 293B.130 and NRS 293B.385.

7. That there exists a significant frequency of differences in votes

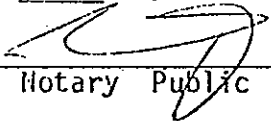
Affidavit of Donald L. Parker (continued)

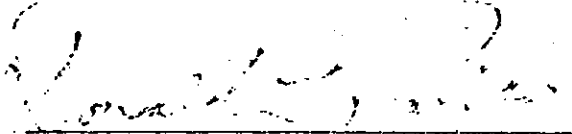
reported by precinct between the original election reports and the recount reports; and that the statutes provide that a computer recount must count all ballots for an office, using the same computer program as was originally certified for the election; and further that a complete count of the indentially same program must always result in identically equal tabulations from one computer run to another, unless the computer program has internal inaccuracies of logic, or conclusive evidence is shown that the deck of ballot cards was materially changed between each run.

I further state that I am a resident and registered elector at 714 Kenny Way, Las Vegas, County of Clark, State of Nevada. I have lived in Nevada since Sept. 27, 1944. I have twelve years of experience in programming and systems design and management of same. All of this has been done in a business environment.

Further deponent sayeth not.

Subscribed and sworn to before me
this 9th day of November, 1980.


Notary Public


Donald L. Parker



Notary Public - State of Nevada
CLARK COUNTY
Lucy C. Jones
My Appointment Expires Oct. 21, 1983

RECEIVED
DEC 9 1980

SECRETARY OF STATE

STATE OF NEVADA)
COUNTY OF CLARK)

ss.

AFFIDAVIT

I, Gregory L. Millspaugh, being first duly sworn on oath depose and say:

1. That I have participated in a manual verification of the vote tabulation reports generated by the election recount of Senate District #3, conducted on December 4, 1980.

2. That the election returns purported on the "Recount Summary" comprised of 290 of the 392 precincts have been compared with the individual precinct reports generated by the same recount on the central computer processing facility.

3. That the numeric vote counts presented on each of the different reports directly contradicts the numeric counts presented on the alternate report, to wit:

The tabulated, checked, and rechecked precinct returns add to a total that is significantly different from the "Recount Summary" for both Peggy Cavnar and William Hernstadt, severally.

The totals taken from the 290 precincts of Senate District #3 were computed independently and the following results were shown:

Peggy Cavnar 48,180
William Hernstadt 48,206

The final "Recount Summary" tabulation of the votes in the same 290 precincts of Senate District #3 resulted in the following totals:

Peggy Cavnar 48,183
William Hernstadt 48,212

That it is impossible without some defect in the program for the computer to tabulate a different result from the 290 precincts in Senate District #3 than the aggregate total of each of the 290 precincts.

4. That the contradiction of the "Summary Report" by the individual precinct reports invalidates the representation of the "Summary Report," and vice-versa; and further that in absence of a complete, 290 precinct, hand count, no trustworthy, verifiable, tabulation can be obtained or certified by any responsible official to be in compliance with NRS 293.403 - NRS 293.405.

5. That within the substantial professional expertise of the deponent, there does not exist any feasible or accurate procedure or mathematical algorithm which would enable any person, or group of persons, to conclusively determine a truthful or accurate tabulation of the actual election votes within a level of error sufficient to overturn the result of that election and recount; unless a full hand recount of all votes cast in Senate District #3 is conducted.

6. That the direct contradictions of the vote tabulations within each type of report conclusively demonstrate that the computer programs provided by the Clark County Election Department fail to meet the statutory requirements of NRS 293B.130 and NRS 293B.385.

7. That there exists a significant frequency of differences in votes

EX "B"

Affidavit of Gregory L. Millspaugh (continued)

reported by precinct between the original election reports and the recount reports; and that the statutes provide that a computer recount must count all ballots for an office, using the same computer program as was originally certified for the election; and further that a complete count of the indentially same program must always result in identically equal tabulations from one computer run to another, unless the computer program has internal inaccuracies of logic, or conclusive evidence is shown that the deck of ballot cards was materially changed between each run.

8. That in my presence, a formal request was made on behalf of Peggy Cavnar, candidate for State Senate District #3, that an accuracy certification test be performed before the official count of the ballots for the computer recount be conducted on the evening of December 4, 1980; and that the request for a run at that time was denied by Clark County Registrar of Voters, George Ullom, who after consulting with Counsel, refused to allow a test run prior to full computer recount. He did, however, state he would allow such a certification test to be conducted at a later, uncertain date; that to the best of my knowledge and belief that such a denial is in violation of NRS 293B.155 and NRS 293B.165.

9. That in my presence, while I was acting as an observer on behalf of Peggy Cavnar, the computer operations personnel conducting the computer recount presented one and only one ballot card as being bent or damaged and requiring duplication in order to be counted.

10. That in my presence, the tabulated, checked and rechecked hand count of the fifteen (15) sample precincts demonstrated a number of over-punched ballots which were ineligible to be counted for Senate District #3; and further that the comparison computer count of the 15 sample precincts showed higher counts for each candidate whenever there was a difference between the hand and computer counts in those precincts having over-punched ballots; and that such a consistent variation of the computer sample showing a greater tally of votes than the hand counted sample, within my professional experience, is significant enough to suspect that the computer program may not be properly excluding over-voted ballots as required by NRS 293B.130 (2); and furthermore:

that only a comprehensive accuracy test run conducted at the time of the official 290 precinct recount could have conclusively affirmed the accuracy of that recount.

I further state that I am a resident and registered elector of 788 Sandra Ave., Boulder City, County of Clark, State of Nevada. A constructive resident of Nevada for 20 1/2 years. A graduate of the Massachusetts Institute of Technology with Bachelor degrees each in Physics and Political Science, with a minor in Computer Science.

Further deponent sayeth not.

Subscribed and sworn to before me this 9th day of November, 1980.

[Signature]
Notary Public

[Signature]
Gregory L. Millspaugh

Notary Public, State of Nevada
CLARK COUNTY
L. G. ...
November 21, 1980

RECEIVED
DEC 9 1980

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

AFFIDAVIT

SECRETARY OF STATE

I, Calvin G. Borders, being first duly sworn on oath depose and say:

1. That I have participated in a manual verification of the vote tabulation reports generated by the election recount of Senate District #3, conducted on December 4, 1980.

2. That the election returns purported on the "Recount Summary" comprised of 290 of the 392 precincts have been compared with the individual precinct reports generated by the same recount on the central computer processing facility.

3. That the numeric vote counts presented on each of the different reports directly contradicts the numeric counts presented on the alternate report, to wit:

The tabulated, checked, and rechecked precinct returns add to a total that is significantly different from the "Recount Summary" for both Peggy Cavnar and William Hernstadt, severally.

The totals taken from the 290 precincts of Senate District #3 were computed independently and the following results were shown:

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The final "Recount Summary" tabulation of the votes in the same 290 precincts of Senate District #3 resulted in the following totals:

Peggy Cavnar	48,183
William Hernstadt	48,212

That it is impossible without some defect in the program for the computer to tabulate a different result from the 290 precincts in Senate District #3 than the aggregate total of each of the 290 precincts.

4. That the contradiction of the "Summary Report" by the individual precinct reports invalidates the representation of the "Summary Report," and vice-versa; and further that in absence of a complete, 290 precinct, hand count, no trustworthy, verifiable, tabulation can be obtained or certified by any responsible official to be in compliance with NRS 293.403 - NRS 293.405.

5. That within the substantial professional expertise of the deponent, there does not exist any feasible or accurate procedure or mathematical algorithm which would enable any person, or group of persons, to conclusively determine a truthful or accurate tabulation of the actual election votes within a level of error sufficient to overturn the result of that election and recount; unless a full hand recount of all votes cast in Senate District #3 is conducted.

6. That the direct contradictions of the vote tabulations within each type of report conclusively demonstrate that the computer programs provided by the Clark County Election Department fail to meet the statutory requirements of NRS 293B.130 and NRS 293B.385.

7. That there exists a significant frequency of differences in votes

EX "C"

Affidavit of Calvin G. Borders (continued)

reported by precinct between the original election reports and the recount reports; and that the statutes provide that a computer recount must count all ballots for an office, using the same computer program as was originally certified for the election; and further that a complete count of the indentically same program must always result in indentically equal tabulations from one computer run to another, unless the computer program has internal inaccuracies of logic, or conclusive evidence is shown that the deck of ballot cards was materially changed between each run.

8. That in my presence, a formal request was made on behalf of Peggy Cavnar, candidate for State Senate District #3, that an accuracy certification test be performed before the official count of the ballots for the computer recount conducted on the evening of December 4, 1980; and that the request for a run at that time was denied by Clark County Registrar of Voters, George Ullom, who after consulting with Counsel, refused to allow a test run prior to full computer recount. He did, however, state he would allow such a certification test to be conducted at a later, uncertain date; that to the best of my knowledge and belief that such a denial is in violation of NRS 293B.155 and NRS 293B.165.

9. That in my presence, while I was acting as an observer on behalf of Peggy Cavnar, the computer operations personnel conducting the computer recount presented one and only one ballot card as being bent or damaged and requiring duplication in order to be counted.

10. That in my presence, the tabulated, checked and rechecked hand count of the fifteen (15) sample precincts demonstrated a number of over-punched ballots which were ineligible to be counted for Senate District #3; and further that the comparison computer count of the 15 sample precincts showed higher counts for each candidate whenever there was a difference between the hand and computer counts in those precincts having over-punched ballots; and that such a consistent variation of the computer sample showing a greater tally of votes than the hand counted sample, within my professional experience, is significant enough to suspect that the computer program may not be properly excluding over-voted ballots as required by NRS 293B.130 (2); and furthermore:

that only a comprehensive accuracy test run conducted at the time of the official 290 precinct recount could have conclusively affirmed the accuracy of that recount.

I further state that I am a resident and registered elector at 955 E. Twain Avenue, Las Vegas, County of Clark, State of Nevada. I came to Nevada on September 25, 1970. Following completion of high school and two years of business college with numerous additional courses, I had my own accounting firm for 13 years in Dayton, Ohio. Sixty percent of my time was spent doing business analysis and projections. From late 1970 until early 1974 I worked in computer operations, programming and debugging. Late 1974 and early 1975 I was engaged in debugging and crime statistics. I have had contact with computers since college.

Further deponent sayeth not.

Subscribed and sworn to before me this 9th day of December, 1980.

Calvin G. Borders
Calvin G. Borders

[Signature]
Notary Public
State of Nevada
[Stamp]
Notary Public
[Stamp]

RECEIVED

I, Margaret M. Cavnar, being first duly sworn, upon oath depose and say: 1980

That I am a registered elector and resident at 301-A Misty Isle Lane,
in the City of Las Vegas, County of Clark and State of Nevada. SECRETARY OF STATE

Today, I viewed the Combined Poll Book, Roster and Check List for the General Election held in Clark County, Nevada on the 4th day of November, 1980 Precinct Las 091. Attached to the front was a Request for Investigation Document to the District Attorney's Office (see attached affidavit). Upon further examination of the Combined Poll Book, I discovered that in addition to the cases cited on the Request for Investigation that on page 004, line 7 that the name that was originally written, Joseph L. Donovan was crossed out, that a new signature was written above and that the original Ballot number 104371 was crossed out and the number 665 was written above. The new signature, when I compared it to the original Voter Affidavit #J094672 appeared to be the same, however, the crossed out signature appeared to me to be written in a different handwriting. I then compared the cases mentioned in the Request for Investigation:

1. Page 012, line 5 - John R. Savage - Ballot #104352 was changed to 104653, the original signature was crossed out and the same name was signed above. The newly signed signature appeared to be identical to the signature in the Original Voter Affidavit #G025965. The first name signed and crossed out, did not appear to me to be like the name on the Voter Affidavit.
2. Page 012, line 6 - Vern Savage - was signed the same as the name above it on line 5, John R. Savage and the ballot number was 104352, the crossed out number on the line above. The signature that was signed, John R. Savage, when compared by me to the original Voter Affidavit #K027772, appeared to be the same handwriting but with a different first name.
3. Page 012, line 12 shows Ballot #104352 listed and crossed out before the name of William Schmidt. This was the third time that the ballot number 104352 was listed on page 012. Mr. Schmidt did not vote.
4. Page 013, line 16 - Spencer Darrell P. was crossed out and Darrel P. Spencer was written above. When compared to the original Voter Affidavit #A106836, the newly signed name appeared to me to be the same. The crossed out name did not appear to me to be the same handwriting. The ballot number was 104579.

There were what appeared to me to be 4 cases of voter irregularity and possible fraudulent voting present in the Combined Poll Book at precinct Las 091.

Also the Certificate of Number of Voters was not signed off by the Election Officers Precinct Las 091 and written in pencil is "371 Voters L.L.L." (see attached statement of November 13, 1980, signed by Deborah West, Executive Secretary for the Clark County Election Department, wherein is stated that over 370 ballots were "sent over for Precinct Las 091).

Subscribed and sworn to before me
this 9th day of December, 1980.

Margaret M. Cavnar
Margaret M. Cavnar, Affiant

[Signature]
Notary Public

Notary Public - State of Nevada
CLARK COUNTY
EX 16

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

AFFIDAVIT

RECEIVED
DEC 9 1980

I, Myrtle F. Kriter, being first duly sworn, upon oath depose and say:

That I am a registered elector and resident at 2900 S. Valley View Blvd., STATE
in the City of Las Vegas, County of Clark and State of Nevada.

On this date I reviewed the combined Poll Book and check list of the Registrar of voters for Precinct Number Las 31 in which I compared the signatures of persons who signed the Poll Book and check list for Precinct Number Las 31 with signatures on original affidavits of registration.

It is my opinion that 74 signatures were signed by the same person in blue ink throughout said Poll Book and check list, and that 13 additional signatures were signed in black ink by one different individual in the same Poll Book and check list.

Myrtle F. Kriter
Myrtle F. Kriter, Affiant

Subscribed and sworn to before me
this 9th day of December, 1980.

[Signature]
Notary Public



Notary Public State of Nevada
CLARK COUNTY
Nancy C. Johns
My Appointment Expires Oct. 24, 1983

EX "H"

RECEIVED
DEC 9 1980

Calvin G. Borders
955 E. Twain Avenue
Las Vegas, Nevada 89109

SECRETARY OF STATE

November 6, 1980

Mrs. Peggy Cavnar
301 Misty Isle Lane # A
Las Vegas, Nevada

Dear Mrs. Cavnar:

I want to inform you that when I voted on November 4, 1980, I had a problem in voting. Namely, I always inspect the Ballot "Card", from the voting machine, to see if the hole did really punch which intended. I immediately discovered, that the chad had not dropped in one position, which was the one your name was in, number 22.

The chad was indented, and one corner had released, leaving 3 corners attached. I pushed it out. And complained to the polling workers.

The man said, "We have had some problems, and I changed a stylus on one machine".

My polling place, was William E. Orr Jr. High. Precinct no: Country Club 004.

My first thought was, that the cutting die could have worn at some point in the run, and there might be a large number of defective cards used for ballots. Secondly, I was a little angry, I always thought that a persons vote was near sacred, and should be counted as he intended. I wondered how many might be miscounted because of a defect.

In view of the fact that you are involved in a very tight race, you should be made aware of this.

Sincerely,

Calvin G. Borders

Calvin G. Borders

STATE OF NEVADA)

ACKNOWLEDGMENT

County of Clark)

ss.)

On November 16, 1980 personally appeared before me, a notary public,
DATE

Alvin G. Borden, who acknowledged that he executed the

unnexed instrument.



Notary Public, State of Nevada
Clark County
1223 S. 11th St.
Las Vegas, NV 89102
My Commission Expires March 7, 1983

William H. Carson
Signature

EX "I"

November 13, 1980

Mr. & Mrs. Sam Cavnar
P.O. Box 5773
Las Vegas, Nevada 89102

Dear Mr. & Mrs. Cavnar:

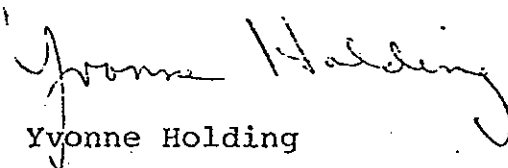
On election day November 4, 1980, approximately 3:00 P.M. at Bertha Ronzone School on Stacey Drive, I went to vote. I am in Precinct Number 204. A man in front of me complained that the voting machine was not working correctly. The ladies gave him another ballot and told him that it had not been working and that others had complained. Facing the machines it was the first one on the left. I do not know the man's name, but I do know he's listed on the same page I am and I saw them correct his number.

This really upset me because I never considered that this was possible. After I voted, I rechecked the numbers to be sure they were correct.

The right to vote is important and even more important is that the people you vote for get credited with your vote.

Thank you.

Sincerely,


Yvonne Holding

My full name and address is: Yvonne Miriam Holding
1705 Wildwood Drive
Las Vegas, Nevada 89108

Telephone Number (res) 647-1384

" " (work) 735-0793

State of Nevada

County of Clark

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared YVONNE M. HOLDING, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same as her free act and deed for the purposes and consideration therein expressed.

S. Cavnar

- 2 -

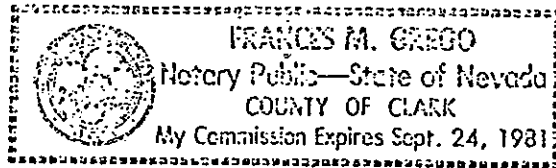
November 13, 1980

Given under my hand and seal of office this
14th day of November, 1980.

My Commission Expires

September 24, 1981

Francis M. Grego
Notary Public in and for
Clark County, Nevada



IN ADDITION TO THESE AFFIDAVITS

THERE ARE APPROXIMATELY

150 MORE

FROM PRECINCTS 1A

MIKE FITZPATRICKS

A-D. 12

STATE OF NEVADA)
COUNTY OF CLARK } ss.

AFFIDAVIT

RECEIVED
NOV 5 1980

Charles Quillman being first duly sworn, upon oath ^{DEPOSES} and says:

That he is a resident of 5135 Pearlite Cir

and knows of his own knowledge that the following person or persons

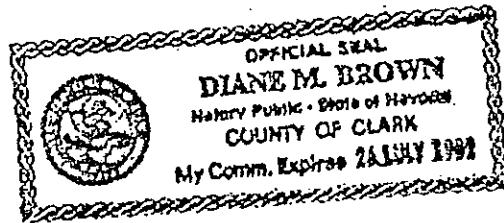
June R. Blanton 5134 Pearlite Circle Las Vegas, NV 89120

has not resided at the aforementioned address at anytime on or after the 1st day of October, 1980.

November 22, 1980 Charles Quillman
Affiant

Subscribed and sworn to before me this 22 day of November, 1980.

Diane M Brown
Notary Public



Par. 6 - R

No one home

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

AFFIDAVIT

Charles Duilmann being first duly sworn, upon oath deposes and says:

That he is a resident of 5135 Pearlite Cir.

and knows of he own knowledge that the following person or persons

Robert L. Blanton 5134 Pearlite Circle Las Vegas, NV 89120

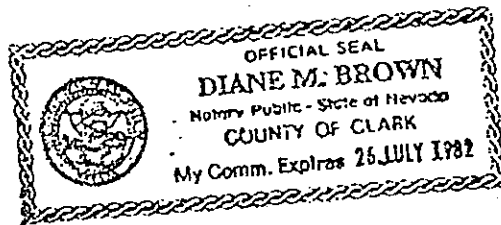
has not resided at the aforementioned address at anytime on or after the 1st day of October, 1980.

November 22, 1980

Charles Duilmann
Affiant

Subscribed and sworn to before me this 22 day of November, 1980.

Diane M. Brown
Notary Public



Par. 6 - R

25-1-1980 - [unclear]

RECEIVED

DEC 9 1980

STATE OF NEVADA)
COUNTY OF CLARK } ss.

AFFIDAVIT

SECRETARY OF STATE

I, Samuel M. Caynar, being first duly sworn, upon oath depose and say:

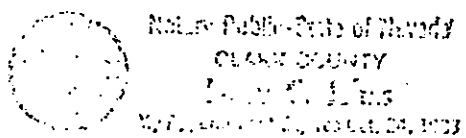
That I am a resident of 301-A Misty Isle Lane, Las Vegas, County of Clark, State of Nevada and that I and/or others have checked by personal contact with either current occupants of the residences, with neighbors, against telephone book listings - both in the latest telephone book and with the Information Operator; or with some of the individuals themselves listed below who have confirmed they had moved prior to October 4, 1980; and I believe that all of these persons have not lived at the residences listed below as their legal registered voting addresses subsequent to October 4, 1980. I further state that I have personally checked the names and addresses listed herein against the Combined Poll Book and Roster for the November 4, 1980 General Election at the Clark County Registrar's Office and that to my best knowledge and belief, all are listed with their apparent signatures affixed in the Poll Book and Roster as having voted at their previous addresses which are listed below as their registered voting addresses in Precinct Las 031.

- | | | |
|--------------------------|-------------------------------|---------------------|
| Dave Anton Adams, Jr. | 201 W. Boston Ave. #4 | Las Vegas, NV 89102 |
| Oscar Brooks | 1905 Fairfield Ave | Las Vegas, NV 89102 |
| Calvin Johnson | 130 W. Baltimore Ave. #24 | Las Vegas, NV 89102 |
| Sonny L. Nevius | 131 W. Baltimore Ave. | Las Vegas, NV 89102 |
| John R. Viglione | 131 W. Baltimore Ave. #B14 | Las Vegas, NV 89102 |
| Joyce A. Smith | 316 W. Baltimore Ave. #11 | Las Vegas, NV 89102 |
| Jagir Singh Grewal | 225 W. Chicago Ave. | Las Vegas, NV 89102 |
| Richard R. Lewis | 304 W. Cleveland Ave. #8 | Las Vegas, NV 89102 |
| Douglas Weegar MacMillan | 316 W. Cleveland Ave. | Las Vegas, NV 89102 |
| Ted J. Robey | 241 W. St. Louis Ave. Apt. 20 | Las Vegas, NV 89102 |
| Merrick J. Clay | 2220 Tam Drive Apt. 7 | Las Vegas, NV 89102 |
| Carlos E. Grill | 106 W. St. Louis Ave. | Las Vegas, NV 89102 |

Subscribed and sworn to before me on this 9th day of December, 1980

Samuel M. Caynar
Affiant

[Signature]
Notary Public



Las 031

Ex. "J"

CALCULATOR TAPES WERE MADE OF TOTALS OF EACH PRECINCT.
TOTALS GIVE ON REG. OF VOTERS PRINT-OUTS DID NOT BALANCE
WITH THEIR TOTAL OF INDIVIDUAL PRECINCTS.

ORIG. TAPES WERE FILED WITH "CONTEST"

COMPUTER WHICH HANDLES

VOTER TABULATIONS

ALSO

DOES PROPER TAX

FILED

ERRORS

— IN TAX ASSESSMENT ROLLS

PRINTED IN RS + SUN

NEWS PAPERS FOR
SUN 12/31/80

10 FULL PAGES.
RS. 1/180

NOTE :

WE WERE NOT ALLOWED BY
REGISTRAR OF VOTERS TO COPY
(XEROX):

1. ANYTHING FROM POLL BOOKS
OR OTHER VOTING RECORDS.
2. STATEMENTS OF INVESTIGATION
BY DISTRICT ATTORNEY'S OFFICE
WERE NOT MADE AVAILABLE
AND WE WERE NOT ALLOWED TO
MAKE COPIES FROM FILMS ABOUT
SUCH INVESTIGATION WHICH
WERE ATTACHED TO POLL BOOKS.
3. WE WERE NOT ALLOWED TO
MAKE COPY OF REPORT BY
REGISTRARS OFFICE RELATIVE
TO BALLOT BOX AND RECORDS
TAKEN HOME BY ONE POLL
WORKER FROM POLLING PLACE
WHERE ALLEGED VOTING
FRAUD TOOK PLACE --
NAMELY, THE JOHN C.
FREEMONT SCHOOL.

—
Sanzaan

COMMENTS OF MR. LARRY JOHNS

1. How is it possible that the computer can read the same punch cards twice and reach two different results.
2. How could the computer come up with a total figure which is not the same as the total of all of the precincts.
3. How is it possible that a handcount in which 3 talliers all reach one result for a single precinct which differs from the computer result for the same precinct.
4. What was the extent of the voter fraud in precinct L.V. 91. Was it only 3 voters or was it 30.
5. Why wasn't the poll book for Las Vegas 91 signed and certified.
6. Were the ballots in L.V. 91 kept intact and sealed until they reached the computer.
7. What was the imbalance in the ballots in L.V. 91 referred to in the affidavit attached to poll book.
8. Are the signatures of 87 voters in L.V. 031 which appear to have been written by 2 persons legitimate or not. Can the 87 voters be explained by the election officials?
9. Was there a malfunctioning machine in Country Club 004 as alleged? The machines are, all as ordered, under lock and key.
10. Do 5% of the electorate vote illegally in Clark County, and if so, is that not clear and convincing evidence that this contest was decided by only 3/100th of one percent of the electorate cannot be guaranteed to be accurate.

Final Summary by Peggy Cavnar

EXHIBIT H

Mr. Chairman, members of the committee.

Thank you for your patience and understanding in this matter of the Contested Election between Mr. Hernstadt and myself for a seat in Senate District Three.

The Senate and Assembly of the Nevada Legislature have each assumed and accepted the final responsibility for deciding who shall be seated as members of it's own body. To make a mockery of that responsibility would be unconscionable.

Cynical conclusions by certain members of the press that there is no way you will act according to that responsibility must be disputed by your actions. One columnist's writings headlined "No chance" in Sunday's Las Vegas Review-Journal is a perfect example of what I'm saying.

The columnist stated: "But her (Peggy Cavnar's) effort is probably doomed to failure for several reasons. Probably the most important is the fact that the credentials committee is made up of three Democrats and only one Republican. It's not about to seat the former Republican assemblywoman just because she found a few instances of voting irregularities."

I consider that an insult to the members of this committee as well as to all of the other Senators who have taken an oath to uphold the laws of this state which they and their predecessors have formulated and refined to best protect everyone in this state.

I feel quite confident that not one of you on this committee or any other member of the State Senate will make a decision to seat either one of us until you have all of the facts. Up to this point, neither you nor we have been allowed full access to all pertinent equipment and records because the laws relating to contested elections require they be sealed from everyone until this time.

We have tried to fully explain and document our reasons for requesting a re-vote in certain areas where fraud and illegal voting occurred. Such a re-vote should be mandated by the Senate only after a thorough and complete investigation by this committee of the charges presented here today...and any additional facts developed from these charges by this committee. Election workers and officials from the precincts where these acts occurred as well as voters involved should be fully questioned by the committee under oath.

With the computer errors and possible voting equipment failures, it is vital that a complete on-site investigation and inspection by recognized experts and members of this committee be exhaustively conducted before making any decision about the seating of either Mr. Hernstadt or myself.

We believe a revote is definitely in order in Precinct LAS 91, because sufficient evidence of fraud already exists.

We further believe, based upon the facts we have at this time, that a revote is definitely called for in Precinct LAS 31.

Should the committee concur with us and decide further that the law is quite clear and the illegal voting in Assembly District 12 was sufficient to question the outcome of the race between Mr. Hernstadt and myself, then certainly a revote in that entire district or certain precincts of that district is in order.

Should the equipment failure question stand up in the case of precinct Country

Club 004, then a revote in that area could be considered. This can only be determined by inspection of the equipment. We were assured in writing by the Registrar of Voters of Clark County that all of the equipment has been locked up in storage vaults and has not been touched by anyone.

In Mr. Hernstadt's and my case the 100,000 voters - many of whom crossed party lines to give each of us over 48,000 of their precious votes - have the right to know that their votes were not diluted, eliminated or miscounted by a computer, a computer program, a dishonest person or group of persons - or a faulty piece of voting equipment.

We respectfully request of this committee and the State Senate as a whole that no decision be made for the seating of either Mr. Hernstadt or myself in the contested State Senate seat until the facts and allegations made here today by us or by anyone else are fully investigated in Clark County where they occurred. Anything less would be an injustice to Mr. Hernstadt, myself, and the voters of Senate District Three.

Thank you.

IN THE STATE SENATE
OF THE STATE OF NEVADA

PEGGY CAVNAR,)
)
 Contestant,)
)
 vs.)
)
 WILLIAM HERNSTADT,)
)
 Defendant.)
 _____)

ELECTION CONTEST

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

In the matter of the election contest described as
Peggy Cavnar, Contestant, vs. William Hernstadt, Defendant, I
have reviewed Contestant's petition and find as follows:

I, II, III - AGREE

IV.

Agree that recount was filed on December 1, 1980, and
that it was conducted on December 4, 1980, pursuant to NRS 293.404(3).

V.

1. "That there was a possible malfunction of a
counting device." Contestant alleges that a one-vote discrepancy
between the official summary of November 4, 1980, and the recount
summary of December 4, 1980, constitutes "a manifest discrepancy
which demonstrates a malfunction in the computer." Your attention
is directed to the affidavits of Martin Trishman, Director of Data
Processing for Clark County, and that of Kathy Misenor, Senior
Systems Analyst, Data Processing, Clark County, which refutes
the allegation. In connection with the above, contestant
has presented the affidavits of Donald L. Parker, Gregory L.
Millspaugh and Calvin G. Borders, all of which are identical
in content. Paragraph 8, in each of these affidavits,

contends that I, as Registrar of Voters, "refused to allow a test run prior to full computer recount." That matter did come up on recount night, and by mutual agreement, was held on December 9, 1980. (Please note that the three affidavits referred to above were notarized in Parker's case on the "9th day of November, 1980." Millspaugh on the same date, while that of Calvin G. Borders has a scratch-out of the word "November" with "December" written in.) In any event, from the content of paragraph 8, i.e. "a certification test to be conducted at a later, uncertain date; that to the best of my knowledge and belief that such a denial is in violation of NRS 293B.155 and NRS 293B.165", it is apparent that these affidavits were sworn to prior to the special test performed on December 9, 1980, between 1:00 P.M. and 4:30 P.M.. Please refer to the affidavit concerning that test sworn to by Martin A. Trishman, Director of Data Processing for Clark County. We direct your attention to the statement that "Mr. Millspaugh was able to verify that the programs ran perfectly."

Contestant further alleges that a variance of nine votes exists between the recount summary of December 4, 1980, and the tabulation of the individual precinct results.

Your attention is again directed to the affidavit of Kathy Misenor, wherein she affirms that the tabulation of the individual precincts showed an identical result to the recount summary of December 4, 1980. (Both the recount summary and precinct report are present for your review if desired.)

2. Contestant avers that certain discrepancies between the hand recount and the computer recount, in the sampling of fifteen precincts during the recount process, is "further evidence that the computer counting device malfunctioned."

NRS 293.404(3) describes the procedure to be followed in recounts. This is simply a sampling procedure to ascertain whether or not the hand count of the required number of precincts is within

one (1%) percent of the computer recount. Such a sampling effort has no other purpose and is not to be considered in arriving at final tallies. (The Decision and Findings of the Election Recount Board, in this instance, have been attached for your review.)

3. Contestant further alleges "that the Election Board made errors sufficient to change the result of the election".

Contestant's Exhibit F is simply a reproduction of a request for investigation made in behalf of the Election Department by Scott Doyle, Deputy District Attorney assigned to the Election Department.

The District Attorney's Office has been unable to ascertain which person or persons may have signed the names of Joseph Donovan, John Savage and Darrell Spencer, in violation of election code provisions. Please note that while Mr. Donovan's name was signed to the roster, that no vote was cast. Therefore, it is apparent that two illegal votes were cast in precinct Las Vegas 091 by people representing themselves to be John Savage and Darrell Spencer. (It is my intent to have the investigation continued in an attempt to bring the guilty party or parties to justice.)

Exhibit G is an affidavit by the contestant regarding the same precinct (LAS 091).

While the Blue Roster for precinct Las Vegas 091 does contain the pencil writing "371 voted signed LLL", the statement attached to the roster book and signed by Deborah West, Louise Todd and Laura Lucas attest to the fact that there were 370 ballots in precinct Las Vegas 091. Please note that the last signature, Laura L. Lucas, is the same person who previously had counted 371 signatures.

Exhibit H refers to precinct Las Vegas 031 and mentions that two persons had signed the names of 87 persons. Your attention is directed to the affidavit sworn to by Ann Campbell, Chairman of precinct Las Vegas 031, and attested to by Edmund J. Farrell and Ann March, the other Election Board Members.

4. Contestant refers to "the affidavit" of Calvin Borders, Exhibit I. We have at hand a copy of a letter addressed to the contestant and signed by Calvin G. Borders describing a purported incident at his polling place, precinct Country Club 004.

As indicated by the affidavit of Lewis DeWolf, Chairman of precinct Country Club 004, no such report or incident was reported to the election officials.

We are in possession of a copy of a letter from Yvonne Holding who avers that at 3:00 P.M. on election day, one of the voting machines in precinct Las Vegas 204 was "not working correctly."

Your attention is directed to the affidavits of Margaret Rille, Coordinator at Bertha Ronzone School in which precinct Las Vegas 204 was located. Also attached is the affidavit of the Chairman of that precinct, Laretta Matthews. The contents thereof refutes the assertion of malfunction of equipment at the time alleged.

5. Contestant alleges "that there were many illegal votes counted and cast which if taken from the Defendant would alter the election." Contestant then submits Exhibit J, which is a group of affidavits containing some 70 names. Contestant avers that these individuals were "not entitled to vote because of their not residing in the precinct." Review of these names and addresses indicate that fourteen of these individuals still receive mail at the address shown on the Registration Affidavit. An additional twenty-five individuals have had a Post Office address change, but twenty-three of these still reside within the boundaries of Senate District 3.

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.)

George Ullom

GEORGE ULLOM
Registrar of Voters
Clark County, Nevada

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

392 OF 392 PRECINCTS

REGISTERED VOTERS - TOTAL 153,865

BALLOTS CAST - TOTAL 129,658

84.3% OF TURNOUT

U.S. PRESIDENT & VICE-PRESIDENT (392 OF 392)

ANDERSON & LUCEY	IND.	8,702	6.8%
CARTER & MONDALE	DEM.	38,313	30.1%
CLARK & KOCH	LIBT	2,092	1.6%
REAGAN & BUSH	REP.	76,194	59.8%
NONE OF THESE CANDTE,		2,123	1.7%

UNITED STATES SENATOR (392 OF 392)

GOJACK, M.	DEM.	53,081	42.0%
HACKER, A.A.	LIBT	2,242	1.8%
LAXALT, P.	REP.	69,335	54.9%
NONE OF THESE CANDTE,		1,586	1.3%

REPRESENTATIVE IN CONGRESS (392 OF 392)

MANGRUM, H.J.	LIBT	3,761	3.0%
SANTINI, J.	DEM.	86,650	69.1%
SAUNDERS, V.	REP.	30,086	24.0%
NONE OF THESE CANDTE,		4,847	3.9%

STATE SENATE, DISTRICT NO. 2 (37 OF 37)

FAISS, W.	DEM.	7,280	73.4%
MCCARTY, H.	LIBT	2,641	26.6%

STATE SENATE, DISTRICT NO. 3 (290 OF 290)

ASHWORTH, K.	DEM.	56,167	16.7%
BILBRAY, J.	DEM.	49,937	14.8%
CAVVAR, P.	REP.	48,182	14.3%
CORNETT, J.	LIBT	2,200	.7%
HERNSTADT, B.	DEM.	48,212	14.3%
LAMB, F.R.	DEM.	55,434	16.5%
LAMBERT, C.	REP.	13,149	3.9%
LEAR, J.	REP.	40,057	11.9%
UBRIEN, P.	LIBT	3,303	1.0%
ONEILL, P.	LIBT	3,818	1.1%
PONTON, M.	LIBT	5,204	1.5%
SMOKE, A.	REP.	10,637	3.2%

STATE SENATE, DISTRICT NO. 4 (17 OF 17)

MCCURDY, B.	REP.	663	18.6%
NEAL, J.	DEM.	2,904	81.4%

STATE ASSEMBLY, DISTRICT NO. 1 (25 OF 25)

GRILZ, D.	REP.	3,368	43.0%
HENDERSON, P.	LIBT	472	6.0%
KOVACS, E.	DEM.	3,985	50.9%

STATE ASSEMBLY, DISTRICT NO. 2 (15 OF 15)

CUSHMAN, T.	DEM.	1,576	37.1%
DUBOIS, J.	REP.	2,548	60.0%
LIZZIO, S.	LIBT	121	2.9%

STATE ASSEMBLY, DISTRICT NO. 3 (13 OF 13)

BREMNER, R.	DEM.	2,508	61.5%
ERHART, J.	LIBT	171	4.2%
REED, H.	REP.	1,396	34.3%

STATE ASSEMBLY, DISTRICT NO. 4 (16 OF 16)

KISSAM, B.	DEM.	1,806	45.6%
MALONE, M.	REP.	2,157	54.4%

STATE ASSEMBLY, DISTRICT NO. 5 (18 OF 18)

BRADY, B.D.	REP.	4,600	71.1%
LATA, G.	LIBT	453	7.0%
TRINER, A.M.	DEM.	1,417	21.9%

STATE ASSEMBLY, DISTRICT NO. 6 (11 OF 11)

BENNETT, M.D.	DEM.	1,393	77.3%
KETCHUM, J.M.	LIBT	146	8.1%
MYERS, P.	REP.	262	14.5%

STATE ASSEMBLY, DISTRICT NO. 7 (7 OF 7)

CHANEY, L.	DEM.	1,792	89.7%
HAYNES, J.C.	REP.	206	10.3%

STATE ASSEMBLY, DISTRICT NO. 8 (17 OF 17)

GETZEL, A.	LIBT	87	2.8%
ROBINSON, R.	DEM.	1,577	51.0%
ZIMMER, B.	REP.	1,428	46.2%

STATE ASSEMBLY, DISTRICT NO. 9 (12 OF 12)

FOLEY, H.A.	DEM.	2,198	84.3%
HENDRICKSON, S.	LIBT	410	15.7%

STATE ASSEMBLY, DISTRICT NO. 10 (18 OF 18)

BUSHAMIE, S.J.	REP.	1,737	37.9%
VERGIELS, J.M.	DEM.	2,612	56.9%
YOUNG, L.	LIBT	238	5.2%

STATE ASSEMBLY, DISTRICT NO. 11 (16 OF 16)

BANNER, J.	DEM.	2,474	84.4%
BLACK, S.K.	LIBT	457	15.6%

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

STATE ASSEMBLY, DISTRICT NO. 12	(16 OF 16)
FITZPATRICK, M.T. REP.	1,816 46.0%
MALCOLM, C. LIBT	173 4.4%
SCHOFIELD, J.W. DEM.	1,957 49.6%
STATE ASSEMBLY, DISTRICT NO. 13	(52 OF 52)
HARRIS, W.A. LIBT	978 5.2%
HAYES, K.W. DEM.	11,803 62.7%
REAGAN, S. REP.	6,029 32.1%
STATE ASSEMBLY, DISTRICT NO. 14	(23 OF 23)
BODDIE, G. REP.	2,889 35.6%
STEWART, J. DEM.	5,223 64.4%
STATE ASSEMBLY, DISTRICT NO. 15	(16 OF 16)
FISLER, J. REP.	1,455 25.6%
HORN, N.J. DEM.	3,925 68.9%
PIERSON, B. LIBT	314 5.5%
STATE ASSEMBLY, DISTRICT NO. 16	(28 OF 28)
HAM, J. REP.	5,744 52.6%
HARMON, H.L. DEM.	4,802 43.9%
KING, C. LIBT	384 3.5%
STATE ASSEMBLY, DISTRICT NO. 17	(9 OF 9)
COLLINS, K.J. REP.	802 46.3%
KNAUFF, M.W. LIBT	55 3.2%
PRICE, B. DEM.	876 50.5%
STATE ASSEMBLY, DISTRICT NO. 18	(10 OF 10)
HICKEY, T. DEM.	1,522 76.2%
WILSON, J. REP.	475 23.8%
STATE ASSEMBLY, DISTRICT NO. 19	(10 OF 10)
GRUBB, L. DEM.	553 21.6%
MAY, P.W. DEM.	2,007 78.4%
STATE ASSEMBLY, DISTRICT NO. 20	(10 OF 10)
CAPU, P. DEM.	1,354 36.8%
CRAUDOCK, R.G. DEM.	2,326 63.2%
STATE ASSEMBLY, DISTRICT NO. 21	(15 OF 15)
SENA, N.M. DEM.	1,992 46.3%
THOMPSON, D.L. DEM.	2,309 53.7%
STATE ASSEMBLY, DISTRICT NO. 22	(34 OF 34)
HAFEN, B.K. REP.	3,429 38.8%
JEFFKEY, J.E. DEM.	5,416 61.2%

COUNTY COMMISSION, DISTRICT A	(74 OF 74)
BROADBENT, R.N. REP.	14,385 68.0%
HAFEN, A.A. DEM.	6,765 32.0%
COUNTY COMMISSION, DISTRICT B	(35 OF 35)
HALE, J.L. REP.	2,590 26.2%
PETITTI, J.R. DEM.	7,313 73.8%
COUNTY COMMISSION, DISTRICT C	(67 OF 67)
MILLER, T. DEM.	9,911 46.4%
RUNZONE, R.J. REP.	11,462 53.6%
COUNTY COMMISSION, DISTRICT D	(49 OF 49)
BOWLER, S. DEM.	4,153 40.5%
MCLAUGHLIN, K. LIBT	724 7.1%
WILSON, W. REP.	5,385 52.5%
PUBLIC ADMINISTRATOR	(391 OF 391)
HARRIS, M.I. LIBT	15,709 14.1%
POLLACK, J. REP.	41,266 37.1%
SHAFFER, J. DEM.	54,169 48.7%
CONSTABLE, LAS VEGAS TOWNSHIP	(297 OF 297)
BONAVENTURA, J. DEM.	49,475 57.4%
JUNIKKA, E. LIBT	3,688 4.3%
SANDERS, M.L. REP.	33,073 38.4%
JUSTICE OF SUPREME COURT, SEAT A	(391 OF 391)
FLANGAS, P.L. N.P.	20,880 17.6%
MOWBRAY, J. N.P.	84,860 71.7%
NONE OF THESE CANDTE,	12,575 10.6%
JUSTICE OF SUPREME COURT, SEAT E	(391 OF 391)
GOLDMAN, P.S. N.P.	69,603 58.0%
SPRINGER, C.E. N.P.	43,886 36.6%
NONE OF THESE CANDTE,	6,500 5.4%
DISTRICT COURT JUDGE, DEPARTMENT NO. 9	(391 OF 391)
HUFFAKER, S.L. N.P.	66,891 56.4%
SHEARING, M. N.P.	51,635 43.6%
REGENT, STATE UNIVERSITY, SUB-DISTRICT A	(42 OF 42)
WHITLEY, J. N.P.	8,191 100.0%
REGENT, STATE UNIVERSITY, SUB-DISTRICT C	(110 OF 110)
JUNES, J.M. N.P.	19,371 49.5%
KARAMANUS, C. N.P.	19,727 50.5%
STATE BOARD OF EDUCATION, SUB-DISTRICT A	(42 OF 42)
HULMES, W.F. N.P.	8,678 100.0%

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

STATE BOARD OF EDUCATION, SUB-DISTRICT D (104 OF 104)	QUESTION NO. 6	(391 OF 391)
KENNEY, J. N.P. 26,882 100.0%	YES, 52,083 41.5%	
	NO, 73,332 58.5%	
TRUSTEE, CLARK COUNTY SCHOOL - DISTRICT A (86 OF 86)	QUESTION NO. 7	(391 OF 391)
BUTLER, P.R. N.P. 11,068 47.2%	YES, 55,674 48.3%	
HOLST, S. N.P. 12,370 52.8%	NO, 59,697 51.7%	
TRUSTEE, CLARK COUNTY SCHOOL - DISTRICT B (30 OF 30)	QUESTION NO. 8	(391 OF 391)
FAISS, D.R. N.P. 4,281 50.5%	YES, 91,754 77.1%	
LITTLE, P. N.P. 4,193 49.5%	NO, 27,220 22.9%	
TRUSTEE, CLARK COUNTY SCHOOL - DISTRICT C (28 OF 28)	QUESTION NO. 9	(391 OF 391)
BREWSTER, V.B. N.P. 4,470 100.0%	YES, 81,868 68.7%	
	NO, 37,329 31.3%	
TRUSTEE, CLARK COUNTY SCHOOL - DISTRICT E (50 OF 50)		
HAYDEN, D.E. N.P. 6,741 49.6%		
LUSK, L.K. N.P. 6,847 50.4%		
JUSTICE OF THE PEACE, LAS VEGAS TWP - DEPT 3 (297 OF 297)		
BAUCUM, V. N.P. 22,813 26.8%		
MCGROARTY, J.S. N.P. 62,330 73.2%		
JUSTICE OF THE PEACE, LAS VEGAS TWP - DEPT 4 (297 OF 297)		
BIXLER, J.M. N.P. 50,625 60.8%		
LODENYCK, J. N.P. 32,626 39.2%		
JUSTICE OF THE PEACE, LAS VEGAS TWP - DEPT 5 (297 OF 297)		
SLEEPER, J. N.P. 38,569 45.1%		
WHITE JR., E.W. N.P. 46,987 54.9%		
QUESTION NO. 1 (391 OF 391)		
YES, 92,425 79.4%		
NO, 24,010 20.6%		
QUESTION NO. 2 (391 OF 391)		
YES, 30,462 26.3%		
NO, 85,198 73.7%		
QUESTION NO. 3 (391 OF 391)		
YES, 39,628 33.8%		
NO, 77,600 66.2%		
QUESTION NO. 4 (391 OF 391)		
YES, 59,658 51.8%		
NO, 55,036 48.2%		
QUESTION NO. 5 (391 OF 391)		
YES, 41,455 35.8%		
NO, 74,367 64.2%		

RECOUNT SUMMARY

Handwritten:
 11:50 PM.
 Dec 4, 1980.
 (Signature)

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

Handwritten:
 Patricia M. Donders
 December 4, 1980
 11:50 p.m.

290 OF 392 PRECINCTS

REGISTERED VOTERS - TOTAL 153,865

BALLOTS CAST - TOTAL 100,793

65.5% OF TURNOUT

U.S. PRESIDENT & VICE-PRESIDENT (290 OF 392)		
ANDERSON & LUCEY	IND.	7,183 7.2%
CARTER & MONDALE	DEM.	27,149 27.4%
CLARK & KOCH	LIBT	1,073 1.7%
REAGAN & BUSH	REP.	61,573 62.1%
NONE OF THESE CANDTE,		1,011 1.0%
UNITED STATES SENATOR (290 OF 392)		
GUJACK, M.	DEM.	40,035 43.7%
HACKER, A.A.	LIBT	1,741 1.8%
LAXALT, P.	REP.	55,280 59.2%
NONE OF THESE CANDTE,		1,227 1.2%
REPRESENTATIVE IN CONGRESS (290 OF 392)		
MANGRUM, H.J.	LIBT	2,882 3.0%
SANTINI, J.	DEM.	66,421 68.0%
SAUNDERS, V.	REP.	24,495 25.1%
NONE OF THESE CANDTE,		3,823 3.9%
STATE SENATE, DISTRICT NO. 2 (0 OF 37)		
FAISS, W.	DEM.	0 .0%
MCCARTY, H.	LIBT	0 .0%
STATE SENATE, DISTRICT NO. 3 (290 OF 290)		
ASHWORTH, K.	DEM.	56,168 16.7%
BILBRAY, J.	DEM.	49,938 14.8%
CAYNAK, P.	REP.	48,183 14.3%
CORNETT, J.	LIBT	2,201 .7%
HERNSTADT, B.	DEM.	48,212 14.3%
LAMB, F.R.	DEM.	55,454 16.5%
LAMBERT, L.	REP.	13,149 3.9%
LEAK, J.	REP.	40,058 11.9%
UBRIEN, P.	LIBT	3,302 1.0%
ONEILL, P.	LIBT	3,818 1.1%
PONTON, M.	LIBT	3,204 1.5%
SMOKE, A.	REP.	10,637 3.2%
STATE SENATE, DISTRICT NO. 4 (0 OF 17)		
MCCORDY, B.	REP.	0 .0%
NEAL, J.	DEM.	0 .0%
STATE ASSEMBLY, DISTRICT NO. 1 (25 OF 25)		
GRILZ, D.	REP.	3,368 43.0%
HENDERSON, P.	LIBT	472 6.0%
ROVALS, E.	DEM.	3,985 50.9%

STATE ASSEMBLY, DISTRICT NO. 2 (15 OF 15)		
CUSHMAN, T.	DEM.	1,576 37.1%
JUBUIS, J.	REP.	2,548 60.0%
LIZZIO, S.	LIBT	121 2.9%
STATE ASSEMBLY, DISTRICT NO. 3 (13 OF 13)		
BREMNER, R.	DEM.	2,508 61.5%
ERHART, J.	LIBT	171 4.2%
REED, H.	REP.	1,396 34.3%
STATE ASSEMBLY, DISTRICT NO. 4 (16 OF 16)		
KISSAM, B.	DEM.	1,800 45.0%
MALLONE, M.	REP.	2,157 54.4%
STATE ASSEMBLY, DISTRICT NO. 5 (18 OF 18)		
BRADY, B.D.	REP.	4,600 71.1%
LATTA, G.	LIBT	453 7.0%
TRINER, A.H.	DEM.	1,417 21.9%
STATE ASSEMBLY, DISTRICT NO. 6 (3 OF 11)		
BENNETT, M.O.	DEM.	263 59.0%
KEICHUM, J.M.	LIBT	61 13.7%
MYERS, P.	REP.	122 27.4%
STATE ASSEMBLY, DISTRICT NO. 7 (0 OF 7)		
CHANNEY, L.	DEM.	0 .0%
HAYNES, J.L.	REP.	0 .0%
STATE ASSEMBLY, DISTRICT NO. 8 (17 OF 17)		
GEIZEL, A.	LIBT	87 2.8%
ROBINSON, R.	DEM.	1,577 51.0%
ZIMMER, B.	REP.	1,428 46.2%
STATE ASSEMBLY, DISTRICT NO. 9 (12 OF 12)		
FOLEY, H.A.	DEM.	2,198 84.3%
HENDRICKSON, S.	LIBT	410 15.7%
STATE ASSEMBLY, DISTRICT NO. 10 (18 OF 18)		
DUSHAMIE, S.J.	REP.	1,737 37.9%
VERGIELS, J.M.	DEM.	2,612 56.9%
YOUNG, L.	LIBT	238 5.2%
STATE ASSEMBLY, DISTRICT NO. 11 (16 OF 16)		
BANNER, J.	DEM.	2,474 84.4%
BLACK, S.K.	LIBT	457 15.6%

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

STATE ASSEMBLY, DISTRICT NO. 12	(16 OF 16)
FITZPATRICK, M.I. REP. 1,816	48.0%
MALCUM, C. LIBT 173	4.4%
SCHUFIELD, J.W. DEM. 1,958	49.0%
STATE ASSEMBLY, DISTRICT NO. 13	(52 OF 52)
HARRIS, M.A. LIBT 978	5.2%
HAYLS, R.W. DEM. 11,804	52.7%
REGAN, S. REP. 6,030	32.1%
STATE ASSEMBLY, DISTRICT NO. 14	(23 OF 23)
BOODIE, G. REP. 2,889	35.6%
STEWART, J. DEM. 5,222	64.4%
STATE ASSEMBLY, DISTRICT NO. 15	(16 OF 16)
FISLER, J. REP. 1,455	25.5%
HORN, H.J. DEM. 3,925	68.9%
PIERSON, B. LIBT 315	5.5%
STATE ASSEMBLY, DISTRICT NO. 16	(28 OF 28)
HAN, J. REP. 5,744	52.5%
HARMON, H.L. DEM. 4,803	43.9%
KING, C. LIBT 384	3.5%
STATE ASSEMBLY, DISTRICT NO. 17	(0 OF 9)
COLLINS, R.J. REP. 0	.0%
KNAUFF, M.W. LIBT 0	.0%
PRICE, G. DEM. 0	.0%
STATE ASSEMBLY, DISTRICT NO. 18	(0 OF 10)
HICKLY, T. DEM. 0	.0%
WILSON, J. REP. 0	.0%
STATE ASSEMBLY, DISTRICT NO. 19	(0 OF 10)
BRUBB, L. DEM. 0	.0%
MAY, P.W. DEM. 0	.0%
STATE ASSEMBLY, DISTRICT NO. 20	(0 OF 10)
CAPU, P. DEM. 0	.0%
CRAIGOCK, R.G. DEM. 0	.0%
STATE ASSEMBLY, DISTRICT NO. 21	(2 OF 15)
SENA, N.M. DEM. 0	.0%
THOMPSON, D.L. DEM. 0	.0%
STATE ASSEMBLY, DISTRICT NO. 22	(0 OF 34)
HAFEN, B.K. REP. 0	.0%
JEFFREY, J.E. DEM. 0	.0%

COUNTY COMMISSION, DISTRICT A	(30 OF 74)
BRADBENT, R.N. REP. 5,069	63.5%
HAFEN, A.A. DEM. 2,916	36.5%
COUNTY COMMISSION, DISTRICT B	(0 OF 35)
HALE, J.L. REP. 0	.0%
PETITTI, J.R. DEM. 0	.0%
COUNTY COMMISSION, DISTRICT C	(67 OF 67)
MILLER, T. DEM. 9,912	46.4%
RUNZONE, R.J. REP. 11,462	53.6%
COUNTY COMMISSION, DISTRICT D	(30 OF 49)
BOWLER, S. DEM. 3,259	48.7%
MCLAUGHLIN, K. LIBT 622	9.3%
WILSON, W. REP. 2,807	42.0%
PUBLIC ADMINISTRATOR	(290 OF 391)
HARRIS, M.I. LIBT 11,963	13.8%
PULLACK, J. REP. 33,132	38.3%
SHAFFER, J. DEM. 41,369	47.8%
CONSTABLE, LAS VEGAS TOWNSHIP	(286 OF 297)
BONAVENTURA, J. DEM. 48,297	57.0%
JUNIKKA, E. LIBT 3,610	4.3%
SANDLRS, M.L. REP. 32,774	38.7%
JUSTICE OF SUPREME COURT, SEAT A	(290 OF 391)
FLANGAS, P.L. N.P. 15,910	17.2%
MURKRAY, J. N.P. 67,017	72.3%
NONE OF THESE CANDIDE, 9,744	10.5%
JUSTICE OF SUPREME COURT, SEAT E	(290 OF 391)
GOLDMAN, P.S. N.P. 55,884	59.4%
SPRINGER, C.E. N.P. 33,373	35.5%
NONE OF THESE CANDIDE, 4,881	5.2%
DISTRICT COURT JUDGE, DEPARTMENT NO. 9	(290 OF 391)
HUFFAKER, S.L. N.P. 53,070	56.7%
SHEARING, M. N.P. 40,462	43.3%
REGENT, STATE UNIVERSITY, SUB-DISTRICT A	(0 OF 42)
WHITLEY, J. N.P. 0	.0%
REGENT, STATE UNIVERSITY, SUB-DISTRICT C	(110 OF 110)
JONES, J.M. N.P. 19,372	49.5%
KARAMANUS, C. N.P. 19,728	50.5%
STATE BOARD OF EDUCATION, SUB-DISTRICT A	(0 OF 42)
HOLMES, W.F. N.P. 0	.0%

RECOUNT SUMMARY

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

STATE BOARD OF EDUCATION, SUB-DISTRICT D KENNEY, J.	(53 OF 104) N.P. 15,592 100.0%	QUESTION NO. 6 YES, NO,	(290 OF 391) 41,904 42.74 56,282 57.34
TRUSTEE, CLARK COUNTY SCHOOL - DISTRICT A BULLER, P.R. HULST, S.	(39 OF 86) N.P. 4,750 42.24 N.P. 6,475 57.64	QUESTION NO. 7 YES, NO,	(290 OF 391) 44,078 48.64 46,589 51.44
TRUSTEE, CLARK COUNTY SCHOOL - DISTRICT B FAISS, D.R. LITTLE, P.	(5 OF 30) N.P. 401 93.04 N.P. 356 47.04	QUESTION NO. 8 YES, NO,	(290 OF 391) 72,869 77.94 20,664 22.14
TRUSTEE, CLARK COUNTY SCHOOL - DISTRICT C URENSTLER, V.O.	(3 OF 28) N.P. 339 100.0%	QUESTION NO. 9 YES, NO,	(290 OF 391) 64,265 68.74 29,313 31.34
TRUSTEE, CLARK COUNTY SCHOOL - DISTRICT E HAYDEN, D.E. LUSK, L.R.	(50 OF 50) N.P. 6,741 49.64 N.P. 6,847 50.44		
JUSTICE OF THE PEACE, LAS VEGAS TWP - DEPT 3 BAJOUR, V. MCGURKAY, J.S.	(286 OF 297) N.P. 22,344 20.74 N.P. 61,470 73.34		
JUSTICE OF THE PEACE, LAS VEGAS TWP - DEPT 4 BIXLER, J.M. LUDLWYCK, J.	(286 OF 297) N.P. 49,995 60.94 N.P. 32,067 39.14		
JUSTICE OF THE PEACE, LAS VEGAS TWP - DEPT 5 SLEEPER, J. WHITE JR., E.W.	(286 OF 297) N.P. 38,280 42.74 N.P. 49,480 54.34		
QUESTION NO. 1 YES, NO,	(290 OF 391) 73,271 60.44 17,857 19.64		
QUESTION NO. 2 YES, NO,	(290 OF 391) 23,917 20.44 66,677 73.64		
QUESTION NO. 3 YES, NO,	(290 OF 391) 30,691 33.34 61,430 66.74		
QUESTION NO. 4 YES, NO,	(290 OF 391) 47,529 52.54 42,999 47.54		
QUESTION NO. 5 YES, NO,	(290 OF 391) 33,162 30.54 57,812 63.54		

A F F I D A V I T

STATE OF NEVADA)
)
COUNTY OF CLARK)

I, KATHLEEN A. MISENOR, being first duly sworn, deposes and says that:

I reside at 3820 Mayhill Avenue, in the City of Las Vegas, County of Clark, State of Nevada.

That I am employed by the County of Clark in the Data Processing Department and have been so employed since March 3, 1969. During these years I have programmed and designed a number of systems.

That I am currently a Senior Systems Analyst with the Clark County Data Processing Department. My duties are supervision, coordinating, and participating in the analysis and solution of users' problems and developing systems designs for the Election Department and Building/Zoning Department. I have been the Election Department's analyst since 1973 and designed both the Voter Registration and the Official Election Tabulation systems. I have had full Data Processing responsibility for all the computerized elections which have been conducted in Clark County (over 24 elections).

That operating in my capacity as the responsible Data Processing analyst, I have participated in the actual election tabulation held on November 4, 1980, and personally canvassed the accuracy of said election.

That I tested the computer program and constructed the tables to run the November 4th General Election in compliance with NRS 293B.130 and submitted an identical copy of said program to the Secretary of State pursuant to NRS 293B.135.

That I witnessed the compliance of NRS 293B.155 and NRS 293B.165 by the accuracy certification board who verified said program in accordance with NRS 293B.385.

That the results of the November 4th General Election from the computer "Official Summary" are:

Peggy Cavnar	48,182
William Hernstadt	48,212

That I have participated in the actual recount held on December 4, 1980, and witnessed no irregularities.

That the results of the December 4th recount from the computer "Recount Summary" are:

Peggy Cavnar	48,183
William Hernstadt	48,212

That the comparison of the November 4th election and the December 4th recount show a one(1) vote difference. This is not a significant difference and based upon my Data Processing experience, I am of the opinion that this vote difference can be accounted for as follows:

That a voter partially punched a vote for Peggy Cavnar (Number 22). The punch did not sufficiently break the die cut, leaving one or two points still connected to the ballot.

Through multiple handlings of the ballots during the course of the election evening and the recount day, the partially punched vote did jar loose and was counted. The one (1) vote discrepancy occurred in precinct Las Vegas 048.

That I executed the same program for both the November, 1980 General Election and the December 4, 1980 recount(s). That the method of verification used to prove that the program remained unchanged was to have the accuracy certification board sign on top of the program deck. I asked the recount representatives to verify that these signatures were present on the program deck prior to the program execution.

That I have examined the following:

The Precinct-by-Precinct Report of vote totals from the General Election;

The Official summary of the General Election;

The Precinct-by-Precinct Report of vote totals from the December 4th recount;

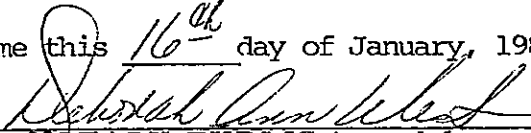
The Recount Summary.

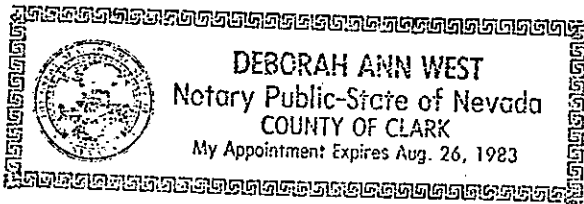
In both cases the summary totals verified against the precinct totals. Because these totals were questioned in the Election Contest, I personally verified the exact accuracy of the summary totals for both the election and recount by running adding machine tabulations for each. Based upon my experience in Data Processing and my full knowledge of the computerized election process in Clark County I am of the opinion that there were no computer program discrepancies.

That I am of the further opinion that the one (1) vote discrepancy stated in the complaint has no significance.


KATHLEEN A. MISENOR

Subscribed and sworn to before
me this 16th 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 STATE SENATORIAL DISTRICT NUMBER 3.)

DECISION

This matter having come before this Board on December 4, 1980, for consideration of the numerical accuracy of the result in the above captioned 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 facts and conclusions and enters the following decision.

FINDINGS OF FACT

1. That State Senatorial District Number 3 is a multi-member legislative district which had four (4) seats up for election at the General Election of November 4, 1980.

2. That twelve (12) candidates sought election to the four available seats in the district.

3. That the twelve candidates seeking these four seats and their respective vote totals as reflected in the official abstract of the votes, canvassed by the Justices of the Supreme Court, shows:

Ashworth, K.	56,167	votes
Bilbray, J.	49,937	
Cavnar, P.	48,182	
Cornett, J.	2,200	
Hernstadt, B.	48,212	
Lamb, F.R.	55,434	
Lambert, C.	13,149	

1	Lear, J.	40,057
2	O'Brien,	3,303
3	O'Neill, P.	3,818
4	Ponton, M.	5,204
5	Smoke, A.	10,637

6 4. That the vote totals set forth in paragraph 3 for candidates
7 Ashworth, Lamb and Bilbray are substantially greater than those for the can-
8 didates receiving the fourth and fifth largest vote totals, namely
9 candidates Hernstadt and Cavnar.

10 5. That the vote total set forth in paragraph 3 for candidate Lear, the
11 candidate with the sixth largest vote total, is substantially less than
12 those for the candidates receiving the fourth and fifth larges vote namely
13 candidates Hernstadt and Cavnar.

14 6. That the above captioned election was conducted utilizing a punch-
15 card voting system.

16 7. That demand for a recount of the vote for the above captioned elec-
17 tion result was filed by Peggy Cavnar in a proper and timely manner.

18 8. That pursuant to NRS 293.404(3), the following precincts were ran-
19 domly chosen to be hand counted:

20	Absentee	27	Las Vegas	98
21	Country Club	17	Las Vegas	122
22	Desert Hills	7	Las Vegas	216
23	Las Vegas	12	Paradise	10
24	Las Vegas	20	University	2
25	Las Vegas	40	Winchester	15
26	Las Vegas	47	Winchester	19
27	Las Vegas	65		

28 9. That the precincts listed above were chosen to be hand counted pur-
29 suant to NRS 293.404(3) after consultation with each candidate, or their
30 representative, for these state senatorial seats who was present at this
31 recount proceeding.

1 10. That this Election Recount Board performed a hand count of all the
2 valid ballots cast in the selected precincts set forth above during the
3 above captioned election for the above captioned office.

4 11. That the results of this hand count of the ballots cast in the above
5 mentioned precincts resulted in the following discrepancies being noted in
6 the vote totals for candidates Cavnar and Hernstadt.

7

Precinct Number	Handcount Tally		Official Abstract of Votes	
	Cavnar	Hernstadt	Cavnar	Hernstadt
8 Desert Hills 7	308 votes	344 votes	310 votes	345 votes
9 Las Vegas 98	89 votes	73 vote	90 votes	73 votes

10

11 12. Any other discrepancy or discrepancies between the tally of the
12 handcount and the vote totals contained in the official abstract of votes
13 for any other candidate for the above mentioned State Senatorial seats were
14 not considered for purposes of determining whether a hand count was to be
15 performed for all the ballots cast for the office for the reasons stated in
16 paragraphs 4 through 8, inclusive, under the title "conclusions", infra.

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

19 14. That the vote totals for the respective candidates contained in the
20 tally of the computer recount for the above mentioned precincts is identical
21 in every respect to the vote totals for the same candidates in the same pre-
22 cincts as contained in the official abstract of votes.

23 15. That pursuant to NRS 293.404(3) the Election Recount Board per-
24 formed a computer recount of all ballots cast for all candidates in the
25 above captioned election.

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

28

Ashworth, K.	56,168	votes
29 Bilbray, J.	49,938	
30 Cavnar, P.	48,183	
31 Cornett, J.	2,201	

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Hernstadt, B.	48,212
Lamb, F.R.	55,434
Lambert, C.	13,149
Lear, J.	40,058
O'Brien,	3,302
O'Neill, P.	3,818
Ponton, M.	5,204
Smoke, A.	10,637

17. That this computer recount of all the ballots cast shows candidates Ashworth, Bilbray, Cavnar, Cornett and Lear with one (1) additional vote in the vote totals contained in the recount summary when compared with the same candidates respective vote totals contained in this official abstract of the votes, canvassed by the Justices of the Supreme Court.

18. That the vote total contained in the recount summary for candidate O'Brien shows one (1) vote less than the total for the same candidate in the official abstract of the votes.

19. That the vote totals contained in the recount summary for candidates Hernstadt, Lamb, Lambert, O'Neill, Ponton and Smoke are identical to these candidates' respective vote totals contained in the official abstract of the votes, canvassed by the Justices of the Supreme Court.

CONCLUSIONS

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

2. That this written decision formalizes the decision of the Recount Board reached on Thursday, December 4, 1980, at 2350 hours.

3. Pursuant to NRS 218.055(1)(a)(3), Clark County State Senatorial District No. 3 is comprised of certain geographic area with seven senators being apportioned to that district.

4. That given the vote totals for the respective candidates contained in the official abstract of the votes, canvassed by the Justices of the

1 Supreme Court, this Board concludes that the fourth available State Sena-
2 torial seat is at issue in this recount proceeding.

3 5. That given the vote totals for the respective candidates contained
4 in the official abstract of the votes, canvassed by the Justices of the
5 Supreme Court, this Board concludes that candidates Cavnar and Hernstadt
6 were candidates with vote totals such that they would be candidates for this
7 fourth available State Senatorial seat.

8 6. That pursuant to NRS 293.404(3), in determining whether the discre-
9 pancy between the handcount of the selected ballots or the computer recount
10 of the selected ballots is sufficient when compared with the official
11 abstract of the votes to require a handcount of all the ballots cast, only
12 discrepancies affecting the vote totals of candidates Cavnar and Hernstadt
13 were considered by this Board in determining whether to order such a hand
14 recount.

15 7. That the conclusion set forth in paragraph 6 of the "Conclusions",
16 supra, is premised on the Board's finding that any discrepancy between the
17 hand count of the selected ballots and the official abstract of the votes
18 involving a candidate other than Cavnar or Hernstadt was less than one (1)
19 percent.

20 8. That the conclusion set forth in paragraph 6 of the "Conclusions",
21 supra, is further premised upon the Board's finding that any discrepancy
22 between the hand count of the selected ballots and the official abstract of
23 the votes involving a candidate, with a vote total that was less than the
24 vote total for either candidate, would not be sufficient to bring the can-
25 didate involved within the class of candidates having a vote total suf-
26 ficient to take one of the four available State Senatorial seats, specifi-
27 cally the fourth available seat.

28 Nor, was any discrepancy found between the hand count of the selected
29 ballots and the official abstract of the votes involving a candidate other
30 than Cavnar or Hernstadt, with a vote total that was greater than the vote
31 total of either candidate Cavnar or Hernstadt, of sufficient magnitude to

1 remove the candidate involved from the class of candidates having a vote
2 total sufficient to take one of the four available State senatorial seats;
3 nor change that candidate's relative standing within the class of candidates
4 having a vote total sufficient to take one of the four available State
5 Senatorial seats.

6 9. Therefore, pursuant to NRS 293.403 et seq., it is the conclusion of
7 this Election Recount Board that the certified abstract of votes in the
8 above entitled election for the above mentioned candidates is true and
9 correct except for the numerical differences for certain candidates set
10 forth in paragraphs 17 and 18 of the "Findings of Fact", supra.

11 DATED this 15th day of December, 1980.

12 ELECTION RECOUNT BOARD

13 By George Ullom
14 GEORGE ULLOM, Chairman

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 Senate Candidate Peggy Cavnar. I was also in attendance at a special test of the computer programs used in the election requested by Mr. Gregory L. Millspaugh on behalf of Senate Candidate Peggy Cavnar and agreed upon during the recount held on December 4, 1980. This test was conducted on Tuesday, December 9, 1980.

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 of September 9, 1980, and one (1) prior recount held on September 20, 1980. That recount, although much 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 enforce-

ment 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.

Mrs. Peggy Cavnar, Candidate for State Senate District 3, as contestant for this election contest avows:


"That there is a manifest discrepancy which demonstrates a malfunction in the computer. . . ."

"That there was a possible malfunction of any voting or counting device." When the recount was completed, one (1) additional vote was counted for Mrs. Cavnar.

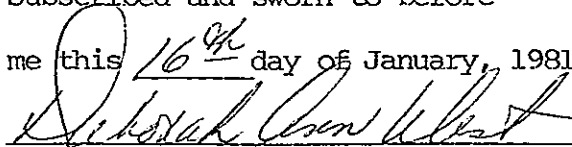
Based upon my experience and personal examination of the cards, it is my opinion that the one (1) vote difference between the original count and the recount probably occurred when a voter partially punched a ballot, punched it sufficiently to break only two or three points of the die cut. This partially 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 special test of the computer programs used in the General Election, requested on behalf of Senate Candidate Peggy Cavnar, and agreed to during the recount on December 4th, was conducted throughout the day of December 9, 1980. It was performed using the same programs and in addition to the normal certification tests filed with the Secretary of State. Additionally, the data was designed and partially prepared by Mr. Gregory L. Millspaugh representing the Cavnar candidacy. It confirmed the accuracy of the computer programs. Attached as Exhibit "A" is a true and correct photocopy of a memorandum that I sent to George Ullom, Registrar of Voters, explaining the results of this special test which indicates that there was no malfunction of the computer programs used in counting the ballots cast in the November, 1980 General Election.

That only one (1) vote difference occurred in the recount concerning the vote totals of Peggy Cavnar and William Hernstadt in a race in which a total of 100,793 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. TRISHMAN

Subscribed and sworn to before
me this 16th day of January, 1981.


NOTARY PUBLIC in and for said
County and State.


DEBORAH ANN WEST
Notary Public-State of Nevada
COUNTY OF CLARK
My Appointment Expires Aug. 26, 1983

A F F I D A V I T

EXHIBIT N

STATE OF NEVADA)
)
COUNTY OF CLARK)

My name is Ann Campbell and I reside at 225 West Baltimore Avenue, Las Vegas, Nevada. On November 4th, 1980, I was the Chairman of the Election Board for Las Vegas Precinct No. 31.

The election day proceeded in a normal manner except that at approximately 11:00 A.M. I discovered that we were having voters sign their name in the Buff Roster rather than the Blue Roster.

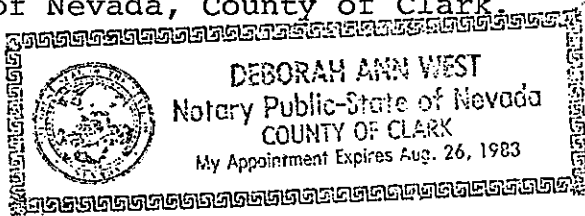
At that time, Ann March, an Election Board Officer, using a pen with blue ink, transferred the names of 74 voters by signing their name into the Blue Roster. Ms. March went on a break, and I finished the transfer using a black pen and signing the names of 13 voters.

There were no irregularities in view of the fact that these people appeared in person and signed their names and voted.

Ann Campbell
ANN CAMPBELL, Chairman
Las Vegas 31

Subscribed and sworn to before me this 7th day of January, 1981.

Deborah Ann West
NOTARY PUBLIC in and for the State of Nevada, County of Clark

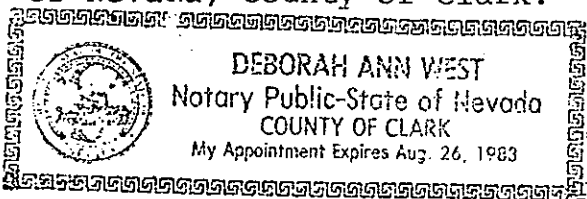


I, Edmund J. Farrell, have read the above statement of Ann Campbell and am in complete agreement therewith.

Edmund J. Farrell
EDMUND J. FARRELL, Election Board Officer, Las Vegas 31

Subscribed and sworn to before me this 7th day of January, 1981.

Deborah Ann West
NOTARY PUBLIC in and for the State of Nevada, County of Clark.

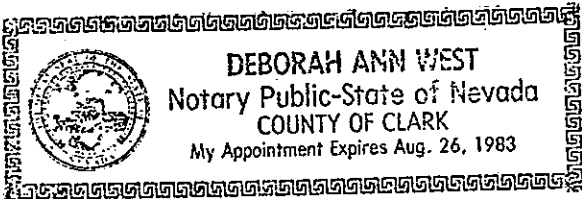


I, ANN MARCH, have read the statement on the preceding page and am in complete agreement therewith.

Ann March
ANN MARCH, Election Board
Officer, Las Vegas 31

Subscribed and sworn to before me
this 7th day of January, 1981.

Deborah Ann West
NOTARY PUBLIC in and for the State
of Nevada, County of Clark.



MEMORANDUM

DATA PROCESSING DEPARTMENT

Martin A. Trishman
Director

William L. Nietsch
Assistant Director

TO: George Ullom, Registrar of Voters
FROM: Martin A. Trishman, Director of Data Processing
SUBJECT: Senate District 3 Recount
DATE: December 10, 1980

EXHIBIT O

RECEIVED
DEC 12 2 49 PM '80
CLARK COUNTY
ELECTION DEPT.

As requested by Senate Candidate Cavnar, and promised by me the night you read the recount results for public record, we performed a special test designed by Mr. Greg Millspaugh (Cavnar's representative) of the computer programs involved. We completed that special test on yesterday between 1:00 and 4:30 p. m. In attendance were Chuck Neiry from the Election Department, Messrs Trishman and Stickney of Data Processing, and Mr. Millspaugh representing Candidate Cavnar.

Some 2500 test election cards were punched as requested in order to test Mr. Millspaugh's hypothesis that a voter could vote for more than four candidates in Senate District 3 and have all of the votes counted by the computer. In order to test the programs, he requested that the following be applied in twenty-two precincts, one of which (Las Vegas 007) was outside of Senate District 3:

- a. Five ballots punched with one vote each were prepared for each candidate;
- b. Five ballots with punches for the first five candidates in each ballot and five ballots with votes for the second five candidates were prepared;
- c. Three ballots, punched with votes for the first and third, fifth and seventh candidates were prepared;
- d. Four ballots with votes for the second, fourth, sixth and eighth candidates were prepared.

The ballots prepared above should and did result in the following acceptable vote pattern in every legitimate precinct for Senate District No. 3. Item b ballots should have been and were rejected by the computer as was Las Vegas 007.

Ashworth	8
Bilbray	9
Cavnar	8
Cornett	9
Hernstadt	8
Lamb	9
Lambert	8
Lear	9
O'Brien	5
O'Neill	5
Ponton	5
Smoke	5

George Ullom
Registrar of Voters

December 10, 1980
Page Two

Mr. Millspaugh was able to verify that the programs ran perfectly. In every legitimate precinct where four or less votes were specified, those votes were counted. In every legitimate precinct where more than four votes were specified, none of the votes in that race were counted. In summary, after several hours of staff time and three-quarters of an hour of computer time, the assurances which Mr. Doyle and I gave Ms. Cavnar on your behalf during the public presentation of the recount were upheld in every respect.

MAT:aml

cc: Scott Doyle
Kathy Misenor


A F F I D A V I T

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)


My name is Lewis M. DeWolf and I reside at 925 Sierra Vista Drive, Apt. 301, Las Vegas, Nevada. On November 4th, 1980, I was the Chairman of the Election Board for Country Club Precinct No. 4.

Shortly after voting began, an acquaintance of mine named Myron Kaplan came into vote. Mr. Kaplan proceeded to the machine with his ballot card and shortly thereafter, returned and complained to me that the stylus was inoperable. I went to the machine and saw that the plastic stylus had separated. I put it back together and Mr. Kaplan voted. Sometime later (approximately 20 to 30 minutes) another individual complained that the stylus could not be used. Again I went to the machine and found that the stylus was separated. At this point, I contacted the Coordinator and she gave me a metal stylus which I inserted in place of the plastic one.

I had no further complaints regarding stylus performance during the remainder of the day.


LEWIS M. DeWOLF, Chairman
Country Club 4

Subscribed and sworn to before me
this 8th day of January, 1981.


NOTARY PUBLIC in and for said State
of Nevada, County of Clark.



A F F I D A V I T

EXHIBIT Q

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

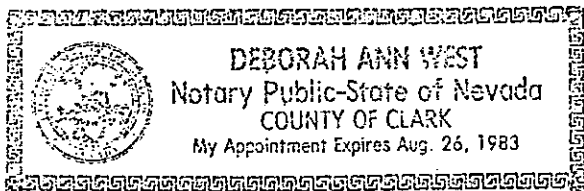
My name is Margaret Rille and I reside at 1706 North Decatur, Apt. 8, Las Vegas, Nevada. On November 4th, 1980, I was the Coordinator at Bertha Ronzone School. Precinct Las Vegas No. 204 was located therein.

Lauretta Matthews, Chairman of Precinct Las Vegas No. 204, notified me at approximately 9:00 A.M. that one of their machines was not functioning properly. Shortly thereafter I examined the machine, noticed that the stylus was broken, removed the ballot frame, and the part of the stylus lodged therein. After replacing the ballot frame and inserting a new stylus, I ran a test with the demonstrator card and noticed that the machine was functioning properly. It was returned to service shortly prior to 10:00 A.M..

Margaret Rille
MARGARET RILLE, Coordinator
Bertha Ronzone School

Subscribed and sworn to before me
this 8th day of January, 1981.

Deborah Ann West
NOTARY PUBLIC in and for the State
of Nevada, County of Clark.



A F F I D A V I T

EXHIBIT R

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

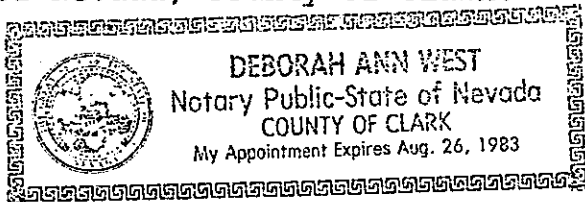
My name is Laretta Matthews and I reside at 1710 North Decatur, Apt. 1, Las Vegas, Nevada. On November 4th, 1980, I was the Chairman of the Election Board for Las Vegas Precinct No. 204.

Election day was normal in our precinct with one exception. At approximately 8:45 A.M. it was called to our attention that one of the voting machines was not working properly. Approximately five persons voted and complained that the machine did not punch properly. We issued each of these persons a new ballot, and the five original ballots issued were placed in the "Spoiled Ballot Envelope". The Coordinator made an adjustment and a test with the demonstrator card shortly prior to 10:00 A.M. and the machine was put back into service.

Laretta Matthews
LAURETTA MATTHEWS, Chairman
Las Vegas 204

Subscribed and sworn to before me
this 8th day of January, 1981.

Deborah Ann West
NOTARY PUBLIC in and for the state
of Nevada, County of Clark.



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

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

GEORGE ULLOM
Registrar



OFFICE OF THE

Registrar of Voters
CLARK COUNTY, NEVADA

EXHIBIT T

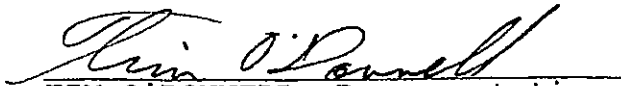
400 Las Vegas Boulevard South • Las Vegas, Nevada 89101 • Telephone (702) 386-4055

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:

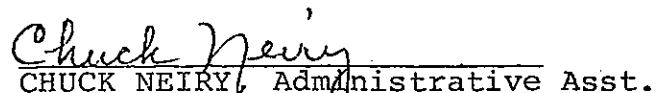
1. To verify that any invalid prepunching of a ballot card will cause the card to be rejected;
2. To verify that votes can be counted for each candidate and proposition;
3. To verify that any overvote for an office or proposition will cause a rejection of the vote for that office or proposition;
4. To 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

OFFICE OF THE

GEORGE ULLOM
Registrar

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
TIM O'DONNELL, Representative
Republican Central Committee

Joseph Morris
JOSEPH MORRIS, Representative
Libertarian Central Committee

Ronald E. Wilhelm
RONALD E. WILHELM, Representative
Democratic Central Committee

Chuck Neiry
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
TIM O'DONNELL, Representative
Republican Central Committee

Joseph Morris
JOSEPH MORRIS, Representative
Libertarian Central Committee

Ronald E. Wilhelm
RONALD E. WILHELM, Representative
Democratic Central Committee

Chuck Neiry
CHUCK NEIRY, Administrative Asst.
Clark County Election Department